LICENSE NO. M-9104

IN THE MATTER OF

THE LICENSE OF

WU ZHUHE, M.D.

BEFORE THE

TEXAS MEDICAL BOARD

AGREED ORDER

On the 2 day of March, 2018, came on to be heard before the Texas Medical Board (Board), duly in session, the matter of the license of Wu Zhuge, M.D. (Respondent).

On October 25, 2017, Respondent appeared in person with counsel, T. Marc Calvert, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. The Board’s representatives were Frank Denton, a member of the Board, and Robert Hootkins, M.D. a member of a District Review Committee (Panel). Kevin Moczygemba represented Board staff.

BOARD CHARGES

Board Staff charged that Respondent entered into a Stipulated Findings of Fact, Conclusions of Law, and Agreed Order (Order) with the Washington Medical Quality Assurance Commission (WMQAC) on January 5, 2017. Specifically, Respondent was required to appear annually before WMQAC for a period of two years, pay a $5,000 fine, attend continuing medical education, and write a short paper on what he learned from the continuing medical education for alleged unprofessional conduct while performing a spinal procedure.

BOARD HISTORY

Respondent has not previously been the subject of disciplinary action by the Board.

Upon the recommendation of the Board’s representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.
FINDINGS

The Board finds the following:

1. **General Findings:**
   a. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the Act) or the Rules of the Board.
   b. Respondent currently holds Texas Medical License No. M-9104. Respondent was originally issued this license to practice medicine in Texas on February 8, 2008. Respondent is also licensed to practice in Washington and Florida.
   c. Respondent is primarily engaged in the practice of orthopedic surgery. Respondent is board certified by the American Board of Orthopedic Surgery, a member of the American Board of Medical Specialties.
   d. Respondent is 50 years of age.

2. **Specific Panel Findings:**
   a. Respondent signed and entered into an Order with the WMQAC on January 5, 2017.
   b. Respondent was required to appear annually before WMQAC for a period of two years, pay a $5,000 fine, attend continuing medical education, and write a short paper on what he learned from the continuing medical education for unprofessional conduct while performing a spinal procedure.

3. **Mitigating Factors:**
   a. Respondent maintains that his care and treatment of the patient in the spinal procedure in Washington was appropriate and within the standard of care.
   b. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent neither admits nor denies the information given above. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.
CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.

2. Section 164.051(a)(9) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action against Respondent by another state or the uniformed services of the United States, as further defined by Board Rule 190.8(3), disciplinary action by another state board.

3. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule.

4. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

5. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. This Agreed Order shall constitute a PUBLIC REPRIMAND of Respondent, and Respondent is hereby reprimanded.

2. Respondent shall comply with all terms of his Order with WMQAC entered on January 5, 2017.

3. At all times while Respondent is under the terms of this Order, Respondent shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities where Respondent has privileges, has pending an application for privileges, applies for privileges, or otherwise practices. Within 30 days of being first contacted by the Compliance Division of the Board following entry of this Order, Respondent shall provide to the Compliance Division of the Board documentation, including proof of delivery showing that the Order was delivered to all such facilities.

4. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent’s practice.
5. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

6. Respondent shall inform the Board in writing of any change of Respondent’s office or mailing address within 10 days of the address change. This information shall be submitted to the Registration Department and the Compliance Department of the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that 10 days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 45-day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days notice, as provided in 22 Texas Administrative Code §187.44(4).

7. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

8. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

9. This Order shall automatically terminate upon Respondent’s submission of sufficient evidence to the Compliance Division of the Board that Respondent successfully completed the requirements ordered in Ordering Paragraph Nos. 1, 2, and 3.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.
(SIGNATURE PAGES FOLLOW)
I, WU ZHUOGE, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: November 30th, 2017.

WU ZHUOGE, M.D.
Respondent

STATE OF Florida
COUNTY OF Brevard

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 30th day of November, 2017.

(Notary Seal)

Leslie A. Broder
Notary Public

Signature of Notary Public
SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 2 day of March, 2017

[Signature]
Sherif Z. Zaatran, M.D., President
Texas Medical Board