

LICENSE NO. E-5375

IN THE MATTER OF

BEFORE THE

THE LICENSE OF

ENRIQUE SERGIO GARZA-TREVINO, M.D.

TEXAS MEDICAL BOARD

AGREED ORDER

On the 22 day of March, 2024 came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Enrique Sergio Garza-Trevino, M.D. (Respondent).

On June 28, 2023, Respondent failed to appear via videoconference 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 Tomeka Herod, a member of the Board, and Leanne Burnett, M.D., a member of a District Review Committee (Panel).

On September 13, 2023, Respondent appeared with counsel Darby Riley via videoconference 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 Lewis Benavides, a member of a District Review Committee (Panel). This Order is a global settlement to resolve both cases. Kemisha Williams represented Board Staff and prepared this Order.

BOARD CHARGES

Board Staff charged that Respondent failed to meet the standard of care in the treatment and prescribing to one psychiatric patient. Specifically, Respondent prescribed controlled substances, including Adderall and Xanax, to the patient, whom he knew or should have known was abusing substances. Respondent failed to manage and document indications for the prescribing, even after the patient experienced adverse effects, including mania and erratic behavior that led to inpatient hospitalization.

Board Staff further charged that Respondent inappropriately prescribed to a second patient, with whom he was involved personally and financially, without creating a medical record.

BOARD HISTORY

Respondent has not previously received a disciplinary order or Remedial Plan 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. E-5375. Respondent was originally issued this license to practice medicine in Texas on February 14, 1976. Respondent is not licensed to practice in any other state.
- c. Respondent is currently engaged in Psychiatry practice. Respondent is not Board certified.

2. Specific Panel Findings:

- a. Respondent prescribed Xanax to one patient for an extended period despite the patient disclosing that he was using street drugs.
- b. Respondent prescribed the patient an antidepressant, which could have contributed to the patient's mania.
- c. Respondent's medical record lacked even basic information and was not sufficient to support a diagnosis of attention deficit hyperactivity disorder (ADHD), though Respondent still prescribed Adderall.
- d. The patient was involuntarily admitted to an inpatient psychiatry facility after increasing mania and erratic behavior, including a workplace safety incident. The patient tested positive for cocaine and marijuana.

- e. Respondent prescribed to another patient, whom he had hired in his office, but failed to keep any medical records.
 - f. Respondent became overly involved with this patient-employee and gave her clothing and furniture. The patient wound up stealing from Respondent and criminal charges are pending against her.
3. Mitigating Factors:
In determining the appropriate sanctions in this matter, the Panel considered as mitigating that:
- a. Respondent and his counsel prepared a response to address the first patient's care and were apologetic about missing his first ISC.
 - 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.
4. Aggravating Factors:
In determining the appropriate sanctions in this matter, the Panel considered the aggravating factors that Respondent failed to appear at the first ISC.

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 107.052 of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing a dangerous drug or controlled substances for a purpose that is not a legitimate medical purpose as defined by the Board; prescribing to a known user.
- 3. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing an act prohibited under Section 164.052 of the Act.

4. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing a rule violation, specifically Board Rule 165.1(a) requiring maintenance of adequate, complete and accurate medical records.

5. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to p 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)(B) negligence in performing medical services; 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; 190.8(1)(H) failure to disclose reasonable alternative treatments to a proposed procedure or treatment; and 190.8(1)(M) inappropriate prescription of dangerous drugs or controlled substances to oneself, family members, or others in which there is a close personal relationship.

6. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent committing unprofessional or dishonorable conduct that is likely to deceive or defraud the public, as provided by Section 164.053, or injure the public, as further defined by Board Rule 190.8(2)(G) becoming financially or personally involved with a patient in an inappropriate manner.

7. Section 164.053(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent writing prescriptions for or dispenses to a person who the physician knew or should have known was an abuser of narcotic drugs, controlled substances, or dangerous drugs.

8. 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.

9. 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: (A) dangerous drugs as defined by Chapter 483, Health and Safety Code; or (B) controlled substances scheduled in Chapter 481, Health and Safety Code,

or the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sections 801 *et seq.*).

10. 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.

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

12. 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 twelve (12) 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 patient medical and billing records (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 any deficiencies or recommendations submitted by the monitor. Respondent shall implement the recommendations as directed by the Compliance Division. If the chart monitor recommends that Respondent restrict or suspend his or her practice of medicine, Respondent shall be required to personally appear before a panel of Board representatives, upon written request mailed to Respondent's last known address on file with the Board at least 10 calendar days before the requested appearance date. Such appearance shall be for the purpose of consideration of the chart monitor's recommendations of restriction or suspension and held in accordance with 22 TEX. ADMIN. CODE, §187.44. Based upon the panel's findings and recommendations, the Board may modify this Order so that Respondent's practice is restricted or suspended, in accordance with the chart monitor's recommendations, or take any other action that may be appropriate to resolve the issues presented.

d. The monitor may recommend that Respondent complete a competency evaluation. A monitor's recommendation for a competency evaluation must be reviewed by the Chair of the Disciplinary Process and Review Committee (DPRC) for the purpose of making a determination of whether a competency evaluation is warranted. The Chair may approve or deny the monitor's recommendation. If the Chair approves the recommended competency evaluation, then the following terms shall apply and shall be a requirement of this Order:

1. Within 10 calendar days of being notified by the Compliance Division of the Board that the Chair has approved the monitor's recommendation, Respondent must contact a program approved by the Board and schedule an assessment of at least two days in length to determine Respondent's competence and ability to practice medicine.
2. Respondent shall authorize the approved program to send a written report regarding Respondent's performance and results of the competency evaluation directly to the compliance officer.

3. Upon completion of the competency evaluation, and based upon its results, Respondent must personally appear before a panel of Board representatives, upon written request mailed to Respondent's last known address on file with the Board at least 10 calendar days before the requested appearance date. The panel may make recommendations for appropriate action, including that Respondent follow all the program recommendations, comply with other necessary re-training or re-education measures, and may impose any other restrictions or suspension of Respondent's practice. Section 187.44 of this title (relating to Probationer Show Compliance Proceedings) applies to such appearances.
4. The Board may temporarily restrict or suspend Respondent's license based upon the results of the competency evaluation or Respondent's failure to follow any and all requirements set forth in subsection (c) of this section. Chapter 187, Subchapter F of this title (relating to Temporary Suspension and Restriction Proceedings) applies to such proceedings.

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.

f. 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 and has made payment for the costs of that monitoring cycle.

2. Respondent shall pay an administrative penalty in the amount of \$2,500 within 90 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

3. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least 24 hours of continuing medical education (CME) approved for

Category I credits by the American Medical Association or the American Osteopathic Association divided as follows: eight (8) hours in the topic of prescribing controlled substances; eight (8) hours in the topic of medical recordkeeping; eight (8) hours in the topic of risk management, each approved in writing in advance by the Executive Director or a designee. 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.

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 in Texas 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 the chart monitoring provisions in Ordering Paragraph No. 1 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.

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 practice or mailing address within 10 days of the address change. This information shall be submitted to the Registrations 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 with this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent agrees that any proceeding related to this Order may be held in person, by teleconference, or by videoconference at the discretion of the Board.

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. Respondent agrees that any proceeding related to this Order may be held in person, by teleconference, or by videoconference at the discretion of the Board.

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

11. 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, ENRIQUE SERGIO GARZA-TREVINO, 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: Nov. 13, 2023.

Enrique Sergio Garza Trevino M.D.
ENRIQUE SERGIO GARZA-TREVINO, M.D.
Respondent

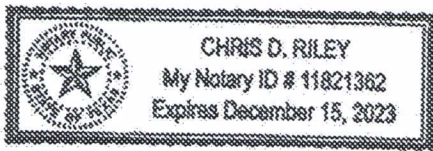
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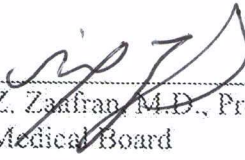
SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 13th day of NOVEMBER, 2023.



(Notary Seal)

Chris D. Riley
Signature of Notary Public

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
22 day of March, 2024



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