

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE**

**Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs**

Case No.

16-49-04446

v.

**Michael Dorfman, M.D.
Respondent**

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DEPARTMENT OF STATE

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and **Michael Dorfman, M.D.** ("Respondent") stipulate as follows in settlement of the above-captioned case.

APPLICABLE LAW

1. This matter is before the State Board of Medicine ("Board") pursuant to the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, ("Act"), *as amended*, 63 P.S. §§ 422.1-422.53; the Medical Care Availability and Reduction of Error ("Mcare") Act, Act of March 20, 2002, P.L. 154, No. 13, *as amended*, 40 P.S. §§ 1303.101-1303.910; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), *as amended*, 63 P.S. §§ 2201-2207.

LICENSURE STATUS

2. At all relevant and material times, Respondent held the following license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania: license no. MD050324L, which was originally issued on June 28, 1993, and is current through December 31, 2020.

STIPULATED FACTS

3. Respondent admits the following:

- a. Absent further Board action, Respondent's license may be continually renewed or reinstated upon the filing of the required documentation and payment of applicable fees.
- b. Respondent's address is: 60 Pottstown Pike, Suite 3, Chester Springs, PA 19425.
- c. Respondent is a physician specializing in psychiatry.
- d. From approximately November of 2010 to October of 2015, Respondent provided psychiatric treatment to L.B., a married female patient.¹
- e. Respondent was treating L.B. for attention deficit hyperactivity disorder, anxiety, depression, and mood swings.
- f. L.B. met with Respondent every two weeks until she met her initial goal of stopping Effexor, then approximately every three months for medication monitoring.
- g. L.B. gave Respondent a picture of a horse and buggy silhouette as a present.
- h. On or about October 28, 2015, Respondent and L.B. met socially at Ludwig's Restaurant.
- i. While at Ludwig's Restaurant, Respondent and L.B. each consumed one alcoholic beverage and Respondent paid the bill for both parties.
- j. In the parking lot of Ludwig's Restaurant, Respondent and L.B. hugged.
- k. On or about October 29, 2015, Respondent sent L.B. a text message stating he "just wanted to remain friends."
- l. On November 28, 2015, several phone calls occurred between L.B. and Respondent, during the course of which Respondent invited L.B. to his home.

¹ The participants will be identified only by initials in order to protect their privacy. A key identifying the participants will be supplied with Respondent's copy of the Consent Agreement.

- m. Upon arriving, Respondent gave L.B. a tour of his home.
- n. Respondent and L.B. each had a glass of wine.
- o. L.B. saw the picture of the horse and buggy which she gifted Respondent hanging in his home on November 28, 2015.
- p. While at Respondent's home, L.B. asked Respondent if she would wash her pants as she had a spot on the pants; Respondent then gave L.B. a pair of sweatpants to wear while her pants were being washed.
- q. On or about December 8, 2016, Professional Conduct Investigator, Sherilyn Gillespie ("PCI Gillespie"), interviewed Respondent regarding the relationship with L.B. Respondent stated the following during the interview:

- (1) Respondent acknowledged inviting L.B. to meet him at Ludwig's Restaurant for drinks.
- (2) After they had drinks, Respondent walked L.B. to her car and they hugged each other goodbye.
- (3) Respondent indicated "I do not recall kissing [L.B.], but it is possible. If [L.B.] kissed me, then I kissed her back."
- (4) Respondent acknowledged inviting L.B. to his house on November 28, 2015 and to hugging L.B. after she entered his home.
- (5) Respondent further acknowledged that L.B. took her pants off in his presence in order to wash them.
- (6) While L.B.'s pants were being washed, Respondent admitted that he and L.B. drank wine together.

(7) Respondent stated L.B. "either asked me if she could kiss me and I said yes, or [L.B.] kissed me and I did not resist; I kissed her back."

(8) With regard to gifts, Respondent admitted that he paid for the drinks at Ludwig's Restaurant and that L.B. gave him the picture of the horse and buggy.

AUTHORITY OF THE BOARD

4. The Board is authorized to suspend, revoke, or otherwise restrict Respondent's license under Sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; and/or impose a civil penalty upon Respondent under Sections 39 through 42 of the Act, 63 P.S. §§ 422.39-422.42, and /or Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b)(4); and/or impose the costs of investigation upon Respondent under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5).

PROPOSED ORDER

5. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:

a. **VIOLATIONS:**

Respondent violated the Act at Section 41(8) of the Act, 63 P.S. § 422.41(8), in that Respondent engaged in unprofessional or immoral conduct.

b. **CIVIL PENALTY AND COSTS:**

(1) Respondent shall pay the costs of investigation of six thousand nine hundred ninety-four dollars and nineteen cents (\$6,994.19).

(2) Payment of the costs of investigation is subject to the following terms:

(i) The costs of investigation shall be tendered to the prosecution division of the Department of State with the executed consent agreement;

- (ii) The costs of investigation shall be paid by certified check, cashier's check, attorney's check, or money order issued by a usual, customary, and reputable issuer (e.g. U.S. Postal Money Order, Western Union Money Order, etc.);
- (iii) Payment shall be valid for a period of at least 180 days and shall be made payable to the "Commonwealth of Pennsylvania";
and
- (iv) Respondent agrees that payment shall only be made by one of the methods indicated and shall not be made by uncertified personal or corporate check.

c. **PROBATION:**

(1) Respondent's license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania, along with any other licenses, registrations, certificates, approvals, authorizations, or permits (hereinafter referred to collectively as "authorizations to practice the profession") issued by the Board to Respondent at the time this Consent Agreement is adopted by the Board are hereby placed on **PROBATION** for a period of no less than three (3) months subject to the following terms and conditions:

- (i) Respondent shall abide by and obey all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions and all rules and regulations and laws pertaining to the practice as a medical physician and surgeon in this Commonwealth or any other state or

jurisdiction in which Respondent holds an authorization to practice the profession. Provided, however, summary traffic violations shall not constitute a violation of this Order;

(ii) Respondent shall at all times cooperate with the Bureau of Professional and Occupational Affairs ("Bureau"), any of its agents or employees and the Bureau of Enforcement and Investigation ("BEI") and its agents and employees, in the monitoring, supervision and investigation of Respondent's compliance with the terms and conditions of this Order, including Respondent causing to be submitted at his own expense written reports, records and verifications of actions that may be required by the Bureau, BEI or any of its agents or employees;

(iii) Respondent's failure to fully cooperate with and successfully comply with the terms and conditions of this probation shall be deemed a violation of this Consent Agreement and Order;

(iv) Respondent shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Order;

(v) Respondent shall notify BEI, in writing, within twenty (20) days of the filing of any criminal charges, the initiation of any other legal action (civil or

administrative) pertaining to the Respondent's practice as a medical physician and surgeon, and/or the initiation, action, restriction or limitation relating to Respondent by the professional licensing authority of any state or jurisdiction;

(vi) Respondent shall notify BEI by telephone within seventy-two (72) hours, and shall notify both BEI and the Board in writing within ten (10) days of any change in the name(s) and address(es) of the place(s) at which Respondent will practice as a medical physician and surgeon and a description of Respondent's duties and responsibilities at such places of practice;

(vii) Respondent shall notify BEI by telephone within seventy-two (72) hours, and shall notify both BEI and the Board in writing within ten (10) days of any change in the Respondent's home address and/or telephone number;

(viii) If Respondent will be absent from the Commonwealth of Pennsylvania for any period exceeding twenty (20) days, Respondent must notify BEI, in writing, of Respondent's absence and must provide a list of the jurisdiction(s) in which Respondent intends to stay more than forty-eight (48) hours. Respondent consents to the release by the Bureau or BEI of any information or data produced as a result of this Agreement or probation to the

proper licensing authority of any jurisdiction in which Respondent intends to remain for greater than forty-eight (48) hours;

(ix) During any period of Ordered Probation, Respondent shall supply any current professional employer with a copy of this Consent Agreement and Order;

(x) Within fifteen (15) days of the date of this Order, and within (15) days of the date of any change in professional employer Respondent shall have his professional employer submit to BEI written verification that the professional employer *a)* has received a copy of this Consent Agreement and Order, *b)* understands the conditions of this probation, and *c)* agrees to report any suspected violation by Respondent of this probation. If Respondent is or becomes self-employed, Respondent shall submit a statement to that effect to BEI and shall produce any requisite documentation to BEI to substantiate such a statement;

(a) Respondent consents to the release by the Bureau or BEI of any information or data produced as a result of this probation to any professional employer or prospective professional employer; and

(2) Unless otherwise directed, Respondent, his professional employer, and any other person needing or required to make reports under this Order concerning Respondent's practice and contact information shall cause those reports, data or other information to be filed with BEI at:

Probation Compliance Officer Bureau of Enforcement and Investigation Box 2649 Harrisburg, PA 17105-2649 717-783-7230
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d. **REMEDIAL EDUCATION:**

- (1) Respondent shall attend and successfully complete a remedial education course on the topic of sexual boundary issues.
- (2) To the extent that the remedial education course(s) requires Respondent to pass an examination in order for Respondent to be eligible for initial or continuing education credits, Respondent must take and successfully pass such examination in order for the remedial education course(s) to satisfy the requirement of this Order.
- (3) Respondent shall submit acceptable proof of successful completion of the remedial professional education course(s) to the Board's Board Administrator **within six (6) months of the effective date of this Consent Agreement.** Respondent shall note the case number of this matter on any documentation submitted to the Board Administrator. The address for the Board's Board Administrator is:

Suzanne Zerbe, Board Administrator
State Board of Medicine
2601 N. 3rd Street
P.O. Box 2649
Harrisburg, PA 17105-2649

- (4) Acceptable proof of completion of the remedial education course shall consist of an official school transcript, a certificate or letter of completion prepared by the sponsor of the remedial education course or a printout prepared by the sponsor indicating the completed courses. Proof shall contain course titles, completion dates, final grade (if course is graded), and number of class hours or continuing professional education (CPE) credits awarded. Acceptable proof shall not consist of receipts, course outlines or agendas, cancelled checks, payment acknowledgments, or self-prepared records, among other documents.
- (5) Respondent shall authorize the course provider to send a course assessment to the Board's Board Administrator.
- (6) The additional hours of remedial education in this Order shall be completed in addition to the hours that Respondent shall take in this or subsequent reporting periods for the renewal of his license. Credit hours required in this Order may not be used from any previous reporting period, nor may they be used in any subsequent biennial period for the renewal of Respondent's license to practice as a Medical Physician and Surgeon. Respondent may not utilize the credit hours required in this Order for purposes of satisfying any initial or continuing education requirement of any other authorization to practice the profession issued by the Board.

(7) Respondent shall bear the responsibility of all costs incurred by Respondent in complying with the terms of this Order, including production of records.

(8) At this time, Respondent has completed the remedial education as required by this Consent Agreement and Order.

e. **VIOLATIONS OF PROBATION:**

(1) Notification of a violation of the terms or conditions of this Consent Agreement and Order shall result in the **IMMEDIATE VACATING** of the stay order, **TERMINATION** of the period of probation, and **ACTIVATION** of the entire period of suspension of Respondent's authorizations to practice the profession in the Commonwealth of Pennsylvania as follows:

(i) The prosecuting attorney for the Commonwealth shall file with the Board a Petition which alleges that Respondent has violated any terms or conditions of this Consent Agreement and Order other than failure to complete the Ordered remedial education, if any, in a timely manner;

(ii) Upon a probable cause determination that Respondent has violated any of the terms or conditions of this Consent Agreement and Order, the Board shall, without holding a formal hearing, issue a preliminary order vacating the stay of the suspension in this matter, terminating the period of probation and activating the entire period of

suspension of Respondent's authorizations to practice the profession, without credit for any period of suspension stayed in favor of probation;

(iii) Notification of the Board's Preliminary Order shall be mailed to Respondent within three (3) days of its issuance by certified mail and first-class mail postage prepaid, sent to the last registered address on file with the Board. If service by mail is unsuccessful, the Commonwealth is authorized to attempt service by personal service and/or publication of legal notice in a newspaper of general circulation in the county of Respondent's last known address;

(iv) Within twenty (20) days of mailing of the notification of the Board's action, Respondent may answer the Commonwealth's Petition and request that a formal hearing be convened concerning Respondent's alleged violation of probation, in which Respondent may seek relief from the Preliminary Order activating the suspension. The answer shall be set forth in numbered paragraphs corresponding to the numbered paragraphs of the Petition. Respondent shall admit or deny each of the allegations set forth in the paragraphs in the Petition. Respondent shall mail

the original answer and request for hearing, and all other pleadings to:

Office of Prothonotary Bureau of Professional and Occupational Affairs 2601 N. 3rd Street P.O. Box 2649 Harrisburg, PA 17105-2649

(v) Respondent shall send a copy of the answer, request for hearing, and all subsequent filings in the matter to the prosecuting attorney for the Commonwealth;

(vi) If a request for a formal hearing is received from Respondent, the Board shall convene a formal hearing within forty-five (45) days from the date of the Board's receipt of Respondent's request for a formal hearing;

(vii) If Respondent files an answer and request for a hearing within the twenty (20) day period, the Preliminary Order activating the suspension shall remain in effect unless and until the Board issues a determination favorable to Respondent after holding the formal hearing;

(viii) The facts and averments in paragraphs 3 of this Consent Agreement and Order shall be deemed admitted and uncontested for purposes of the hearing;

(ix) If the Board after such hearing makes a determination adverse to Respondent, the Board will issue a Final Order activating the suspension of Respondent's

license and imposing any additional disciplinary measures it deems appropriate;

(x) If a request for a formal hearing is not received from Respondent within the prescribed twenty (20) day period, the Board's Preliminary Order shall become a Final Order twenty (20) days after the date of its mailing;

(xi) If the stay is terminated, Respondent shall still comply with all terms and conditions of probation during the active suspension, other than those terms and conditions pertaining to the active practice of the profession. Continued failure by Respondent to comply with the unaffected terms and conditions of probation shall result in further disciplinary action against Respondent.

(2) Respondent's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action.

f. COMPLETION OF PROBATION:

(1) At the end of the three (3) month period of probation, Respondent may make written application to the Board requesting that Respondent's authorizations to practice the profession be reinstated to unrestricted status. Prior to reinstatement, Respondent shall be required to demonstrate to the Board's satisfaction:

(i) Compliance with all statutory and regulatory requirements for renewal, relicensure, and reinstatement, as applicable, which are in effect at that time;

(ii) Full and complete compliance with the terms of this Consent Agreement, including having completed the required remedial education; and

(iii) An affirmative showing that Respondent has not been convicted of a felony or a misdemeanor relating to a health profession, or has received probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition in the disposition of felony charges, in the courts of this Commonwealth, the United States, or any other state, territory, possession or country, since the date of this Consent Agreement. To that end, Respondent shall submit a current Criminal History Information (aka "Criminal Record Check") from a governmental agency from all states in which Respondent has resided or worked since the date of this Consent Agreement, compiled no more than three months prior to the petition for reinstatement.

(2) Respondent understands that reinstatement of his license to practice as a medical physician and surgeon will be at the Board's discretion and may be conditioned on Respondent attending a hearing, Respondent's demonstration of

his honesty, integrity, fitness, and safety to practice the profession, and may be accompanied by any conditions imposed by the Board, including a period of monitored practice or probation.

g. This Order constitutes disciplinary action by the Board. This Order will be reported to other licensing authorities and any applicable national licensing databank as a disciplinary action.

h. This case shall be deemed settled and discontinued upon the Board issuing an order adopting this Consent Agreement.

ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS

6. Respondent agrees that this Consent Agreement and Order shall be admitted into evidence, without objection, in any proceeding before the Department of State.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

7. Respondent waives the filing of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter and the following rights related to that hearing: to be represented by counsel; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any adverse final decision.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

8. Respondent acknowledges the right to consult with and be represented by private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement. Respondent had an opportunity to consult with and has been advised by Attorney Brian E. Quinn, regarding this Consent Agreement.

WAIVER OF CLAIMS

9. Should the Board vote not to adopt the Order proposed in this Consent Agreement, the presentation and consideration of this Consent Agreement shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. Respondent expressly waives the right to raise any claims or issues, including any and all constitutional claims or issues, which may arise or have arisen during the review, presentation and deliberation of this Consent Agreement. These claims or issues include, but are not limited to, bias, the commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Board, in its discretion, recommending a different sanction based upon the facts set forth in the Consent Agreement. If a hearing is subsequently held, neither this Consent Agreement nor the proposed terms of settlement may be admitted into evidence and any facts, averments, and allegations contained in the Consent Agreement must be proven at a hearing unless otherwise separately stipulated.

LIMITS ON MODIFICATION OF ORDER

10. Respondent agrees not to seek modification of the Order adopting and implementing this Consent Agreement without first obtaining the express written permission from the prosecution division. Any modification is at the sole discretion of the Board.

AGREEMENT NOT BINDING UNTIL APPROVED

~~11. This Consent Agreement is between the Commonwealth and Respondent. The Office of~~
General Counsel has approved this Consent Agreement as to form and legality. The disciplinary provisions of this Consent Agreement do not take effect unless and until the Board issues an order adopting this Consent Agreement.

ENTIRE AGREEMENT

12. This Consent Agreement contains the entire agreement between the parties. There are no other terms, obligations, covenants, representations, statements, or conditions, oral or otherwise, of any kind whatsoever concerning this agreement.

AGREEMENT DOES NOT PREVENT FUTURE DISCIPLINE

13. Nothing in this Order shall preclude the prosecution division of the Department of State from filing charges, or the Board from imposing disciplinary or corrective measures, for violations or facts not contained in this Consent Agreement.

VERIFICATION OF FACTS AND STATEMENTS

14. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that the statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.



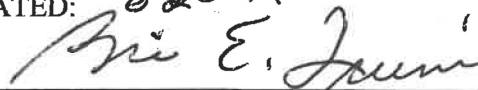
Tara J. Wilhnan, Esquire
Prosecuting Attorney

DATED: 9/3/2019



Michael Dorfman, M.D.
Respondent

DATED: 8-28-19



Brian E. Quinn, Esquire
Attorney for Respondent

DATED: 8-28-19

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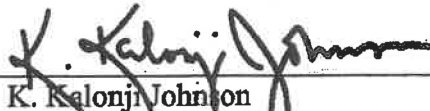
**Michael Dorfman, M.D.
Respondent**

ORDER

AND NOW, this *29th* day of *October* 2019, the **STATE BOARD OF MEDICINE** ("Board") approves and adopts the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

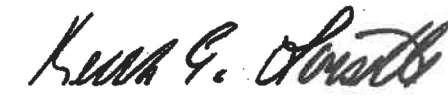
**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**


K. Kalonji Johnson
Acting Commissioner

For the Commonwealth:

For the Respondent:

**BY ORDER:
STATE BOARD OF MEDICINE**


Keith E. Loiselle
Chairman

Tara J. Wikhian
2601 North Third Street
P. O. Box 69521
Harrisburg, PA 17106-9521

Brian E. Quinn, Esquire
1420 Walnut Street, Suite 1200
Philadelphia, PA 19102

Date of mailing: 10-30-19