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

Commonwealth of Pennsylvania **Bureau of Professional and** **Occupational Affairs** **vs.** **William Kim, M.D.,** **Respondent**	**File No.:** **19-49-016064**

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and **William Kim, 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 of 1985, 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. MD458120, which was originally issued on June 1, 2016, which expires on December 31, 2020.

STIPULATED FACTS

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

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a. Absent additional 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: 2 Biddlewoods Road, Wyndmoor, PA 19038.

c. From approximately March 22, 2018, through August 14, 2019, Respondent wrote approximately seven (7) prescriptions for controlled substances, Zolpidem, Methylphenidate and Clonazepam, for an individual who will be identified as M.B.

d. When the Respondent prescribed Zolpidem, Methylphenidate and Clonazepam to M.B., Respondent failed to carry out or caused to be carried out the minimum standards for prescribing controlled substances, as required by the Boards Regulation at 49 Pa. Code § 16.92(b).

e. When the Respondent prescribed Zolpidem, Methylphenidate and Clonazepam to M.B., Respondent failed to generate accurate and complete medical records documenting the evaluation and care received by M.B., as required by the Boards Regulation at 49 Pa. Code § 16.92(b)(4).

MITIGATION

4. The Respondent offers the following in mitigation, which the Commonwealth neither admits nor denies.

a. Respondent's conduct was isolated to M.B.

b. Respondent has no prior allegations of misconduct.

c. Respondent's conduct did not persist following August 14, 2019

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d. Respondent is unlikely to repeat the conduct at issue in this consent agreement.

AUTHORITY OF THE BOARD

5. The Board is authorized to suspend or revoke, or otherwise restrict Respondent's license under sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; or impose a civil penalty under Section 908 of the Mcare Act, 40 P.S. §§ 1303.908; and/or Section 5(b)(4) of ACT 48, 63 P.S. §2205(b)(4) and/or impose the costs of investigation under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Board's Regulations at 49 Pa. Code §§ 16.92(b) and 16.92(b)(4) and in violation of the Act at section 41(6), 63 P.S. § 422.41(6), in that Respondent prescribed controlled substances to M.B. without carrying out or causing to be carried out the minimum standards for prescribing controlled substances and without generating accurate and complete medical records documenting the evaluation and care received by M.B.

SUMMARY OF DISCIPLINE

6. The following encapsulates the discipline as set forth in the Proposed Order:

- Respondent will be agreeing to complete fifty (50) additional hours of Continuing Medical Education within six (6) months of the date of the Order approving this consent agreement. Twenty-five (25) hours on the topic of Record Keeping and twenty-five (25) hours on prescribing.
- So long as Respondent successfully completes the terms and conditions of this consent agreement the Board shall not report this matter and any related conduct to the National Practitioner Data Bank

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PROPOSED ORDER

7. 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 or revoke, or otherwise restrict Respondent's license under sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; or impose a civil penalty under Section 908 of the Mcare Act,40 P.S. §§ 1303.908, and/or Section 5(b)(4) of ACT 48, 63 P.S. §2205(b)(4) and/or impose the costs of investigation under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Board's Regulations at 49 Pa. Code §§ 16.92(b) and 16.92(b)(4) and in violation of the Act at section 41(6), 63 P.S. § 422.41(6), in that Respondent prescribed controlled substances to M.B.. without carrying out or causing to be carried out the minimum standards for prescribing controlled substances and without generating accurate and complete medical records documenting the evaluation and care received by M.B.

REMEDIAL EDUCATION

b. Within six (6) months of the Order approving this consent agreement, Respondent shall successfully complete at least twenty-five (25) hours of remedial education on the topic of proper prescribing of controlled substances and at least twenty-five (25) hours of remedial education on the topic of proper record keeping, for a minimum total of fifty (50) hours of remedial education.

c. Respondent shall comply with all of the following terms and conditions pertinent to the completion of the remedial education hours:

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(1) The additional hours of remedial education required by the Order shall consist of hours attended or completed after March 1, 2020;

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

(3) At least twenty- five (25) hours of remedial education required by this Order shall consist of AMA, PRA Category 1 credits.

d. To the extents that the remedial education course(s) require Respondent to pass an examination in order for the 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 requirements of this Order.

e. Within six (6) months of the date of this Order, approving this Consent Agreement, Respondent shall, shall submit acceptable proof of successful completion of the remedial professional course(s) to the prosecuting attorney by email or regular mail at the following address:

Nathan C. Giunta
Prosecuting Attorney
Department of State
PO Box 69521
Harrisburg PA 17106-9521
ngiunta@pa.gov

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f. Acceptable proof of the completion of the fifty (50) 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.

g. The additional hours of remedial education in this order shall be completed in addition to the hours that Respondent shall take in this reporting period 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 twenty-four (24) 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.

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

VIOLATION FOR FAILING TO SUCCESSFULLY COMPLETE REMEDIAL EDUCATION AS REQUIRED BY THIS CONSENTAGREEMENT AND ORDER

i. Notification of a violation of the terms or conditions of this Consent Agreement and Order for failing to timely complete Ordered Remedial Education shall result in the IMMEDIATE AND INDEFINITE SUSPENSION of Respondent's authorizations to practice the profession in the Commonwealth of Pennsylvania as follows:

(1) The prosecuting attorney for the Commonwealth shall file with the Board a Petition which alleges that Respondent has violated the terms or conditions of this Consent Agreement and Order by failing to complete the Ordered remedial education in a timely manner;

(2) Upon a probable cause determination that Respondent has violated the of the terms or conditions of this Consent Agreement and Order by failing to complete the Ordered remedial education in a timely manner, the Board shall, without holding a formal hearing, issue a Preliminary Order suspending Respondent's authorizations to practice the profession;

(3) 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

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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.

(4) 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 the Prothonotary
Bureau of Occupational and Professional Affairs
2601 North 3rd Street
PO Box 2649
Harrisburg, PA 17106-9521

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

(6) 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;

(7) 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;

(8) The facts and averments in paragraphs 3 and 4 of this Consent Agreement and Order shall be deemed admitted and uncontested for purposes of the hearing;

(9) If the Board after such hearing makes a determination adverse to Respondent, the Board will issue a Final Order indefinitely suspending Respondent's authorizations to practice the profession until Respondent presents proof of completion of the remedial education required by this Consent Agreement and Order;

(10) The Board's Preliminary Order shall become a Final Order twenty (20) days after the date of its mailing,

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if Respondent fails to request a formal hearing within the prescribed twenty (20) day period;

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.

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

8. 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

9. 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

10. 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

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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

11. 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

12. 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

13. 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

14. 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;

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VERIFICATION OF FACTS AND STATEMENTS

15. 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.

Nathan C. Giunta
Prosecuting Attorney

DATED:

William Kim, M.D.
Respondent

DATED: 6/29/2020

Dawson R. Muth
Attorney for Respondent

DATED: 6/29/2020

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DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania **Bureau of Professional and** **Occupational Affairs**	
vs.	**File No.:** **19-49-016064**
William Kim, M.D., **Respondent**	

ORDER

AND NOW, this 29th day of July 2020, the **STATE BOARD OF MEDICINE** ("Board") approves and adopts the foregoing Consent Agreement and incorporates the terms of paragraph 7, 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. Kaloniji Johnson
Commissioner

BY ORDER:
STATE BOARD OF MEDICINE

Keith E. Loiselle
Chair

For the Commonwealth:

Nathan C. Giunta, Esquire
2601 North Third Street
P.O. Box 69521
Harrisburg, PA 17106-9521

For the Respondent:

Dawson R. Muth
Lamb McErlane, PC
24 East Market Street
P.O. Box 565
West Chester, PA 19381

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