

LICENSE NO. N7224

IN THE MATTER OF

BEFORE THE

THE LICENSE OF

EMAD MIKHAIL TEWFIK BISHAI, M.D.

TEXAS MEDICAL BOARD

AGREED ORDER

On the 21 day of March, 2025, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Emad Mikhail Tewfik Bishai., M.D. (Respondent).

On September 12, 2024, Respondent appeared by videoconference, with counsel James K. McClendon, J.D. at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board regarding Respondent's compliance with a 2023 Agreed Order ("2023 Order") on June 9, 2023, a copy of which is attached to and incorporated herein. The Board's representatives were David G. Vanderweide, M.D. and Luann R. Morgan (Panel). Michael Bostic, J.D. represented Board Staff.

BOARD CHARGES

Board Staff charged that Respondent inappropriately prescribed medication to Patient 1, a family member, for the purpose of weight loss. Respondent did this while knowing Patient 1 was anorexic. For Patient 2, Respondent made prescribing errors, failed to refill certain medications in a timely manner, failed to adequately monitor the patient for medication interactions and failed to maintain adequate medical records for the patient.

BOARD HISTORY

Respondent has previously been the subject of disciplinary action by the Board. On June 10, 2016, Respondent and the Board entered a remedial plan requiring that Respondent complete 8 hours of pre-approved Continuing Medical Education (CME) in risk management, 4 hours of CME in record keeping and 4 hours of CME in management of anti-coagulation agents in a

surgical patient. The action was based on Respondent's failure to meet the standard of care for one patient. On May 8, 2017, the Remedial Plan was terminated due to completion of all requirements.

On November 18th, 2019, the Board temporarily suspended Respondent's medical license after determining his continuation in the practice of medicine posed a continuing threat to public welfare. Arrest warrants were issued against Respondent for four felony counts of prescribing controlled substances for non-medical purposes, and five felony counts of practicing medicine in violation of the Medical Practice Act. The action was based on Respondent's prescribing leading to the deaths of 4 patients.

On March 6, 2020, the Board and Respondent entered an Agreed Order with the following terms: Respondent shall not treat patient for chronic pain by prescription or administration of controlled substances; within seven days modify Respondent's DEA Controlled Substances Registration Certificates to eliminate schedule II controlled substances and shall not reregister without prior Board approval; shall not possess, administer, or prescribe schedule II controlled substances in Texas; and Respondent's delegates are prohibited from prescribing or administering dangerous drugs or controlled substances for the treatment of chronic pain. The Board found Dr. Bishai is currently under indictment in Montgomery County, Texas for charges related to prescribing controlled substances for other than medical purposes. The criminal case remains ongoing, and the Board reserves its right to take further action against Respondent's license in the event of any additional determinations of violations of the medical practice act, whether related or unrelated, to the criminal investigation referenced.

On March 5, 2021, the Board entered a modification order modifying the March 6, 2020, Order by clarifying Respondent shall not prescribe controlled substances to treat acute pain patients beyond a 72-hour period. All other terms of the March 2020 Order remained in full effect. The modification was based on Respondent's prescribing beyond a 72-hour period.

On August 19, 2022, the Board and Respondent entered an Agreed Order under the following terms for a period of three years: Respondent shall not prescribe or administer dangerous drugs or controlled substances for the treatment of pain, either acute or chronic, for a period of longer than 72 hours; within seven days request modification of Respondent's DEA Controlled Substances Registration Certificate to eliminate schedule II and shall not reregister or otherwise obtain registrations for schedule II controlled substances without prior authorization; shall not

possess, administer, or prescribe schedule II controlled substances; within one year and three attempts pass the medical jurisprudence exam; within one year complete at least 40 hours of CME, divided as follows: twelve hours in supervision and delegation, twelve hours in pain management, eight hours in medical recordkeeping and eight hours in risk management; and shall not be permitted to supervise or delegate prescriptive authority to a physician assistant or advanced practice nurse or supervise a surgical assistant. The action was based on Respondent failing to meet the standard of care and maintaining inadequate medical records for three patients. Respondent also pled guilty to a misdemeanor count of violating the Medical Practice Act and was placed on deferred adjudication.

On June 9, 2023, the Board and Respondent entered an Agreed Order suspending Respondent's medical license; however, the suspension was stayed and Respondent placed on probation under the following terms: Respondent shall not use Respondent's Texas license in any jurisdiction to diagnose, treat, or prescribe controlled substances to patients in Texas for chronic or post-surgical, post-procedure, persistent non-chronic pain as defined by Board Rules or engage in the practice of pain management in Texas; limit Respondent's practice to psychiatry and family medicine; have Respondent practice monitored by another physician for eight consecutive monitoring cycles; and shall not be permitted to supervise or delegate prescriptive authority to a physician assistant or advanced practice nurse or supervise a surgical assistant. The action was based on Respondent entering into a settlement agreement with the U.S. Department of Justice excluding Respondent from participating in any federal health care programs based on allegations that Respondent submitted false claims for the placement of electro-acupuncture devices and for making false statements when applying for a loan from the paycheck protection program. The order did not supersede any prior orders.

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. N7224 Respondent was originally issued this license to practice medicine in Texas on August 2, 2010. Respondent is not licensed to practice in any other state.
- c. Respondent is primarily engaged in the practice of neurology, psychology and pain medicine. Respondent is not board certified.

2. Specific Panel Findings:

- a. Respondent non-therapeutically prescribed Lexapro, Zoloft and Topamax, and other medications to Patient 1, a family member.
- b. Respondent treated Patient 1 when it was inappropriate for Respondent to be providing psychiatric treatment to a family member due to his inability to provide unbiased treatment to the patient.
- c. Respondent failed to meet the standard of care for Patient 2 by erroneously prescribed psychiatric medications that had previously been discontinued, did not refill medications in a timely manner, and failed to adequately monitor the patient for medication interactions.
- d. Additionally for Patient 2, Respondent failed to maintain adequate medical records for the patient.

3. Mitigating Factors:

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

- a. 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 164.001 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.
3. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
4. 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)(B) negligence in performing medical services; and 190.8(1)(C) failure to use proper diligence in one's professional practice; 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.

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 four (4) consecutive monitoring cycles (defined below). These shall be completed after the chart monitoring cycles required by June 9, 2023, Agreed Order and cannot be completed concurrently. 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. Within 30 days from the date of the entry of this order, Respondent shall contact the Texas A&M Health Science Center Knowledge, Skills, Training, Assessment, and Research (KSTAR) program to schedule an assessment. Upon Respondent's acceptance into the KSTAR program, Respondent shall execute a written request and authorization to KSTAR representatives to provide a complete copy of the final assessment report to the Compliance Division within 15 days of its completion. Respondent shall successfully complete the assessment, and any and all retraining, remedial measures, and/or other recommendations made by KSTAR based upon the assessment, within one year of the date of the entry of this Order. 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. Respondent shall pay an administrative penalty in the amount of \$3,000.00 within 120 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. 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 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.

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. Respondent shall also provide an email address to the Board and inform the Board with 10 days of any change to the email address. 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 Respondent 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.

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

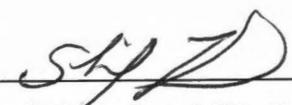
11. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for one year following the date of the entry of this Order. If, after the passage of the one-year period, Respondent wishes to seek amendment or termination 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)

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this
21 day of March, 2025.



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