

**BEFORE THE VIRGINIA BOARD OF MEDICINE**

**IN RE: DAN ADRIAN NICOLAU, M.D.**  
**License Number: 0101-252617**  
**Case Number: 183847**

---

**CONSENT ORDER**

---

**JURISDICTION AND PROCEDURAL HISTORY**

The Virginia Board of Medical Examiners ("Board") and Dan Adrian Nicolau, M.D., as evidenced by their signatures hereto, in lieu of proceeding to an informal conference, enter into the following Consent Order affecting Dr. Nicolau's license to practice medicine and surgery in the Commonwealth of Virginia.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Dan Adrian Nicolau, M.D., was issued License Number 0101-252617 to practice medicine and surgery on August 7, 2012, which is scheduled to expire on May 31, 2020.
2. Dr. Nicolau violated Virginia Code § 54.1-2915(A)(5). Specifically, by Consent Order entered September 27, 2017, the Tennessee Board of Medical Examiners ("Tennessee Board") placed Dr. Nicolau's license on probation for two years with terms that he comply with the recommendations of a Fitness for Duty Evaluation with Acumen Assessments, submit quarterly reports to the Tennessee Board reflecting his compliance with all recommendations and requirements, and pay civil penalties and costs. This action was based on stipulated findings that in or about September and November 2015, Dr. Nicolau wrote prescriptions for Percocet and oxycodone for an acquaintance not pursuant to a doctor-patient relationship, and later entered into a romantic relationship with that acquaintance. Additionally, as a result of an incident with this acquaintance in 2016, he plead *no lo contendre* on August 23, 2017, to aggravated burglary, a Class C felony, and stalking, a Class A misdemeanor, in the Criminal Court

for Washington County, Tennessee. The Court placed him on judicial diversion for approximately one year and required him to adhere to a treatment plan established by the Tennessee Board.

3. Dr. Nicolau violated Virginia Code § 54.1-2915(A)(4) and (14) in that he is unable to practice with reasonable skill and safety to his patients and the public because of illness. Specifically:

a. On August 3, 2017, Dr. Nicolau entered into a two-year monitoring contract with the Tennessee Medical Foundation ("TMF").

b-d. See Confidential Exhibit

e. Dr. Nicolau's diagnoses of Adjustment Disorder with Anxiety; Cyclothymia, primary, late onset with anxious distress; Major Depression, single episode, in remission (by report); and Obsessive-Compulsive personality traits with some histrionic features require treatment and ongoing monitoring.

4. Dr. Nicolau violated Virginia Code § 54.1-2915(A)(10) in that, on August 23, 2017, he plead *no lo contendere* to aggravated burglary, a Class C felony, in the Criminal Court for Washington County, Tennessee, pursuant to judicial diversion.

5. Dr. Nicolau provided evidence that he attended and completed the following courses through the Center for Professional Health at Vanderbilt University:

- Proper Prescribing of Controlled Prescription Drugs  
November 29 – December 1, 2017
- Maintaining Proper Boundaries  
November 1 – 3, 2017

6. By letters dated January 24, 2018, and June 25, 2018, TMF reported that Dr. Nicolau is compliant with all requirements of his monitoring contract.

7. By letter dated March 25, 2019, Dr. Nicolau's psychologist, Michael R. Floyd, Ed.D., LP-HSP, reported that on or about August 7, 2017, he diagnosed Dr. Nicolau with Adjustment Disorder

with Mixed Symptoms of Anxiety and Depression. Dr. Floyd's treatment of Dr. Nicolau has consisted of at least three counselling sessions per month. Dr. Floyd reports that in January 2018, he removed the diagnosis of Adjustment Disorder and that Dr. Nicolau has been treated solely for problems related to employment and relationships since that time. Dr. Floyd reports that Dr. Nicolau has made good progress.

8. Pursuant to Virginia Code § 54.1-2400.2(K), the Board considered whether to disclose or not disclose Dr. Nicolau's health records or health services.

### **CONSENT**

Dan Adrian Nicolau, M.D., by affixing his signature to this Consent Order, agrees to the following:

1. I have been advised to seek advice of counsel prior to signing this document and am represented by Richard D. Kennedy, Esq.;
2. I am fully aware that without my consent, no legal action can be taken against me or my license except pursuant to the Virginia Administrative Process Act, Virginia Code § 2.2-4000 *et seq.*;
3. I acknowledge that I have the following rights, among others: the right to an informal fact-finding conference before the Board; the right to representation by counsel; and the right to cross-examine witnesses against me;
4. I waive my right to an informal conference;
5. I admit to the Findings of Fact and Conclusions of Law contained herein and waive my right to contest such Findings of Fact and Conclusions of Law and any sanction imposed hereunder in any future judicial or administrative proceeding in which the Board is a party;
6. I consent to the entry of the following Order affecting my license to practice medicine and surgery in the Commonwealth of Virginia.

**ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Medical Examiners hereby ORDERS as follows:

1. Dan Adrian Nicolau, M.D., is REPRIMANDED.
2. Within 30 days from entry of the Consent Order, Dr. Nicolau shall provide evidence satisfactory to the Board of entry into the Virginia Health Practitioners' Monitoring Program ("HPMP").
3. Dr. Nicolau shall remain in HPMP and fully comply with the terms of his contract, and any addenda thereto, until he successfully completes the program. In accordance with Dr. Nicolau's contract, the Board will be notified of any noncompliance with, or dismissal or resignation from HPMP.
4. Dr. Nicolau shall comply with the terms and conditions of the Consent Order of the Tennessee Board dated September 27, 2017. Dr. Nicolau shall advise this Board in writing of any change in that order within ten calendar days of such change. Dr. Nicolau shall authorize free communication between this Board and the Tennessee Board.
5. Any violation of this Order or any statute or regulation governing the practice of medicine shall constitute grounds for further disciplinary action.
6. Upon receipt of evidence that Dr. Nicolau has complied with the foregoing terms of this Order, the Executive Director is authorized to close this matter, or refer it to a special conference committee for review.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD

Jennifer Deschenes  
Jennifer Deschenes, J.D., M.S.  
Deputy Executive Director  
Virginia Board of Medical Examiners

ENTERED: 4/12/19

SEEN AND AGREED TO:

DAN  
Dan Adrian Nicolau, M.D.

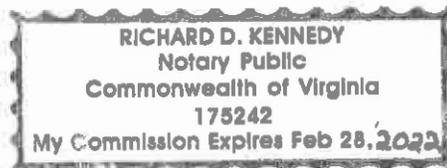
COMMONWEALTH OF VIRGINIA  
COUNTY/CITY OF WASHINGTON TO WIT:

Subscribed and sworn to before me, a notary public in and for the Commonwealth of Virginia at large,  
on this 3<sup>rd</sup> day of April, 2019.

Richard D. Kennedy  
Notary Public

My commission expires: 2-28-2022

Registration No.: 175242



RECEIVED - VIRGINIA  
BOARD OF MEDICINE  
2019 APR 11 PM 12:22