

**STATE OF TENNESSEE
DEPARTMENT OF HEALTH**

IN THE MATTER OF:)	BEFORE THE TENNESSEE BOARD OF MEDICAL EXAMINERS
)	
MICHAEL NAJJAR, M.D., RESPONDENT)	DOCKET NO: 17.18-242267A
)	
CHATTANOOGA, TENNESSEE LICENSE NO. 27354)	

FINAL ORDER

This matter came to be heard before the Tennessee Board of Medical Examiners (hereinafter the “Board”) on July 31, 2024, pursuant to a Notice of Charges and Memorandum for Assessment of Civil Penalties issued against Respondent Michael Najjar, M.D. (hereinafter “Respondent”). Presiding at the hearing was the Honorable Kim Summers, Administrative Judge, assigned by the Secretary of State. The Division of Health Related Boards of the Tennessee Department of Health (hereinafter the “Department”) was represented by Gerard Dolan, Senior Associate Counsel. Respondent appeared *pro se*. After consideration of the Notice of Charges and Memorandum for Assessment of Civil Penalties, the evidence presented by the Department, arguments of counsel, and the record as a whole, the Board finds as follows:

I. FINDINGS OF FACT

1. Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor in Tennessee, having been granted medical license number 27354 by the Board on August 31, 1995. Said license is currently scheduled to expire on September 30, 2024.

2. From approximately 2014 until September 1, 2023, Respondent practiced pain management at and was medical director of Wellness First Pain Management, PLLC, a pain management clinic located in Chattanooga, Tennessee, holding license number 684 (“Wellness First”).

3. Wellness First’s “Medical Records/Destruction Policy” stated:

Medical records:

Provisions shall be made by the clinic for the storage of medical records (inpatient and emergency) in an environment that will prevent unauthorized access and deterioration. The records shall be treated as confidential and shall not be disposed of for up to 10 years. . . .

Closure of Clinic

If WFC/WFPM is finally closed, its records shall be delivered and turned over, in good order and properly indexed for convenient reference, to Gregory N. Ball, MD, which shall store, retain, retire and provide access to the information in the same manner as is provided for by hospitals and private practices.

Dr. Ball and his facility will continue to hold records for patients to receive and review for a period of 6 months. After the medical records will be a securing facility situated to hold and store medical records.

Currently the clinic is working with Photo-Stat for records retention; their contact information is:

Address: 120 South Briery Road, Irving, TX 75015

Phone: 972.399.0914 Toll-Free 877.PHOTOSTAT (877.746.8678) Fax 972.399.0960

4. On August 17, 2023, Respondent entered into a Consent Order on behalf of Wellness First in which he voluntarily surrendered pain management clinic license number 684 effective September 1, 2023 (the “2023 Consent Order”).

5. The 2023 Consent Order also required the following:

Respondent shall refer all current patients of the clinic to other clinics or pain management specialists by or before September 1, 2023. Respondent shall ensure that the clinic’s medical and billing records are maintained in accordance with the

clinic's Medical Records/Destruction Policy and Tenn. Comp. R. & Regs. Rules 1200-34-01-.10(4), (5), and (9).

6. On or about December 20, 2023, a Department investigator requested, pursuant to Tenn. Code Ann. § §63-1-117(a)(2), that Respondent provide twenty-one (21) specified patient medical records as part of a Department investigation into Respondent's medical practice. The Department investigator requested that these records be provided no later than January 3, 2024.
7. Respondent did not provide the requested medical records by January 3, 2024.
8. On or about January 31, 2024, the Department investigator interviewed Respondent in person.
9. During the interview, Respondent declined or was unable to provide the requested medical records.
10. To date, Respondent has not provided the requested medical records and has been unable to provide alternative means to obtain said records.
11. Respondent lost control of and/or access to Wellness First's patient medical records.
12. Respondent failed to follow Wellness First's Medical Records/Destruction Policy.
13. Respondent violated the terms of the 2023 Consent Order.
14. Respondent failed to ensure that patient medical records were maintained for ten (10) years from the date of each patient's last treatment at Wellness First.

II. CONCLUSIONS OF LAW

The facts as found in Section I of this Final Order are sufficient to establish violations by Respondent of the following statutes or rules which are part of the provisions of the Tennessee

Medical Practice Act (Tenn. Code Ann. § 63-6-101, *et seq.*), for which disciplinary action before and by the Board is authorized:

15. The facts found in Section I, above, constitute grounds for the Board to discipline Respondent's license pursuant to Tenn. Code Ann. § 63-6-214(b)(1), which authorizes disciplinary action against a licensee for:

Unprofessional, dishonorable or unethical conduct.

16. The facts found in Section I, above, constitute grounds for the Board to discipline Respondent's license pursuant to Tenn. Code Ann. § 63-6-214(b)(2), which authorizes disciplinary action against a licensee for:

Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of this chapter or, any lawful order of the board issued pursuant thereto or any criminal statute of this state.

17. The facts found in Section I, above, constitute grounds for the Board to discipline Respondent's license for violation of Tenn. Code Ann. § 63-1-117(a)(2), which states:

Notwithstanding §§ 63-2-101(b), 68-11-1502 and 68-11-1503, and regardless of any express or implied contracts, agreements or covenants of confidentiality based upon those sections, health care providers shall make their medical records available for inspection and copying by the department of health or its representatives, designees or employees based on the following conditions: . . .

Upon a written request made by the department of health investigators, inspectors or surveyors who are performing authorized investigations, inspections or surveys of facilities or individuals licensed pursuant to this title or title 68 based on a complaint filed with the department or an inspection or survey required by state or federal law. The written request shall contain the nature of the violation, the applicable laws and rules that may have been violated and the specific date by which production of the records is required. The written request shall be made in good faith and shall be related to the complaint, inspection or survey.

18. The facts found in Section I, above, constitute grounds for the Board to discipline Respondent's license pursuant to Tenn. Code Ann. § 63-1-117(e), which states:

A health care provider's willful disregard of the request for medical records pursuant to this section is grounds for disciplinary action by the licensing board that regulates the health care provider.

- 19. The facts found in Section I, above, constitute grounds for the Board to discipline Respondent's license pursuant to Tenn. Code Ann. § 63-1-311(a), which states:

A violation of this part, or a rule adopted under this part, is grounds for disciplinary action against a practitioner providing services at a pain management clinic licensed under this part by the board that licensed that practitioner.

- 20. The facts found in Section I, above, constitute grounds for discipline for violation of Tenn. Comp. R. & Regs. 1200-34-01-.10(1)(a)(9), which states a pain management clinic medical director must:

Establish written policies and procedures to assure patient access to their medical records and continuity of care should the pain management clinic close.

- 21. The facts found in Section I, above, constitute grounds for discipline for violation of Tenn. Comp. R. & Regs. 1200-34-01-.10(4), which states:

The Medical Director shall ensure that patient medical records shall be maintained for ten (10) years from the date of the patient's last treatment at the clinic.

III. REASONS FOR DECISION

The Tennessee Board of Medical Examiners takes this action in order to protect the health, safety and welfare of people living and working in the State of Tennessee.

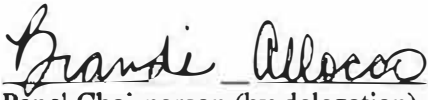
IV. ORDER

THEREFORE, in consideration of the above Findings of Fact and Conclusions of Law, it is **ORDERED** as follows:

22. Respondent's Tennessee medical license, number 27354, is hereby placed on **PROBATION** for a minimum of **TWO (2) YEARS** from the effective date of this Final Order. During the period of probation, Respondent shall complete the medical course titled "*Intensive Course in Medical Documentation*" offered by Case Western Reserve University Continuing Medical Education Program or an equivalent course pre-approved by the Board's consultant. Once Respondent has completed the period of probation, completed the coursework described above, and paid all costs assessed pursuant to paragraph 16, below, Respondent shall become eligible to petition the Board for an Order of Compliance lifting the probation of his medical license. Respondent shall file said petition in accordance with the procedures set forth in Tenn. Comp. R. & Regs. 0880-02-.12(2). The Board shall retain exclusive authority and discretion to grant or deny any petition for an Order of Compliance, to determine whether Respondent has successfully met all conditions of this Consent Order, and to determine any other restrictions or conditions on Respondent's license as the Board may find appropriate at that time.
23. Respondent must pay, pursuant to Tenn. Code Ann. § 63-1-144, Tenn. Code Ann. § 63-6-214(k), and Tenn. Comp. R. & Regs. 0880-02-.12(1)(j), the actual and reasonable costs of investigating and prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the Department's Office of Investigations and the Administrative Procedures Division in connection with the investigation and prosecution of this matter. These costs will be established by an Assessment of Costs prepared and filed by counsel for the Department. Said costs shall not exceed **Ten Thousand Dollars (\$10,000.00)**. These costs are due within six (6) months of the issuance of the Assessment of Costs.

24. Payment of all costs shall be made by **certified check, cashier's check, or money order**, payable to the **State of Tennessee**, Department of Health. Any and all payments shall be forwarded to the **Disciplinary Coordinator, Tennessee Department of Health, 665 Mainstream Drive, Nashville, Tennessee**. A notation shall be placed on such check or money order that it is payable for the Assessment of Costs of Michael Najjar, M.D., Docket No. 17.18-242267A.

So **ORDERED** by the Tennessee Board of Medical Examiners this 31st day of July, 2024.



Panel Chairperson (by delegation)
Tennessee Board of Medical Examiners

RECONSIDERATION, ADMINISTRATIVE RELIEF, AND JUDICIAL REVIEW

Within fifteen (15) days after the entry of an initial or final order, a party may file a petition to the Board for reconsideration of the Final Order. If no action is taken within twenty (20) days of filing of the petition with the Board, the petition is deemed denied. Tenn. Code Ann. § 4-5-317.

In addition, a party may petition the Board for a stay of the Final Order within seven (7) days after the effective date of the Final Order. Tenn. Code Ann. § 4-5-316.

Finally, a party may seek judicial review by filing, within sixty (60) days after the effective date of the Final Order, a petition for review in the Chancery Court nearest to the party's place of residence or alternatively, at the party's discretion, in the Chancery Court nearest to the place where the cause of action arose, or in the Chancery Court of Davidson County. A petition for reconsideration does not act to extend the sixty (60) day period; however, if the petition is granted, then the sixty (60) day period is tolled and a new sixty (60) day period commences from the effective date of the Final Order disposing of the petition. Tenn. Code Ann. § 4-5-322.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon the Respondent, Michael Najjar, M.D., 1020 Runyan Drive, Chattanooga, TN 37405, by United States mail, certified number 9589 0710 5270 0707 9340 32, return receipt requested; and by United States mail, First Class, with sufficient postage thereon to reach its destination; and by email to drmikenaj@gmail.com.

This 31st day of July, 2024.



Gerard Dolan
Senior Associate General Counsel