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

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

vs.

**Kevin Russell Patterson, MD,
Respondent**

File No.: 16-49-10050

(standard of care/unprofessional conduct)

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and Kevin Russell Patterson, 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; Medical Practice Act's Regulations (Regulations), 49 Pa. Code §§ 16.1-18.710; 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.

MD427062, which was originally issued on July 18, 2005, and is active through December 31, 2020.

STIPULATED FACTS

3. The Respondent admits that the following allegations are true:

a. Absent further Board action, Respondent's license may be continually reactivated, renewed, or reinstated upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's last known office address, as on file with the Board is:
PO Box 24071, Pittsburgh, PA 15206.

4. Although Respondent denies that any violation of the Act has occurred and would dispute and/or deny such allegations, if a hearing were held in this matter, the Commonwealth would present the following evidence or testimony:

a. At all times relevant to the events in this case, Respondent was a board-certified psychiatrist.

b. In 2011, Respondent was the director of psycho-oncology at the Hillman Cancer Center and the director of the Biobehavioral Oncology Program with the Pittsburgh Cancer Institute.¹

c. In Respondent's above capacity, he began to treat Patient MB's husband, who was also a physician with UPMC and had developed a brain tumor.² Following the start of Respondent's treatment sessions for Patient MB's husband, Patient MB started to attend her husband's treatment sessions.

¹ Both the Hillman Cancer Center and the Biobehavioral Oncology Program with the Pittsburgh Cancer Institute are under the umbrella of control of the University of Pittsburgh Medical Center (UPMC).

² The Patient MB's name is well known to Respondent, and her initials are used to protect privacy. The name of the patient has been provided to Respondent in a letter accompanying service of this Order to Show Cause.

d. Pursuant to Respondent's medical records, Patient MB began treating privately with Respondent on or about March 10, 2011.

e. Respondent initially diagnosed Patient MB with generalized anxiety disorder but deferred any Axis II (personality disorder) diagnosis. In addition, Respondent noted that Patient MB had a long history of previous psychotherapy for anxiety, including separation anxiety as a child. Respondent averred that this issue dated from Patient MB's teenage years, when she experienced rectal prolapse and had to have corrective surgery, which made Patient MB feel insecure and untrusting of her body. In addition, Respondent also noted that he had concerns regarding Patient MB's described eating behaviors as a child. Further, Patient MB's anxiety appeared to have been exacerbated by living in New York with her husband when the terrorist attacks on September 11, 2001 occurred.

f. Respondent conceptualized Patient MB's psychopathology and treatment based on Attachment Theory.

g. Pursuant to Respondent's medical records, Respondent documented treatment of Patient MB on the following dates: 3/10/11, 4/12/11, 8/25/11, 10/26/11, 10/31/11, 11/17/11, 11/29/11, 12/5/11, 12/29/11, 1/6/12, 1/18/12, 2/2/12, 2/15/12, 2/21/12, 3/7/12, 3/28/12, 4/18/12, 6/7/12, 6/21/12, 7/5/12, 7/17/12, 7/23/12, 8/15/12, 8/16/12, 9/20/12, 9/27/12, 10/15/12, 10/25/12, 12/13/12, 1/3/13, 2/14/13, 2/21/13, 3/14/13, 4/11/13, 5/9/13, 6/13/13, 6/24/13, 7/22/13, 8/22/13, 10/3/13, 10/17/13, 10/31/13, 11/21/13, 1/16/14, 1/30/14, 2/13/14, 2/27/14, 3/20/14, 7/11/14, 9/16/14, 9/30/14, 10/29/14, 11/2/14, 11/25/14, 12/10/14, 1/26/15, 1/28/15, 2/19/15, 2/24/15, 3/11/15, 3/25/15, and 3/31/15.

h. Pursuant to Patient MB's medical records, Respondent made a note during the August 15, 2012 session that identified Patient MB as having a diagnosis of a personality disorder, not otherwise designated in addition to her previously diagnosed general anxiety disorder.

i. As part of Respondent's psycho-oncology treatments, as well as other categories of treatments, Respondent has admitted to providing hugs to patients, including Patient MB, at the end of a treatment session.

j. Following the start of Patient MB's private treatment with Respondent, Patient MB started contacting Respondent via phone and text message at times other than scheduled appointments.

k. Respondent addressed the above-mentioned unscheduled communications by engaging in phone calls, text messaging, emailing, and in-person out of office meetings until approximately October of 2014. However, these out-of-office interactions were not documented in the medical records retained by Respondent for Patient MB.

l. Respondent identified Patient MB as being uncomfortable bringing up some topics, including but not limited to the topics of sex and desire, for discussion during in-office treatment sessions, but rather, she preferred to address the topics with Respondent outside of the office via text message.

m. Respondent allowed out-of-office discussions with Patient MB.

n. Respondent admitted to being aware that for the majority of 2012 through the first half of 2013 that Patient MB was experiencing significant transference towards him.

o. In April of 2013, Respondent accepted cash payments that did not relate to compensation for any of the in-office treatment sessions and/or treatment sessions documented in the Patient MB's medical records.

p. On September 3, 2013, from 9:48 PM to 11:08 PM, Respondent, using a personal email, engaged in an email exchange with Patient MB, who was also using a personal email, which was not for a recognized therapeutic purpose.

q. Pursuant to Patient MB's medical records, Respondent made a note during the January 16, 2014 session that he was changing Patient MB's diagnosis of personality disorder, not otherwise designated to a diagnosis of borderline personality disorder.

r. Respondent has admitted that he was ill prepared to handle issues of intense transference, counter-transference, patient manipulation, and boundary setting issues that occurred during his treatment of Patient MB.

s. Without stipulating to the facts contained therein, the Commonwealth is agreeable to Respondent's inclusion of the following mitigating statement, which has been attached as Exhibit A.

ALLEGED VIOLATIONS

5. The Commonwealth alleges that 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), because Respondent violated:

- a. the Act at Section 41(8) of the Act, 63 P.S. § 422.41(8) by engaging in unprofessional conduct. Unprofessional conduct shall include departure from or failing to conform to an ethical or quality of standard of the profession; and
- b. the Regulations at Section 16.95, 49 Pa. Code § 16.95, in that Respondent failed to maintain full and complete medical records.

PROPOSED ORDER

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

a. The Board finds that it 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), because Respondent violated:

(1) the Act at Section 41(8) of the Act, 63 P.S. § 422.41(8) by engaging in unprofessional conduct.

Unprofessional conduct shall include departure from or failing to conform to an ethical or quality of standard of the profession; and

(2) the Regulations at Section 16.95, 49 Pa. Code § 16.95, in that Respondent failed to maintain full and complete medical records.

REMEDIAL EDUCATION

b. Prior to January 1, 2020, Respondent shall attend and successfully complete:

(1) An intensive in-person courses from either Vanderbilt University or Case Western Reserve University in the area of maintaining appropriate physician-patient boundaries; and

(2) twenty-five (25) hours of remedial education on the topics of: 1) medical ethics and 2) records keeping.

c. Respondent shall also comply with all the following terms and conditions pertaining to completion of the intensive in-person course and twenty-five (25) hours of additional remedial education:

(1) The additional hours of education required by this Order shall consist of hours attended or completed after the date this consent agreement is approved;

(2) Credits specified in this Order shall be in compliance with either the initial education or the continuing education regulations of the Board;

(3) To the extent that the remedial education course(s) require 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.

d. Respondent shall submit acceptable proof of successful completion of the remedial professional education course(s) to the Professional Compliance Officer. Respondent shall note the file number and docket number of this matter on any documentation submitted to:

Probation Compliance Officer
Bureau of Enforcement and Investigation
Box 2649
Harrisburg, PA 17105-2649
717-783-7230

e. Acceptable proof of completion of the twenty-five (25) additional hours of remedial education 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;

f. Respondent shall authorize the course provider to send a course assessment to the Board's Board Administrator;

g. 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. For a period of twelve (12) months after Respondent submits acceptable proof of completion of the remedial education required by this Consent Agreement, Respondent shall be subject to non-random audit of his continuing or initial education when/if Respondent files any application for the renewal or issuance of a new of authorization to practice the profession issued by the Board;

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

VIOLATION FOR FAILURE TO SUCCESSFULLY COMPLETE REMEDIAL EDUCATION AS REQUIRED BY CONSENT AGREEMENT AND ORDER

i. If the Respondent fails to submit acceptable proof of successful completion of the Remedial Education as required by this Consent Agreement, Respondent's license to practice as a medical physician and surgeon and any and all authorizations to practice the profession issued by the Board and held by Respondent shall be **IMMEDIATELY AND INDEFINITELY SUSPENDED**, without further hearing, until such time as Respondent does provide the Board's Board Administrator with acceptable proof of successful completion of the Remedial Education as required by this Consent Agreement.

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

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

l. 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

7. Respondent agrees that if Respondent is charged with a violation of an Act enforced by this Board in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

8. Respondent acknowledges receipt of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and knowingly and voluntarily waives the following rights related to that hearing: to be represented by counsel at the hearing; 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 final adverse decision.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

9. Respondent acknowledges that he is aware that he has the right to consult with, and/or 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 Kathleen A. Segmiller, Esq., regarding this Consent Agreement.

WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS

10. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Board or its counsel, which may arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement. Respondent specifically agrees that if the Board rejects this agreement, it may assume that the facts and averments as alleged in this Consent Agreement are true and correct for the limited purpose of recommending a sanction, based on those assumed facts, that would be acceptable to the Board before hearing the case. In the event that the Board does assume the facts and averments as alleged in this Consent Agreement are true for purposes of making a recommendation as to an acceptable sanction, such action shall not constitute commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Respondent expressly waives any constitutional rights and issues related to alleged commingling, bias, or violation of due process rights to have an unbiased and impartial adjudicator in any subsequent hearing. 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 hearing unless otherwise separately stipulated. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

NO MODIFICATION OF ORDER

11. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

AGREEMENT NOT BINDING ON OTHER PARTIES

12. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Board issues the stipulated Order.

EFFECT OF BOARD'S REJECTION OF CONSENT AGREEMENT

13. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

ENTIRE AGREEMENT

14. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

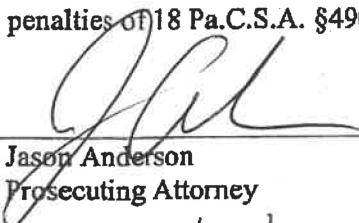
AGREEMENT DOES NOT PREVENT ADDITIONAL DISCIPLINE BASED ON OTHER COMPLAINTS

15. Nothing in this Order shall preclude the Prosecution Division for the Commonwealth 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

16. 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

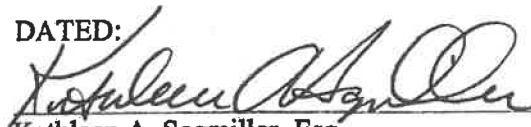
understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.


Jason Anderson
Prosecuting Attorney

DATED: 4/25/19


Kevin Russell Patterson, M.D.
Respondent

DATED:


Kathleen A. Segmiller, Esq.
Attorney for Respondent

DATED: 4/25/19

EXHIBIT A
MITIGATING FACTORS

Prior to and after receiving the subject Board action, Kevin R. Patterson, M.D., voluntarily instituted the following changes to his practice:

1. Kevin R. Patterson, M.D., trained in, and ultimately became instructional faculty for, the process of Balint. This is a psychoanalytic group format used among groups of doctors in order to address challenges in physician-patient interactions;
2. Kevin R. Patterson, M.D., has since restricted his practice both in terms of form and patient type. He currently sees patients for medication management only and will not agree to see anyone for therapy purposes. He encourages all of his patients to have and maintain a relationship with a separate therapist. He also specifies on his website that he does not treat Borderline Personality Disorder as that requires a more intensive level of care;
3. Kevin R. Patterson, M.D., has implemented an electronic medical record system in his practice and will not see any patient outside of the office setting; and
4. Kevin R. Patterson, M.D., has done multiple hours of CME related to digital communications and its role in the physician-patient relationship. He now utilizes a practice-only email address that also keeps a digital record of any and all exchanges (texts, emails and the like) through his practice-specific phone number.

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

**Commonwealth of Pennsylvania
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vs.

**Kevin Russell Patterson, MD,
Respondent**

File No.:

16-49-10050

(standard of care/unprofessional conduct)

ORDER

AND NOW, this 21st day of May 2019, the **STATE BOARD OF MEDICINE**
("Board") adopts and approves the foregoing Consent Agreement and incorporates the terms of
the Consent Agreement, 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:

Date of mailing:

**BY ORDER:
STATE BOARD OF MEDICINE**


Keith E. Loiselle
Chair

Jason Anderson, Esquire
2601 North Third Street
P. O. Box 69521
Harrisburg, PA 17106-9521

Kevin Russell Patterson, MD
c/o Kathleen A. Segmiller, Esq.
Segmiller & Associates, P.C.
Rivertech Centre
3700 South Water Street, Suite 130
Pittsburgh, PA 15203

05/22/19