

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

PROTHONOTARY
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Department of State

Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

File No.:

18-53-005429

vs.

Lawrence I Miller, D.O.,
Respondent

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and **Lawrence I Miller, D.O.** ("Respondent") stipulate as follows in settlement of the above-captioned case.

APPLICABLE LAW

1. This matter is before the State Board of Osteopathic Medicine ("Board") pursuant to the Osteopathic Medical Practice Act, Act of October 5, 1978, P.L. 1109, No. 261, ("Act"), *as amended*, 63 P.S. §§ 271.1-271.18; the Medical Care Availability and Reduction of Error ("Mcare") Act, Act of March 20, 2002, P.L. 154, No. 13, *as amended*, 40 P.S. §§ 1303.101-1303.910; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), *as amended*, 63 P.S. §§ 2201-2207.

LICENSURE STATUS

2. At all relevant and material times, Respondent held the following license to practice as an osteopathic physician & surgeon in the Commonwealth of Pennsylvania: license no. OS009548L, which was originally issued on August 14, 1997, and which is currently set to expire on October 31, 2018.

a. Respondent's license is currently subject to an immediate temporary suspension pursuant to the June 13, 2018 Order of the Board's Probable Cause Screening Committee.

STIPULATED FACTS

3. The Respondent admits that the following allegations are true:

a. Absent further Board action, Respondent's license may be continually reactivated, renewed, or reinstated upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's office address, as on file with the Board is: 1000 Walnut St. Suite 116, Lansdale, PA 19446.

c. Respondent is currently the subject of a criminal investigation with respect to his prescribing practices.

d. Respondent was prescribing controlled substances without obtaining medical records from patients.

e. Respondent did not have pain management patients sign a pain management agreement.

f. Respondent did not check the Pennsylvania Prescription Database Monitoring Program (PDMP) before prescribing controlled substances to chronic pain patients, and other patients.

g. Respondent lacks specialized training in pain management.

h. Respondent agrees not to contest the facts as set forth in this petition for the limited purposes of suspending his license.

i. In consideration of this Consent Agreement, and while admitting no guilt to the criminal charges that may be filed or are currently pending against him,

Respondent agrees that for the purposes of this proceeding before the Pennsylvania State Board of Osteopathic Medicine, this Consent Agreement shall have the same effect as if proven and ordered after a full hearing, and in so doing and intending to be legally bound, the participants consent to issuance of the following Order (set forth in paragraph 5) in settlement of this matter.

ALLEGED VIOLATIONS

4. The Commonwealth alleges that the Board is authorized to suspend, revoke, or otherwise restrict Respondent's license under Sections 11(c) and 15(a) of the Act, 63 P.S. §§ 271.11(c) & 271.15(a); and/or impose a civil penalty upon Respondent under Sections 11(c) and 15(a) of the Act, 63 P.S. §§ 271.11(c) & 271.15(a), and /or Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b)(4); and/or impose the costs of investigation upon Respondent under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at Section 15(a)(8), 63 P.S. § 271.15(a)(8), in that Respondent engaged in unprofessional conduct, including any departure from, or the failure to conform to, the standards of acceptable and prevailing osteopathic medical practice in regard to the prescribing of controlled substances. (Actual injury to a patient need not be established.)

PROPOSED ORDER

5. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:

a. The Board is authorized to suspend, revoke, or otherwise restrict Respondent's license under Sections 11(c) and 15(a) of the Act, 63 P.S. §§ 271.11(c) & 271.15(a); and/or impose a civil penalty upon Respondent under Sections 11(c) and 15(a) of the Act, 63 P.S. §§ 271.11(c) & 271.15(a), and/or Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b)(4); and/or impose the costs of

investigation upon Respondent under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at Section 15(a)(8), 63 P.S. § 271.15(a)(8), in that Respondent engaged in unprofessional conduct, including any departure from, or the failure to conform to, the standards of acceptable and prevailing osteopathic medical practice.

INDEFINITE SUSPENSION OF LICENSE

b. Respondent's license to practice as an osteopathic physician & surgeon in the Commonwealth of Pennsylvania, license number **OS009548L**, along with any other licenses, registrations, certificates, approvals, authorizations, or permits (hereinafter referred to collectively as "authorizations to practice the profession") issued by the Board to Respondent at the time this Consent Agreement is adopted by the Board are hereby **INDEFINITELY SUSPENDED** until such time as Respondent applies for and receives approval from the Board for the reinstatement of Respondent's authorization(s) to practice the profession as provided for below.

c. Respondent shall, if he has not already done so, within ten (10) days of adoption of this Consent Agreement and Order, surrender Respondent's wall certificate, biennial renewal certificate and wallet card (or notarized affidavit of their loss or destruction) by mailing them to:

Adam L. Morris
Prosecutor
Bureau of Professional and Occupational Affairs
P.O. Box 69521
Harrisburg, PA 17106

or by delivering them in person at:

Bureau of Professional and Occupational Affairs
One Penn Center
2601 North 3rd St.

Harrisburg, Pennsylvania

d. Upon the effective date of the Consent Agreement, and during any period of active suspension, Respondent shall cease and desist from practicing as an osteopathic physician and surgeon, and shall not represent himself as a Board licensee in any matter during any period of active suspension.

LIFEGUARD®

e. Respondent agrees to submit to and successfully complete an Individualized Physician Clinical Competency Assessment Program through **LIFEGUARD®** or another skills assessment program approved by the Board, and comply with all recommendations made by said program.

f. Respondent's license and any other authorization(s) to practice the profession shall remain suspended unless and until such time as Respondent successfully completes the **LIFEGUARD®** program or another skills assessment program approved by the Board, and Respondent applies for and receives approval from the Board for the reinstatement of Respondent's authorization(s) to practice the profession as provided for below.

REINSTATEMENT

g. Respondent may apply for the reinstatement of his license to practice as an osteopathic physician & surgeon in the Commonwealth of Pennsylvania under the following terms and conditions:

(1) Respondent may apply for reinstatement of his license after the conclusion of any criminal proceedings against him in the Commonwealth of Pennsylvania.

(2) As a condition precedent to reinstatement of Respondent's license to practice as an osteopathic physician & surgeon in the Commonwealth of Pennsylvania, Respondent shall have the burden of demonstrating to the satisfaction of the Board, **at a hearing**, that Respondent is **able to competently and safely practice** as an osteopathic physician & surgeon and that Respondent bears the requisite honesty, trustworthiness, and integrity to be entrusted to hold a license to practice as an osteopathic physician & surgeon.

(3) Respondent's application for reinstatement shall include with it any requisite fees, along with proof that Respondent has complied with any continuing education requirements in effect at the time of the application for the reinstatement of Respondent's license to practice as an osteopathic physician & surgeon in this Commonwealth.¹ Respondent shall comply with the continuing education requirements that are in effect on the date Respondent submits any application for reinstatement. It shall be the

1. Respondent acknowledges that the continuing education requirements may be subject to statutory and/or regulatory change between the date of this Order and the date of Respondent's application for reinstatement. Therefore, any requirements noted in this Consent Agreement are provided as general guidance only.

duty of Respondent to confirm and comply with all of the requirements for reinstatement, including completion of any required continuing education, prior to submission of any application for reinstatement;

(4) The petition for reinstatement shall include proof that the Respondent has successfully completed the Lifeguard® or other approved skills assessment program approved by the Board;

(5) Respondent acknowledges if the Respondent applies for reinstatement of his license, the Board may impose any condition(s) on such reinstatement.

h. The Board may request any additional information it deems necessary to reach a decision regarding reinstatement or impose any conditions it deems necessary prior to the reinstatement of Respondent's license to practice osteopathic medicine.

i. Respondent acknowledges that if he applies for reinstatement of his license, the Board may take actions, which include, but are not limited to, making the reinstatement contingent upon Respondent retaking and successfully passing the applicable examination.

j. Respondent's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action.

k. Nothing in this Order shall prevent the Prosecuting Attorney from filing formal charges against the Respondent if criminal charges are filed against the Respondent.

l. This Order constitutes disciplinary action by the Board and shall be reported to other licensing authorities and any applicable national licensing databank as a disciplinary action by the Board.

m. This case shall be deemed settled and discontinued upon the Board issuing an Order adopting this Consent Agreement.

n. The **IMMEDIATE TEMPORARY SUSPENSION** of Respondent's license(s) and authorization(s) to practice the profession at Docket No. 1243 -53-18 and File No. 17-53-13671 is hereby **MADE FINAL** by this Order.

PROBATION

o. After the reinstatement of Respondent's license(s) and authorization(s) to practice the profession, assuming the Board issues such reinstatement order, which order is in its sole discretion to issue, Respondent's license to practice as an osteopathic physician & surgeon shall be placed on **PROBATION** for no less than three (3) years, subject to the following terms and conditions:

(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 as an osteopathic physician & surgeon in this Commonwealth or any other state or jurisdiction in which Respondent holds an authorization to

practice the profession. 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 shall notify BEI, in writing, within twenty (20) days of the filing of any criminal charges, the initiation of any other legal action (civil or administrative) pertaining to the Respondent's practice as an osteopathic

physician & surgeon, and/or the initiation, action, restriction or limitation relating to Respondent by the professional licensing authority of any state or jurisdiction.

(6) Respondent shall notify BEI by telephone within seventy-two (72) hours, and shall notify both BEI and the Board in writing within ten (10) days of any change in the name(s) and address(es) of the place(s) at which Respondent will practice as an osteopathic physician & surgeon and a description of Respondent's duties and responsibilities at such places of practice;

(7) Respondent shall notify BEI by telephone within seventy-two (72) hours, and shall notify both BEI and the Board in writing within ten (10) days of any change in the Respondent's home address and/or telephone number.

(8) If Respondent will be absent from the Commonwealth of Pennsylvania for any period exceeding twenty (20) days, Respondent must notify BEI, in writing, of Respondent's absence and must provide a list of the jurisdiction(s) in which Respondent intends to stay more than forty-eight (48) hours. Respondent consents to the release by the Bureau or BEI of any information or data produced as a result of this Agreement or probation to the proper licensing authority of any jurisdiction in which

Respondent intends to remain for greater than forty-eight (48) hours.

(9) During the period of Probation, Respondent shall supply any current professional employer with a copy of this Consent Agreement and Order.

(10) Within fifteen (15) days of the date of this Order, and within (15) days of the date of any change in professional employer Respondent shall have his professional employer submit to BEI written verification that the professional employer *a)* has received a copy of this Consent Agreement and Order, *b)* understands the conditions of this probation, and *c)* agrees to report any suspected violation by Respondent of this probation. If Respondent is or becomes self-employed, Respondent shall submit a statement to that effect to BEI and shall produce any requisite documentation to BEI to substantiate such a statement,

(11) Respondent consents to the release by the Bureau or BEI of any information or data produced as a result of this probation to any professional employer or prospective professional employer,

(12) Unless otherwise directed, Respondent, his professional employer, and any other person needing or

required to make reports under this Order concerning Respondent's practice and contact information shall cause those reports, data or other information to be filed with BEI at:

Probation Compliance Officer Bureau of Enforcement and Investigation Box 2649 Harrisburg, PA 17105-2649 717-783-7230
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VIOLATION(S) OF PROBATION

p. Notification of a violation of the terms or conditions of Probation shall result in the **IMMEDIATE TERMINATION** of the period of probation, and imposition of a period of Active Suspension of Respondent's authorizations to practice the profession in the Commonwealth of Pennsylvania equal to the entire three (3) year term of probation, as follows:

(1) The prosecuting attorney for the Commonwealth shall file with the Board a Petition which alleges that Respondent has violated any terms or conditions of this Consent Agreement and Order other than failure to complete the Ordered remedial education in a timely manner;

(2) Upon a probable cause determination that Respondent has violated any of the terms or 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 authorizations to practice the profession, without credit for any period of suspension stayed in favor of probation;

(3) Notification of the Board's Preliminary Order shall be mailed to Respondent 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. If service by mail is unsuccessful, the Commonwealth is authorized to attempt service by personal service and/or publication of legal notice in a newspaper of general circulation in the county of Respondent's last known address.

(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 alleged violation of probation, in which Respondent may seek relief from the Preliminary Order activating the suspension. **The answer shall be set forth in numbered paragraphs corresponding to the numbered paragraphs of the Petition. Respondent shall admit or deny each of the allegations set forth in the paragraphs in the Petition and**

shall set forth the facts and state concisely the matter of law upon which Respondent relies.

(5) Respondent shall mail the original answer, request for hearing, and all subsequent filing to the Department of State, Bureau of Professional and Occupational Affairs, Office of Prothonotary, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649. Respondent shall also send a copy of the Answer and all other filings to the prosecuting attorney for the Commonwealth;

(6) 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;

(7) 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;

(8) The facts and averments in paragraphs 3 & 4 of this Consent Agreement and Order shall be deemed admitted and uncontested for purposes of the hearing;

(9) 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;

(10) 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;

(11) 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 the active practice of the profession. Continued failure by Respondent to comply with the unaffected terms and conditions of probation shall result in further disciplinary action against Respondent;

q. Respondent's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action.

r. Respondent shall make written application to the Board at the end of the total period of suspension and/or probation requesting that Respondent's authorizations to practice the profession be reinstated to unrestricted status.

s. This Order constitutes disciplinary action by the Board and shall be reported to other licensing authorities and any applicable national licensing databank as a disciplinary action by the Board.

t. This case shall be deemed settled and discontinued upon the Board issuing an Order adopting this Consent Agreement.

ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS

6. Respondent agrees that if Respondent is charged with a violation of an Act enforced by this Board in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

7. Respondent waives the filing of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and knowingly and voluntarily waives 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.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

8. Respondent acknowledges that he is aware that he has the right to consult with, and/or be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement. To the extent that Respondent is not represented by legal counsel, Respondent has knowingly elected to proceed without the assistance of legal counsel.

WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS

9. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Board or its counsel, which may arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement.

NO MODIFICATION OF ORDER

10. 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.

AGREEMENT NOT BINDING ON OTHER PARTIES

11. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Board issues the stipulated Order.

EFFECT OF BOARD'S REJECTION OF CONSENT AGREEMENT

12. 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. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

ENTIRE AGREEMENT

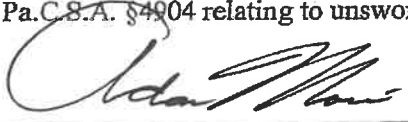
13. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

AGREEMENT DOES NOT PREVENT ADDITIONAL DISCIPLINE BASED ON OTHER COMPLAINTS

14. Nothing in this Order shall preclude the Prosecution Division 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;

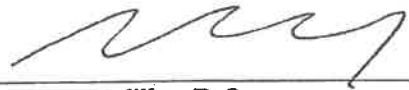
VERIFICATION OF FACTS AND STATEMENTS

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



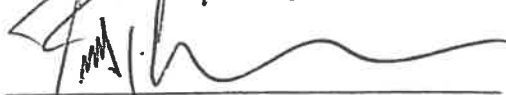
Adam L. Morris, Esq.
Prosecuting Attorney

DATED: 7/5/18



Lawrence I Miller, D.O.
Respondent

DATED: 06/29/2018



Francis Genovese, Esq.
Attorney for Respondent

DATED: 07/05/2018

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

**Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs**

File No.: 18-53-005429

vs.

**Lawrence I Miller, D.O.,
Respondent**


ORDER

AND NOW, this *22nd* day of *August* 2018, the STATE BOARD OF OSTEOPATHIC MEDICINE ("Board") 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.

**BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS**

**BY ORDER:
STATE BOARD OF OSTEOPATHIC
MEDICINE**



Ian J. Harlow
Commissioner



Randy G. Litman, D.O.
Chairman

For the Commonwealth:

Adam L. Morris, Esquire
2601 North Third Street
P. O. Box 69521
Harrisburg, PA 17106-9521

Respondent:

Lawrence I Miller, D.O.
1000 Walnut St. Suite 116
Lansdale, PA 19446

Date of mailing:

August 24, 2018