LICENSE NO. K-5175

IN THE MATTER OF

THE LICENSE OF

JOHN PANG, D.O.

BEFORE THE

TEXAS MEDICAL BOARD

AGREED ORDER

On the 14th day of June, 2013, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of John Pang, D.O., (Respondent).

On July 27, 2012, Respondent appeared in person, with counsel Vernon Krueger 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 David Baucom, a member of the Board, and John Scott, Jr., M.D., a member of a District Review Committee (Panel). Robert Blech represented Board staff. Nycia Deal prepared this Agreed Order.

BOARD CHARGES

Board staff charged that, with respect to 14 patients, Respondent kept inadequate medical records and engaged in non-therapeutic prescribing of opiates without conducting appropriate physical examinations and assessments, considering possible side effects or abuse, monitoring the patients' functioning throughout treatment, or acting on indicators of prescription abuse.

The Board's expert panel reviewed this case and determined that there were no violations with respect to four patients; therefore, this Order addresses the 10 remaining patients.

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. K-5175. Respondent was originally issued this license to practice medicine in Texas on May 16, 1998. Respondent is not licensed in any other state.
   c. Respondent is primarily engaged in the practice of family practice. Respondent is board certified by the American Osteopathic Board of Family Physicians, which is not a member of the American Board of Medical Specialties.
   d. Respondent is 49 years of age.

2. **Specific Panel Findings:**
   a. Respondent’s records for the 10 patients at issue lack sufficient patient histories and documentation of physical examinations to support a medical rationale for the prescribing of opiates.
   b. Respondent’s records lack descriptions of the patients’ activity levels and assessments of possible opiate habituation and side effects of treatment with opiates.
   c. Respondent failed to properly manage patients’ requests for early refills of high quantities of the medications prescribed. Additionally, Respondent did not address the possibility that patients who requested early refills were abusing or diverting their medications.
3. **Mitigating Factors:**

In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:

a. Respondent has no prior disciplinary history with the Board.

b. Respondent has taken corrective action, including education in pain management and improving medical record-keeping through utilization of electronic medical records.

c. Respondent’s primary practice is not pain management. Pain management comprises only 10% of Respondent’s medical practice.

d. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent's cooperation, through consent to this Agreed Order, pursuant to the provisions of Section 164.002 the Act, will save money and resources for the State of Texas. 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)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent’s commission of an act prohibited under Section 164.052 of the Act.

3. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent’s failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rules 190.8(1)(A), failure to treat a patient according to the generally accepted standard of care; 190.8(1)(C), failure to use proper diligence in one’s professional practice; 190.8(1)(D), failure to safeguard against potential complications; 190.8(1)(G), failure to disclose reasonably foreseeable side effects of a procedure or treatment; and 190.8(1)(H), failure to disclose reasonable alternative treatments to a proposed procedure or treatment.
4. Section 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed.

5. Section 164.053(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing, administering, or dispensing in a manner inconsistent with public health and welfare, dangerous drugs as defined by Chapter 483, Health and Safety Code; or controlled substances scheduled in Chapter 481 Health and Safety Code; or controlled substances scheduled in the Comprehensive Drug Abuse Prevention and Control Act of 1970, (21 U.S.C. § 801 et seq.).

6. 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.

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

8. 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. Respondent shall be subject to the following terms and conditions for eight consecutive monitoring cycles (defined below). Respondent’s practice shall be monitored by a physician (monitor), in accordance with §164.001(b)(7) of the Act. The Compliance Division of the Board shall designate the monitor and may change the monitor at any time for any reason. The monitor shall have expertise in a similar specialty area as Respondent. The Compliance Division shall provide a copy of this Order to the monitor, together with other information necessary to assist the monitor.

   a. As requested by the Compliance Division, Respondent shall prepare and provide complete legible copies of selected records of patients treated with controlled substances or for pain management (selected records). The Compliance Division shall select records for at least 30
patients seen by Respondent during each three-month period following the last day of the month of entry of this Order (reporting period). The Compliance Division may select records for more than 30 patients, up to 10 percent of the patients seen during a reporting period. If Respondent fails to see at least 30 patients during any three-month period, the term of this Order shall be extended until Respondent can submit a sufficient number of records for a monitor to review.

b. The monitor shall perform the following duties:

1) personally review the selected records;
2) prepare written reports documenting any perceived deficiencies and any recommendations to improve Respondent’s practice of medicine or assist in the ongoing monitoring process. Reports shall be submitted as requested by the Compliance Division; and
3) perform any other duty that the Compliance Division determines will assist the effective monitoring of Respondent’s practice.

c. The Compliance Division shall provide to Respondent a copy of the monitor’s report describing any deficiencies or recommendations submitted by the monitor. Respondent shall implement the recommendations as directed by the Compliance Division.

d. A “monitoring cycle” begins when the Compliance Division selects patient records for review, and concludes when Respondent receives the monitor’s report for that group of records.

e. The monitor shall be the agent of the Board, but shall be compensated by the Respondent through the Board. Such compensation and any costs incurred by the monitor shall be paid by Respondent to the Board and remitted by the Board to the monitor. Respondent shall not charge the compensation and costs paid to the monitor to any patients.

2. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least 32 hours of continuing medical education (“CME”) approved for Category I credits by the American Medical Association or the American Osteopathic Association approved in writing in advance by the Executive Director or their designee, and divided as follows: 16 hours in pain management; eight hours in medical record-keeping; and eight hours in risk management. To obtain approval for the course, Respondent shall submit in writing to the Compliance Department information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of
instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Department on or before the expiration of the time limit set forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

3. Respondent shall pay an administrative penalty in the amount of $1,500 within 60 days of the date of the entry of this Order. The administrative penalty shall be paid in a single payment by cashier's check or money order payable to the Texas Medical Board and shall be submitted to the Board for routing so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund. Respondent's failure to pay the administrative penalty as ordered shall constitute grounds for further disciplinary action by the Board, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.

4. The time period of this Order shall be extended for any period of time that: (a) Respondent subsequently practices exclusively outside the State of Texas; (b) Respondent's license is subsequently cancelled for nonpayment of licensure fees; (c) this Order is stayed or enjoined by Court Order; or (d) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine. If Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days, Respondent shall immediately notify the Board in writing. Upon Respondent's return to active practice or return to practice in Texas, Respondent shall notify the Board in writing. When the period of extension ends, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension or tolling.

5. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent’s practice.

6. 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.

7. 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 30-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).

8. 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.

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

10. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for one year following the date of the entry of this Order. If, after the passage of the one-year period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition without further appeal or review. Petitions for modifying or terminating may be filed only once a year thereafter.

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, JOHN PANG, D.O., 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.


JOHN PANG, D.O.
Respondent

STATE OF $

COUNTY OF $ Dallas $

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 23rd day of May, 2013.

Signature of Notary Public
(Notary Seal)
SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 
14th day of June, 2013.

Irvin E. Zeitler, Jr., D.O., President
Texas Medical Board