

STATE OF TENNESSEE
DEPARTMENT OF HEALTH

IN THE MATTER OF:)	
)	BEFORE THE TENNESSEE BOARD
DANIEL KALB, M.D.)	OF MEDICAL EXAMINERS
RESPONDENT)	
)	COMPLAINT NO. 2020019191
FRANKLIN, TENNESSEE)	
TENNESSEE LICENSE NO. 40300)	

CONSENT ORDER

The Division of Health Related Boards of the Tennessee Department of Health (“State”), by and through the Office of General Counsel, and Respondent, Daniel Kalb, M.D., (“Respondent”), respectfully move the Tennessee Board of Medical Examiners (“Board”) for approval of this Consent Order affecting Respondent’s medical license in the State of Tennessee.

The Board is responsible for the regulation and supervision of medical professionals licensed to practice in the State of Tennessee. *See* Tennessee Medical Practice Act, Tennessee Code Annotated sections (“TENN. CODE ANN. §§”) 63-6-101, *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 medical care provided in Tennessee. It is the duty and responsibility of the Board to enforce the Tennessee Medical Practice Act in such a manner as to promote and protect the public health, safety and welfare in every practicable way, including disciplining individuals who violate the provisions of TENN. CODE ANN. § 63-6-101, *et seq.* or the Rules and Regulations promulgated by the Board and recorded in the Official Compilation Rules and Regulations of the State of Tennessee (“TENN. COMP. R. & REGS.”)

Respondent, by signing 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.

STIPULATIONS OF FACT

1. Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor in the State of Tennessee, having been granted license number 40300 by the Board on August 10, 2005, which currently has an expiration date of June 30, 2022.
2. Respondent practices family medicine a Cool Springs Family Medicine.
3. In his practice, Respondent sometimes recommends that patients take certain supplements and vitamins.
4. The website for Respondent's practice refers visitors to online retailers to purchase supplements, including Metagenics (<http://csfm.metagenics.com/store>), New Beginnings Nutritionals Store (<http://www.nbnus.net/>), Hardy Nutritionals (<http://www.hardynutritionals.com/>), Doctors Supplement Store (<http://www.dssorders.com/coolsspringsfm>), and Drucker Labs (<http://www.druckerlabs.com/>). Respondent's practice website includes referral/registration codes for four of these vendors.
5. Respondent refers patients to third-party vendors such as those above to purchase supplements and vitamins that he recommends.
6. Respondent sometimes receives payments from those third-party vendors when patients he has referred make purchases from them. For example, when a patient makes a purchase from Doctors Supplement Store using a code Respondent provides the patient, Respondent receives a payment of approximately 20% of the gross sale. As another example, when a

patient makes a purchase from Researched Nutritionals using a code Respondent provides the patient, Respondent receives a payment of approximately 40% of the gross sale.

7. Respondent states he informs patients that they do not have to buy the supplements and vitamins he has suggested from the websites he refers them to, and that he informs patients of his financial relationship with Doctors Supplement and Researched Nutritionals.

GROUNDS FOR DISCIPLINE

The preceding Stipulations of Fact are sufficient to establish that Respondent has violated the following statutes or rules which are part of the Act, TENN. CODE ANN. § 63-6-101, *et seq.* for which disciplinary action before and by the Board is authorized:

8. The facts in paragraphs three (3) through six (6) constitute a violation of TENN.

CODE ANN. § 63-6-214(b)(1):

Unprofessional [] or unethical conduct;

9. The facts in paragraphs three (3) through six (6) constitute a violation of TENN.

CODE ANN. § 63-6-214(b)(16):

Giving or receiving, or aiding or abetting the giving or receiving, of rebates, either directly or indirectly

POLICY STATEMENT

The Tennessee Board of Medical Examiners takes the following 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 medical profession is preserved.

ORDER

NOW THEREFORE, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

10. The Tennessee medical license of Daniel Kalb, M.D., license number 40300, is hereby **REPRIMANDED** effective the date of entry of this Order.
11. Respondent will never again directly or indirectly offer, give, receive, or agree to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services. Respondent agrees that any such action in the future will be a violation of this order and may result in further discipline against his medical license.
12. Respondent must pay two (2) Type C Civil Penalties in the amount of one hundred dollars (\$100.00) each, for a total civil penalty of **two hundred dollars (\$200.00)**, representing one penalty per third-party entity Respondent received payments from for the referral of patients. All civil penalties shall be paid within thirty (30) days of the effective date of this Consent Order. Any and all civil penalty payments shall be paid by **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, 2nd Floor, Nashville, Tennessee 37243**. A notation shall be placed on said check that it is payable for the civil penalty of **Daniel Kalb, M.D., COMPLAINT NO. 2020019191**.
13. Respondent shall pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-2-.12(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 five thousand dollars (\$5,000.00). Any and all costs shall be paid in full within thirty (30) 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, 2nd Floor, Nashville, Tennessee 37243, Nashville, Tennessee 37243**. A notation shall be placed on said check or money order that it is payable for the costs of **Daniel Kalb, M.D., COMPLAINT NO. 2020019191**.

- 14. Respondent understands that this is a formal disciplinary action and will be reported to the National Practitioners 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 Medical Examiners at a public meeting of the Board and signed this 20th day of July, 2021.




 Chairperson
 Tennessee Board of Medical Examiners


APPROVED FOR ENTRY:


 Daniel Kalb, M.D.
 RESPONDENT

6/23/2021
 DATE


 Justin Adams
 Bone, McAllester, Norton, PLLC
 511 Union Street, Suite 1600
 Nashville City Center
 Nashville, TN 37219

6/28/2021
 DATE


 Marc R. Guilford (HPR #025419)
 Senior Associate General Counsel
 Office of General Counsel
 Tennessee Department of Health
 665 Mainstream Drive, 2nd Floor
 Nashville, Tennessee 37243
 (615) 741-1611

7/20/21
 DATE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon Respondent, Daniel Kalb, M.D. at the following address:

c/o Justin Adams
Bone, McAllester, Norton, PLLC
511 Union Street, Suite 1600
Nashville City Center
Nashville, TN 37219

by delivering same in the United States Mail, Certified Number 7020 2450 0000 1109 0661

_____, return receipt requested, and United States First Class Mail, with sufficient postage thereon to reach its destination and via e-mail at wjadams@bonelaw.com

This 22nd day of July, 2021.



Marc R. Guilford
Senior Associate General Counsel