

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

**Commonwealth of Pennsylvania
Department of State**

vs.

**Dan Jacobs, D.O.,
Respondent**

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:
: **Docket No. 0824-53-03**
: **File No. 98-53-05175**
:
:

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Department of State

CONSENT AGREEMENT AND ORDER

The Commonwealth and Respondent stipulate as follows in settlement of the above-captioned case.

1. This matter is before the State Board of Osteopathic Medicine pursuant to the Osteopathic Medical Practice Act, Act of October 5, 1978, P.L. 1109, No. 261, as amended ("Act"), 63 P.S. §271.1 et seq.

2. At all relevant and material times, Dan Jacobs, D.O. ("Respondent") held a license to practice osteopathic medicine in the Commonwealth of Pennsylvania, license no. OS-002982-L.

3. The Respondent does not admit or deny the following facts but for purposes of settlement agrees that discipline as outlined in paragraph 5 will be imposed:

a. Respondent's license is current through October 31, 2004, and may be renewed thereafter upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's last known address on file with the Board is 11041 Bustleton Avenue, Philadelphia, PA 19116.

c. Respondent's limited private practice was audited by the Bureau of Program Integrity of the Department of Welfare on or about July 1998. Respondent was also investigated, by the Department of State, Bureau of Enforcement and Investigation.

d. Medical Records for the "D" family were all contained in one patient folder. The files had been cleaned out several years prior to the Department of Welfare audit.

e. Respondent admitted that he did not document call-in prescriptions or home visits for this family.

f. Respondent indicated that he had treated this family for approximately thirteen years, even though the records provided only went back to 1997.

g. When questioned by BPI personnel regarding his lack of records, Respondent indicated, "I don't have to keep records, because I don't participate in state or federal programs."

h. Department of Welfare reviewed pharmaceutical billing records from one entity for the period August 31, 1996 through June 29, 1998. This review revealed no controlled drugs ordered or dispensed. The Department of Welfare review of pharmaceutical records indicated the Respondent as the proscribing physician for:

- a. CD-276 prescriptions (an average of 27 prescriptions per month)
- b. DD-108 prescriptions (an average of 10 prescriptions per month)
- c. PD-20 prescriptions
- d. PD-106 prescriptions (an average of 10 prescriptions per month)
- e. RD, Jr.-75 prescriptions

i. Few of these prescriptions were recorded in the patient records, Respondent did not admit these allegations but settled with Department of Welfare through a fine and preclusion from the medical assistance program for six months (and those entries that were recorded did not include evidence of complete physical examinations, vital signs, chief complaints, or patient education).

4. The activities of Respondent, described above, violated the Act at 63 P.S. §271.15(a)(6) through 49 Pa. Code §25.213; and 63 P.S. §271.15(a)(8).

5. The parties consent to the issuance of the following Order in settlement of this matter:

a. Respondent violated the Act at 63 P.S. §271.15(a)(6) through 49 Pa. Code §25.213 in that Respondent failed to maintain adequate medical records.

b. Respondent violated the Act at 63 P.S. §271.15(a)(8) because Respondent failed to conform to acceptable standards of care in examining, diagnosing and treating his patient.

c. Respondent shall never treat any member of the “D” family again.

d. Respondent shall pay a **CIVIL PENALTY** of two thousand dollars (\$2,000 by cashier’s check, certified check, U.S. Postal money or attorney’s check, made payable to “Commonwealth of Pennsylvania”, at the time of signing this Consent Agreement.

e. Respondent’s license, No. OS-002982-L is **SUSPENDED** for a period of thirty (30) days. Said Suspension is to be immediately **STAYED** in favor of **six (6) months** of **PROBATION** subject to the following terms and conditions:

GENERAL

(1) 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 of the profession in this Commonwealth or any other state or jurisdiction in which Respondent holds a

license to practice. Provided, however, summary traffic violations shall not constitute a violation of this Order.

(2) 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.

(3) 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.

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

(5) Respondent may not be absent from the Commonwealth of Pennsylvania for any period exceeding thirty (30) days unless Respondent seeks and receives prior written permission from the prosecuting attorney, subject to any additional terms and conditions required by the prosecuting attorney. Such permission shall not be unreasonably withheld.

(6) Respondent shall notify BEI, in writing, within twenty (20) days of the filing of any criminal charges, the initiation of any other legal action pertaining to the practice of Respondent’s profession, the initiation, action, restriction or limitation relating to Respondent by the professional licensing authority of any state or jurisdiction, or the Drug Enforcement Agency of the U.S. Department of Justice,

or any investigation, action, restriction or limitation relating to Respondent's privilege to practice the profession.

(7) Respondent shall notify BEI by telephone within 72 hours and in writing within ten (10) days of the change of his home address, phone number, place(s) of employment and/or practice.

VIOLATION OF THIS ORDER

g. Notification of a violation of the terms and 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 license 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 indicates that Respondent has violated any terms or conditions of this Consent Agreement and order.

(2) Upon a probable cause determination that Respondent has violated any of the terms and 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 license.

(3) Respondent shall be notified of the Board's Preliminary Order 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.

(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 violation of probation, in

which Respondent may seek relief from the Preliminary Order activating the suspension. Respondent shall serve the prosecuting attorney for the Commonwealth with a copy of the answer and all subsequent filings in this matter.⁶

(5) 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.

(6) 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.

(7) The facts and averments in this Consent Agreement and Order shall be deemed admitted and uncontested at this hearing.

(8) 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.

(9) 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.

h. 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 practicing the profession. Continued failure by Respondent to comply with the unaffected terms and conditions of probation shall result in further disciplinary action against Respondent.

i. Respondent's failure to fully comply with any terms of this Order may also

constitute grounds for additional disciplinary action.

j. Nothing in this Order shall preclude the Prosecuting Attorney 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.

k. Upon successful completion of probation, Respondent's license shall be returned to unrestricted, non-probationary status upon his filing of an affidavit stating that Respondent has complied with all terms and conditions of probation. Respondent shall include with the affidavit a summary of Respondent's Criminal History Record Information (a/k/a "Criminal Record Check") obtained at Respondent's expense.

l. This case shall be deemed settled and discontinued upon the Board's adoption of the Consent Agreement.

m. This Order shall take effect immediately upon the Board's adoption of the Consent Agreement.

6. 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 to 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.

7. This Consent Agreement is between the Commonwealth and Respondent only. Except as otherwise noted, this Agreement is to have no legal effect unless and until the Office of General Counsel approves the contents as to form and legality and the Board issues the stipulated Order.

8. 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. The participants waive any objection to a Board member's consideration of this Agreement in the event that the member participated in a prior decision to prosecute this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.


9. 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.


10. This Agreement contains the whole agreement between the participants. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this Agreement. Respondent verifies that he is entering into this Consent Agreement knowingly and voluntarily after benefit of legal counsel.

The Prosecuting Attorney represents that at the time of presentation of this Agreement to the Board for review, there are no other open complaint files against Respondent within the Office of Prosecution and that this agreement resolves the allegations within the OSC filed in this matter and all outstanding complaint allegations as of April 25, 2003.

11. The Respondent understands that the Board Order will be reported to the National Practitioner Data Bank.

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


Benadette Paul
Prosecuting Attorney
Department of State


Dan Jacobs, D.O.
Respondent

DATED: 5/7/03

DATED: 4/30/2003

ORDER

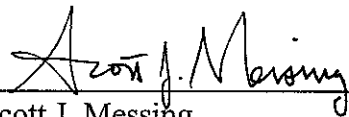
AND NOW, this *13* day of *August*, 2003, the State Board of Osteopathic Medicine adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

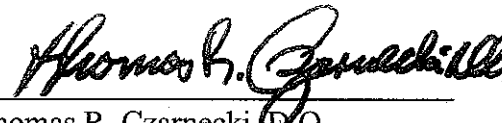
BY ORDER:

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**

**STATE BOARD OF OSTEOPATHIC
MEDICINE**



Scott J. Messing
Deputy Commissioner



Thomas R. Czarnecki, D.O.
Chairman

Date of mailing:

8/21/03

For the Commonwealth:

Bernadette Paul
P. O. Box 2649
Harrisburg, PA 17105-2649

For Respondent:

Michael W.H. Duncan, Esquire
2190 Yellow Springs Road
Malvern, PA 19355

BP/pah

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

PROBATIONARY

2007 FEB 6 10 53 AM

State Board of Osteopathic Medicine

In the Matter of the :
Petition for Reinstatement : Docket No. 0232-53-07
of :
Dan Jacobs, D.O. : File No. 07-53-01216
Respondent :

COFY

ORDER REINSTATING LICENSE

AND NOW, this 6th day of February, 2007, upon consideration of Respondent's request for reinstatement, and the Commonwealth's indication that it does not object to reinstatement, the State Board of Osteopathic Medicine finds that Respondent has completed the terms of the consent agreement and order of August 21, 2003, at File No. 98-53-05175. The Board therefore **ORDERS** that Respondent's license to practice osteopathic medicine, OS-002982-L, is hereby **REINSTATED** to unrestricted, non-probationary status.

This order shall take effect immediately.

BY ORDER:
STATE BOARD OF OSTEOPATHIC MEDICINE

Charles P. Fasano

Charles P. Fasano, D.O.
Chairman

Respondent's Address: Pendel Mental Health Center
1517 Durham Road
Pennel, PA 19047

Prosecuting Attorney: Bernadette Paul, Esquire
P.O. Box 2649
Harrisburg, PA 17105-2649

Board Counsel: Beth Sender Michlovitz, Counsel
P.O. Box 2649
Harrisburg, PA 17105-2649

Date of Mailing: February 6, 2007