LICENSE NO. J-5523

IN THE MATTER OF

THE LICENSE OF

JOSEPH HASSAN ZADEH, D.O.

BEFORE THE

TEXAS MEDICAL BOARD

AGREED ORDER ON FORMAL FILING

On the 2 day of March, 2018, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Joseph Hassan Zadeh, D.O. (Respondent).

On April 7, 2014, Respondent appeared in person, with counsel Jon Porter, at an Informal Show Compliance Proceeding and Settlement Conference (ISC) in response to a letter of invitation from the staff of the Board. The Board’s representatives were Devinder Bhatia, M.D., a member of the Board, and Phillip Worley, a member of a District Review Committee (Panel). Nycia Deal represented Board staff.

The matter did not resolve following the ISC and this case was filed at the State Office of Administrative Hearings, Docket No. 503-15-2821. Prior to the final hearing on the merits, the parties engaged in direct negotiations and agreed to the entry of this Agreed Order. Nikki Karr represented Board staff. Jon Porter continued to represent Respondent.

BOARD CHARGES

Board staff charged that Respondent operated an unregistered pain management clinic and failed to meet the standard of care and maintain adequate medical records with respect to five patients.

BOARD HISTORY

Respondent has not previously received a disciplinary order from 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. J-5523. Respondent was originally issued this license to practice medicine in Texas on March 4, 1994. Respondent is also licensed to practice in the state of Nevada.
   c. Respondent is primarily engaged in the practice of internal medicine. Respondent is board certified by the American Board of Internal Medicine, a member of the American Board of Medical Specialties.
   d. Respondent is 52 years of age.

2. **Specific Panel Findings:**
   a. Respondent admitted his recordkeeping could be improved, including appropriate documentation of his use of treatment modalities. Respondent also admitted that he was prescribing controlled substances for pain to a majority of his monthly patients while not registered as a pain management clinic. By not adequately documenting other personally performed modalities, the Board finds Respondent was operating an unregistered pain management clinic.
   b. Respondent failed to adequately monitor his chronic pain patients by not adequately enforcing pain management contracts.

b. **Mitigating Factors:**

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

   a. Respondent’s prior legal counsel incorrectly advised Respondent that his clinic was exempt from registration as a pain management clinic.
b. There is no evidence of patient harm.

c. Respondent has cooperated in the investigation of the allegation related to his Agreed Order. Respondent neither admits nor denies the Findings of Fact, but for his admission in Specific Panel Findings 2(a), and the Conclusions of Law, but Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions to avoid further investigation, hearing, and the expense and inconvenience of litigation.

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)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent’s violation of a rule adopted under this Act, specifically Board Rules 165.1(a), failure to maintain an adequate medical record; 170.3, failure to adhere to those established guidelines and requirements for the treatment of pain; and 195.2, owning or operating a pain management clinic without the required certification.

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 Rule 190.8(1)(c), failure to use proper diligence in one’s professional practice.

4. 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.

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

6. 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's Texas license is hereby RESTRICTED under the following terms and conditions: Respondent shall not treat chronic pain. Within 90 days from entry of this Order, Respondent shall refer all chronic pain patients to other providers not affiliated with his clinic. After 90 days, the following controlled substances, whether those medications are prescribed for pain or any other condition, shall be limited to prescriptions written for a patient's immediate need, defined as no more than 72 hours, and on a one-time basis with no refills permitted: opioids, benzodiazepenes, barbiturates, and carisprodol.

2. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete the medical recordkeeping course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program, or an equivalent course approved in advance by the Executive Director or their designee. To obtain approval for a course other than the PACE course, Respondent shall submit in writing to the Compliance Division of the Board information on the course, to include at least a reasonably detailed description of the course content, faculty, course location, and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Division of the Board on or before the expiration of the time limit set forth for completion of the course.

3. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete the Physician Prescribing course offered by the University of California San Diego Physician Assessment and Clinical Education (PACE) program, or an equivalent course approved in advance by the Executive Director or their designee. To obtain approval for a course other than the PACE course, Respondent shall submit in writing to the Compliance Division of the Board information on the course, to include at least a reasonably detailed description of the course content, faculty, course location, and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Division of the Board on or before the expiration of the time limit set forth for completion of the course.

4. 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, that the Order was delivered to all such facilities.

5. Pursuant to Board rule 189.15, 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) this Order is stayed or enjoined by Court Order; or (c) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine and such cessation in practice is NOT due to a suspension of Respondent’s license. Respondent shall immediately notify the Board in writing in the event that Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days. Upon Respondent’s return to active practice or return to Texas, Respondent shall notify the Board in writing. Upon return to Texas or active practice, 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. Tolling shall be in accordance with Board Rule 189.15. Ordering Paragraphs 2 and 3 shall not be tolled.

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

7. 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.

8. 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).

9. 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.

10. Respondent shall not be permitted to supervise or delegate prescriptive authority to physician assistants and advanced practice nurses. Respondent may supervise and delegate to mid-level practitioners for duties other than prescribing.

11. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for five years following the date of the entry of this Order. If, after the passage of three years, 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, JOSEPH HASSAN ZADEH, 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.  


JOSEPH HASSAN ZADEH, D.O.  
Respondent

STATE OF Texas  
COUNTY OF Harris  

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 28 day of February, 2018.

(Notary Seal)

KELLIE LEE OLSEN  
Notary Public, State of Texas  
Comm. Expires 12-09-2019  
Notary ID 130463620
SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 2 day of March, 2018.

Sherif Z. Zafarani, M.D., President
Texas Medical Board