STATE OF TENNESSEE
DEPARTMENT OF HEALTH

IN THE MATTER OF:	)	**BEFORE THE TENNESSEE BOARD OF OSTEOPATHIC EXAMINATION**
ANDREW M. EPSTEIN, D.O.	)	
RESPONDENT	)	**CASE NO: 2024002881**
TUCSON, ARIZONA	)	
TENNESSEE LICENSE NO.: 5436	)	

CONSENT ORDER

The Division of Health Related Boards of the Tennessee Department of Health ("Department"), by and through the Office of General Counsel, and Andrew M. Epstein, D.O. ("Respondent") respectfully move the Tennessee Board of Osteopathic Examination ("Board") for approval of this Consent Order affecting Respondent's osteopathy license in the State of Tennessee.

The Board is responsible for the regulation and supervision of osteopathic doctors licensed to practice in the State of Tennessee. *See* Tennessee Medical Practice Act ("Act"), Tennessee Code Annotated Section ("TENN. CODE ANN. §") 63-9-101 *et seq*. It is the policy of the Board to require strict compliance with the laws of this State, and to apply the laws so as to preserve the quality of osteopathic care provided in Tennessee. It is the duty and responsibility of the Board to enforce the Tennessee Osteopathic Practice Act in such a manner as to promote and protect the public health, safety and welfare in every practicable way, including disciplining osteopathic doctors who violate the provisions of the Act or the Rules and Regulations promulgated by the Board in the *Official Compilation Rules and Regulations of the State of Tennessee* ("TENN. COMP. R. & REGS.").

Respondent, by Respondent's signature to this Consent Order, waives the right to a contested case hearing and any and all rights to judicial review in this matter. Respondent agrees that presentation to and consideration of this Consent Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should this Order not be ratified. Likewise, all matters, admissions and statements disclosed or exchanged during the attempted ratification process shall not be used against Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to challenge or contest the validity of this Consent Order. Respondent understands that by signing this Consent Order, Respondent is allowing the Board to issue its order without further process. Respondent acknowledges that this is a formal disciplinary action and will be reported to the National Practitioner Data Bank and/or similar agency. In the event that the Board rejects this Consent Order for any reason, it will be of no force or effect for either party.

I. STIPULATIONS OF FACT

1. Respondent has been at all pertinent times licensed by the Board as an osteopathic physician in the State of Tennessee, having been granted License No. 5436 on January 12, 2024, which is set to expire on June 30, 2026.

2. On January 2, 2024, Respondent entered into a Consent Order with the North Carolina Medical Board. This North Carolina discipline stemmed from the Respondent's inappropriate prescribing of ketamine to telehealth patients. Specifically, the North

Carolina Consent Order provides that for four telehealth patients the Respondent failed to conduct urine drug screens before prescribing ketamine; conduct and document physical examinations and obtain comprehensive medical histories before prescribing ketamine; ensure protocols were in place regarding patient monitoring, follow-up, assessment for side effects, and adverse reactions; and establish guidelines for prescribing, dispensing, and monitoring the use of ketamine to prevent its misuse. The Respondent's North Carolina medical license was reprimanded. Respondent was prohibited from prescribing ketamine, and he was required to complete continuing education hours in medical record documentation.

II. GROUNDS FOR DISCIPLINE

The facts stipulated above are sufficient to establish grounds for discipline of Respondent's osteopathic license. Specifically, Respondent has violated the following statutes, which are part of the Tennessee Osteopathic Practice Act:

3. The facts stipulated in paragraph two (2), supra, constitute a violation of TENN. CODE ANN. §63-9-111(b)(21):

> Disciplinary action against the licensee to practice medicine by another state or territory of the United States for any acts or omissions that would constitute grounds for discipline of a licensee licensed in this state. A certified copy of the initial or final order or other equivalent document memorializing the disciplinary action from the disciplining state or territory shall constitute prima facie evidence of a violation of this section and shall be sufficient grounds upon which to deny, restrict or condition licensure or renewal and/or discipline a licensee licensed in this state[.]

III. POLICY STATEMENT

The Board takes this action in order to protect the health, safety and welfare of the people of the State of Tennessee and ensure that the public confidence in the integrity of the osteopathic profession is preserved.

IV. ORDER

Therefore, Respondent AGREES and the Board ORDERS as follows:

4. Respondent's Tennessee Osteopathic Physician License, No. 5436, is hereby **REPRIMANDED**, effective the date of entry of this Consent Order.

5. Respondent must enroll in and successfully complete, within one (1) year of the entry of this Order, the three (3) day medical course entitled, "Proper Prescribing of Controlled Substances" offered by Vanderbilt University Medical Center or an equivalent course approved in advance in writing by the Board's Consultant. Within thirty (30) days after completion of such course, Respondent shall mail or deliver proof of compliance with this course requirement to: Disciplinary Coordinator, The Division of Health Related Boards, Nashville, Tennessee Department of Health, 665 Mainstream Drive, Tennessee 37243 or via email to disciplinary.coordinator@tn.gov. Any Continuing Medical Education (hereinafter "CME") course hours earned from attendance and completion of the course required by this paragraph shall be in addition to the CME hours required to maintain licensure.

6. Respondent shall pay, pursuant to TENN. CODE ANN. § 63-9-111(h) and Rule 1050-02-.10(1)(j) of the *Official Compilation Rules and Regulations of the State of Tennessee*, the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed by the Office of Investigations, Secretary of State, Administrative

Procedures Division as well as the Office of General Counsel. These costs will be established by an Assessment of Costs prepared and filed by counsel for the Department. The maximum amount for the assessment of costs shall be four thousand dollars ($4,000.00). Any and all costs shall be paid in full within sixty (60) days from the issuance of the Assessment of Costs by submitting a **certified check, cashier's check, or money order** payable to the **State of Tennessee**, which shall be mailed or delivered to: **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243.** A notation shall be placed on said check that it is payable for the costs of **Andrew M. Epstein, D.O., COMPLAINT NO. 2024002881.**

7. Failure to comply with any of the terms of this Order shall be considered a Board Order violation, which may result in further discipline against Respondent pursuant to T.C.A. § 63-9-111(b)(2).

8. Respondent understands that this is a formal disciplinary action and will be reported to the National Practitioner Data Bank (N.P.D.B.) and/or similar agency.

This **CONSENT ORDER** was approved by a majority of a quorum of the Tennessee Board of Osteopathic Examination at a public meeting of the Board and signed this 1st day of May, 2024.

Chair
Tennessee Board of Osteopathic Examination

APROVED FOR ENTRY:

Andrew M Epstein, D O
Respondent

3/1/24
DATE

Paetria Morgan, Esq.
Senior Associate General Counsel
Office of General Counsel
Tennessee Department of Health
665 Mainstream Drive, 2nd Floor
Nashville, Tennessee 37243
(615) 741-1611

May 1, 2024
DATE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this Consent Order has been served upon Respondent, through his attorney, Lawrence A. Katz, Lento Law Group, P.C., 3000 Atrium Way, Suite # 200, Mt. Laurel, New Jersey, 08054 by delivering same in the UnitedStates Mail, Certified Number 7013 1710 0000 4574 2736 return receipt requested, and United States First Class Postage Pre-Paid Mail, with sufficient postage thereon to reach its destination and via email to epsteindenn@gmail.com.

This 3rd day of May, 2024

Paetria Morgan
Senior Associate General Counsel