

STATE OF MAINE  
BOARD OF OSTEOPATHIC LICENSURE

In re: ) CONSENT AGREEMENT  
KEVIN R. KENERSON, D.O. )  
Complaint No. CR2016-37 )

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 Kevin R. Kenerson, D.O. The parties to the Consent Agreement are: Kevin R. Kenerson, D.O. (“Dr. Kenerson”), the State of Maine Board of Osteopathic Licensure (“the Board”), and the State of Maine Department 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. Kenerson has held a license to practice medicine in the State of Maine since March 31, 2009 (license number DO2105), and specializes in family/general practice medicine.

2. On August 10, 2016, the Board received a complaint from Patient A alleging that Dr. Kenerson prescribed medications that interacted with each other, communicated with the patient on Facebook, used profanity and discussed his own personal issues, failed to maintain appropriate boundaries, and promised treatments that did not occur. Patient A informed the Board that in early August he picketed outside of Dr. Kenerson’s office after Dr. Kenerson had failed to respond to several inquiries he made online. The Board

docketed the complaint as CR2016-37 and sent it to Dr. Kenerson for a response.

3. By letter dated September 30, 2016, Dr. Kenerson responded to the complaint. In his response, Dr. Kenerson explained his interactions with Patient A and denied that there were any known medication interactions. Dr. Kenerson stated that he had previously explained to the patient that “Facebook was not an avenue to discuss his health care needs.”

4. On October 10, 2016, the Board received a reply from Patient A. In his reply Patient A more fully described his concerns regarding the drug interactions and stated that he was informed about the drug interactions by his pharmacist who also told him that a warning had been sent to Dr. Kenerson. Patient A also provided a copy of his Facebook chats with Dr. Kenerson and stated that Dr. Kenerson did not have a problem communicating with him through Facebook until the end of the doctor/patient relationship. Patient A stated that Dr. Kenerson initiated the Facebook interactions by making a “friend request.” Patient A also reported that Dr. Kenerson arranged his receipt of medical marijuana on at least two occasions. Patient A more fully described his interactions and communications with Dr. Kenerson, including concerns regarding Dr. Kenerson’s appearance, actions, and statements on Patient A’s second day of picketing the medical office.

5. Review of Patient A’s medical records revealed inadequate documentation of compliance with Board Rules Chapter 21, Use of Controlled

Substances for Treatment of Pain, including Section III, Principles of Proper Pain Management.

6. Pursuant to 32 M.R.S. § 2591-A(2)(F), the Board may impose discipline if the 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.

7. Pursuant to 32 M.R.S. § 2591-A(2)(H), the Board may impose discipline for violation of a Board statute or rule, including Board Rules Chapter 21, Use of Controlled Substances for Treatment of Pain.

8. On December 8, 2016, the Board reviewed complaint CR2016-37 and voted to set this matter for an adjudicatory hearing.

9. This Consent Agreement has been negotiated by Dr. Kenerson, his legal counsel Robert P. Hayes, Esq., and the assigned legal counsel to the Board in order to resolve CR2016-37 without an adjudicatory hearing. Absent ratification of this Consent Agreement by a majority vote of the Board at its meeting scheduled for April 10, 2017, the matter shall proceed to an adjudicatory hearing.

#### COVENANTS

10. Dr. Kenerson admits the facts stated above and agrees that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. § 2591-A(2)(F) for engaging in unprofessional conduct, and 32 M.R.S. § 2591-A(2)(H)

for violation of Board rules related to the use of controlled substances in the treatment of pain.

11. As discipline for the foregoing conduct, Dr. Kenerson agrees to accept:

a) a LICENSE PROBATION for a period of three (3) years under such conditions as determined by the Board in its sole discretion, during which Dr. Kenerson shall comply with the following conditions:

1) Within thirty (30) days following the execution of this Consent Agreement, Dr. Kenerson shall undergo a SUBSTANCE MISUSE EVALUATION by an appropriately licensed health care provider. Dr. Kenerson shall provide a written copy of the substance misuse evaluation to the Board within ten (10) calendar days of receipt of the written evaluation, and shall comply with all recommended treatment, monitoring, or testing contained therein;

2) No later than October 15, 2017, Dr. Kenerson shall take an in person CONTINUING MEDICAL EDUCATION COURSE of not less than twenty (20) hours approved by the Board Chairperson or Case Reporter, on the subject of Medical Ethics, Boundaries and Professionalism. Dr. Kenerson shall submit written evidence to the Board of his successful completion of the course within fourteen (14) calendar days thereafter;

3) No later than October 15, 2017, Dr. Kenerson shall take an in person CONTINUING MEDICAL EDUCATION COURSE of not less than twelve (12) hours approved by the Board Chairperson or Case Reporter, on the subject of medical recordkeeping. Dr. Kenerson shall submit written evidence to the

Board of his successful completion of the course within fourteen (14) calendar days thereafter; and

4) Dr. Kenerson shall fully comply with all Board Rules, including Board Rules Chapter 21, and maintain appropriate medical records. Dr. Kenerson shall provide upon request by the Board at least five (5) patient medical records selected by the Board Chairperson or Case Reporter for Board review. Such requests shall be made on or around December 15, 2017, December 15, 2018, and January 15, 2020. Dr. Kenerson shall address any issues or concerns identified by the Board as a result of the medical records review within a specified time period as stated in written correspondence from the Board.

b) Dr. Kenerson shall pay a CIVIL PENALTY in the amount of two thousand dollars (\$2,000.00) within thirty (30) days of the effective date of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine" and remitted to the Maine Board of Osteopathic Licensure, 142 State House Station, Augusta, Maine 04333-0142.

c) Dr. Kenerson shall REIMBURSE ACTUAL COSTS of the Board for the hearing officer. Payment shall be made within ninety (90) days by certified check or money order made payable to "Treasurer, State of Maine" and remitted to the Maine Board of Osteopathic Licensure, 142 State House Station, Augusta, Maine 04333-0142.

12. Violation by Dr. Kenerson of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not

limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

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

14. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. Kenerson or any other matter relating to this Consent Agreement.

15. 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.

16. 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.

17. 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.

18. Dr. Kenerson 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.

19. Dr. Kenerson has been represented by Robert P. Hayes, Esq., who has participated in the negotiation of the terms of this Consent Agreement.


20. For the purposes of this Consent Agreement, the term "execution" means the date on which the final signature is affixed to this Consent Agreement.

**I, KEVIN R. KENERSON, 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: 4/11/17

  
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KEVIN R. KENERSON, D.O.


DATED: 4/11/17

  
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ROBERT P. HAYES, Esq.  
Counsel for Licensee

STATE OF Maine  
Cumberland, S.S. (County)

Personally appeared before me the above-named Kevin R. Kenerson, 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.

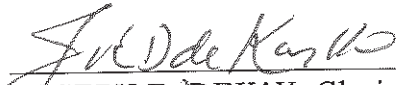
DATED: 4/11/17

  
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NOTARY PUBLIC  
MY COMMISSION ENDS: \_\_\_\_\_

**VICKI L. KERR**  
Notary Public, Maine  
My Commission Expires March 23, 2021

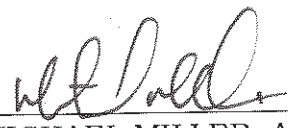
DATED:

4/13/2017

  
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JOSEPH R. DEKAY, Chair  
MAINE BOARD OF  
OSTEOPATHIC LICENSURE

DATED:

April 13, 2017

  
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MICHAEL MILLER, AAG  
DEPARTMENT OF THE ATTORNEY  
GENERAL