

STATE OF MAINE
BOARD OF OSTEOPATHIC LICENSURE

In re:) CONSENT AGREEMENT
DUSTIN R. SULAK, D.O.)
Complaint No. CR 2023 44)

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to practice osteopathic medicine in the State of Maine held by Dustin R. Sulak, D.O. The parties to the Consent Agreement are: Dustin R. Sulak, D.O. (“Dr. Sulak”), the State of Maine Board of Osteopathic Licensure (“the Board”), and the State of Maine Office of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 2591-A.

STATEMENT OF FACTS

1. Dr. Sulak has held a license to practice osteopathic medicine in the State of Maine since October 13, 2009 (license number DO2142) and specializes in family/general practice.
2. On July 13, 2023, the Board initiated a complaint following a report from a fellow practitioner that an adolescent patient she had in common with Dr. Sulak was being prescribed ketamine by his office. The reporter stated that there are no current practice parameters for ketamine for adolescents, and that Dr. Sulak is not trained in psychiatry.
3. By letter dated September 29, 2023, Dr. Sulak responded to the complaint. The response contained Dr. Sulak’s description of his expertise in medical cannabis use, referenced studies on the off-label use of ketamine for

adolescents, stated that Dr. Sulak was qualified to treat those with psychiatric diagnoses, stated he does not use ketamine as a first-line treatment in adolescent patients, and described his evaluation, follow-up and monitoring practices.

4. The Board and Dr. Sulak agreed on August 11, 2023 to an interim consent agreement to restrict Dr. Sulak's license from prescribing ketamine to minors until this matter can be considered and resolved.

5. The Board also got an expert review of the adolescent patient's records from Teresa Hermida, M.D. Dr. Hermida identified concerns about the evaluation and diagnosis of the patient. Dr. Hermida also stated that "research does not yet support use of ketamine as a standard, recommended treatment for depression, anxiety or obsessive-compulsive disorder in adolescents (as per the most recent Practice Parameters provided by the American Academy of Child and Adolescent Psychiatry)."

6. The Board also subpoenaed records of other patients of Dr. Sulak's, and the Board's review identified similar concerns about his certifications of medical use of cannabis for adolescent patients.

7. Pursuant to 32 M.R.S. § 2591-A(2)(F), the Board may impose discipline if a licensee has engaged in unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior that has been established for the practice of medicine.

8. Pursuant to 32 M.R.S. § 2591-A(2)(E), the Board may impose discipline if a licensee has engaged in incompetence. A licensee is considered to have engaged in incompetence if the licensee engaged in conduct evidencing a lack of ability or fitness to discharge the duty owed by the licensee to a patient, or engaged in conduct evidencing a lack of knowledge, or inability to apply principals or skills to carry out the practice of medicine.

9. On April 11, 2024, the Board reviewed Complaint CR2023 44, and voted to offer Dr. Sulak this Consent Agreement to resolve this matter without further proceedings. Absent Dr. Sulak's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Board of Osteopathic Licensure, osteop.pfr@maine.gov, 142 State House Station, Augusta, Maine 04333-0137 on or before June 12, 2024 the matter will return to the Board, which will consider whether to proceed to an adjudicatory hearing.

COVENANTS

10. Dr. Sulak agrees that the Board could find by a preponderance of the evidence at an adjudicatory hearing that grounds for discipline exist, and the Board asserts that grounds for discipline do exist, pursuant to 32 M.R.S. 2591-A(2)(F) for engaging in unprofessional conduct and pursuant to 32 M.R.S. § 2591-A(2)(E) for engaging in incompetence.

11. As discipline for the foregoing conduct, to resolve this matter, to make an adjudicatory hearing unnecessary, and to address the concerns identified by the Board, Dr. Sulak agrees to accept, and the Board imposes:

A. A PRACTICE RESTRICTION to prohibit Dr. Sulak from prescribing, and to prohibit any licensed health care practitioner Dr. Sulak supervises and any other licensed health care practitioner in his office from prescribing, ketamine to patients younger than 21 years of age, effective upon the execution of this Consent Agreement;

B. A PRACTICE RESTRICTION:

To prohibit Dr. Sulak, and to prohibit any licensed health care practitioner Dr. Sulak supervises and any other licensed health care practitioner in his office, from issuing any certifications for medical use of cannabis to any new patient younger than 21 years of age, or any existing patient younger than 21 years of age for the first time, to treat a primary psychiatric condition, effective upon the execution of this Consent Agreement, and from issuing any certifications for medical use of cannabis to any patient younger than 21 years of age to treat a primary psychiatric condition, effective six months after the effective date of this Consent Agreement. This provision does not preclude Dr. Sulak, or any licensed health care practitioner Dr. Sulak supervises or any other licensed health care practitioner in his office, from using cannabis to treat patients younger than 21 years of age for non-psychiatric conditions, including, e.g., cancer, gastroenterological conditions (e.g, Crohn's or ulcerative colitis), or neurological conditions (e.g., autism spectrum disorder, seizures, rare genetic syndromes, brain injury, palliative) in collaboration with a referring practitioner. This collaboration must involve

regular communication between Dr. Sulak and the referring practitioner and must be documented in the patient's medical record; and

C. A PROBATION of at least three (3) years during which the following is required:

a. Dr. Sulak agrees to meet the requirements in Dr. Hermida's report for taking and documenting a thorough medical history (section 2 of the report), including the chief complaint, information sources, history of present illness, substance use disorder history, medical history, developmental history, social history, vitals (if necessary), mental status, diagnostic formulation, and treatment plan before prescribing scheduled medication, or issuing medical cannabis certifications, to patients younger than 21 years of age; and

b. Within thirty (30) days of the effective date of this Consent Agreement, Dr. Sulak shall submit to the Board for approval by the Board in its sole discretion, the name of a physician mentor. The physician mentor shall be a pediatrician who is actively practicing. The physician mentor shall mentor Dr. Sulak in proper treatment and monitoring of patients under age 21 who have been issued certifications for medical use of cannabis or are being treated by Dr. Sulak's practice for a psychiatric condition. The mentoring contemplated by this paragraph may NOT occur solely by telephone and must include communication at least monthly in person or via HIPAA compliant shared portal access or interface. Each month, the physician mentor must randomly select and review the charts of five (5) (or, if fewer than five are applicable, all) patients under 21 years of age who have

been issued certifications for medical use of cannabis or have been treated by Dr. Sulak's practice for a psychiatric condition during the previous month.

c. At least once per quarter, the practice mentor will review the charts of existing patients under the age of 21 whom Dr. Sulak, or any licensed health care practitioner Dr. Sulak supervises or any other licensed health care practitioner in his office, is currently certifying for medical use of cannabis to treat a primary psychiatric condition. Before Dr. Sulak or any licensed health care practitioner Dr. Sulak supervises or any other licensed health care practitioner in his office recertifies an existing patient under the age of 21 for medical use of cannabis to treat a primary psychiatric condition, the physician mentor will review the patient's care, approve the recertification in writing, and reference that approval in her/his next quarterly report to the Board. Within six months of the effective date of this Consent Agreement, Dr. Sulak will arrange to transfer responsibility for certifying patients under the age of 21 for medical use of cannabis to treat a primary psychiatric condition to a different practitioner.

d. The physician mentor shall submit written reports to the Board no later than the last day of each quarter of the year. In the reports to the Board, the physician mentor shall provide a summary of his or her mentoring and shall identify any issues with Dr. Sulak's practice with patients younger than 21 years of age. Dr. Sulak shall permit the physician mentor full access to his medical practice, including but not limited to all patient information.

e. After submission of at least four (4) quarterly physician mentor reports, the physician mentor may include a recommendation on whether to modify the mentoring or reporting requirements. Upon receipt of such recommendation, the Board shall review all information, and in its sole discretion, may maintain, modify, or eliminate the requirements of this subparagraph for any period.

12. This Consent Agreement is not appealable and is effective until modified or rescinded in writing by the parties hereto.

13. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Sulak or any other matter relating to this Consent Agreement.

14. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408-A.

15. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Federation of State Medical Boards (FSMB), and other licensing jurisdictions.

16. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

17. Dr. Sulak acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

18. This Consent Agreement may be signed in counterparts, with all counterparts together constituting one original instrument. Signatures below may be applied and/or saved electronically, and such electronic signatures will be given the same effect as a paper document signed in ink.

19. For the purposes of this Interim Consent Agreement, the terms “execution” and “effective date” mean the date on which the final signature is affixed to this Consent Agreement.

I, DUSTIN R. SULAK, D.O., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT, THAT I WAIVE CERTAIN RIGHTS. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

Dated: 6/13/2024


DUSTIN R. SULAK, D.O.

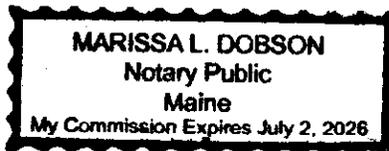
STATE OF MAINE

_____, S.S. (County)

Personally appeared before me the above-named Dustin R. Sulak, D.O., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 6/13/2024


NOTARY PUBLIC
MY COMMISSION ENDS:



DATED: Jun 14, 2024



MELISSA MICHAUD, P.A.-C, Chair
MAINE BOARD OF
OSTEOPATHIC LICENSURE

DATED: June 14, 2024



LISA A. WILSON, AAG
OFFICE OF THE ATTORNEY GENERAL