

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No.2021-002

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In the Matter of )  
 )  
 )  
JONATHAN KIEV, M.D. )  
\_\_\_\_\_ )

**STATEMENT OF ALLEGATIONS**

The Board of Registration in Medicine (the "Board") has determined that good cause exists to believe the following acts occurred and constitute a violation for which a licensee may be sanctioned by the Board. The Board therefore alleges that Jonathan Kiev, M.D. (the "Respondent") has practiced medicine in violation of law, regulations, or good and accepted medical practice as set forth herein. The investigative docket number associated with this order to show cause is Docket No. 20-155.

**Biographical Information**

1. The Respondent was born on June 7, 1961. The Respondent graduated in 1989 from the Tulane University School of Medicine. He has been licensed to practice medicine in Massachusetts under license number 217103 since 2003.

**Factual Allegations**

2. The Respondent is Board certified in surgery and thoracic surgery.
3. On March 10, 2020, the Respondent entered into a Consent Order with the Illinois Department of Financial and Professional Regulation (the "Illinois Board") to resolve an active case that the latter had open against him (the "Illinois Consent Order") which related to the

Respondent's prescribing controlled substances to personal acquaintances outside of his professional practice of medicine.

4. With respect to the specific allegations resolved by the Illinois Consent Order, in April 2016, the Respondent prescribed a refill for his ex-girlfriend's Xanax prescription.

5. The Respondent's ex-girlfriend was not his patient when he prescribed the refill described in the preceding paragraph and, additionally, the Respondent did not maintain any medical records in connection with the aforementioned prescription.

6. Separately, on approximately four (4) separate occasions in 2017, 2018 and 2019, the Respondent prescribed Tylenol with codeine to a personal acquaintance.

7. The 2019 prescription for Tylenol with codeine that the Respondent wrote for his personal acquaintance as described in the preceding paragraph authorized three (3) refills.

8. The personal acquaintance to whom the Respondent prescribed Tylenol with codeine as described in ¶¶ 6-7, above, was never a patient of the Respondent and, additionally, the Respondent did not maintain any medical records in connection with the aforementioned prescriptions.

9. Furthermore, the Respondent prescribed Tylenol with codeine to his personal acquaintance as described in ¶¶ 6-8, above, without checking the acquaintance's prescribing history in the Illinois Prescription Monitoring Program.

10. Finally, although the Respondent relocated to Kentucky from Illinois in 2017, he authorized the 2018 and 2019 prescriptions for his personal acquaintance, an Illinois resident, after his Controlled Substance License issued by the State of Illinois had lapsed into inactivity.

11. Pursuant to the Illinois Consent Order, the Respondent's license to practice medicine in Illinois was reprimanded, his Controlled Substance License in that state was

suspended for a period of thirty (30) days and thereafter returned to “not renewed” status, the Respondent was ordered to pay a fine in the amount of ten thousand dollars (\$10,000.00), and the Illinois Board required the Respondent to complete ten (10) hours of category I Continuing Medical Education credits (“CMEs”) related to professional responsibility and ten (10) hours of category I CMEs related to prescribing controlled substances.

12. A true and accurate copy of the Illinois Consent Order is enclosed herewith as Attachment A and incorporated herein by reference.

#### Legal Basis for Proposed Relief

a. Pursuant to 243 CMR 1.03(5)(a)(12), the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in M.G.L. c. 112, § 5 or 243 CMR 1.03(5). More specifically, in Massachusetts, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has violated the following statutes, regulations, policies, and/or precedents:

- Mass. Gen. Laws c. 112, § 5, ¶ 9(c) and 243 CMR 1.03(5)(a)(3) (“Conduct which places into question the physician’s competence to practice medicine, including but not limited to ... beyond its authorized scope ... or with ... negligence on repeated occasions”);
- Mass. Gen. Laws c. 112, § 5, ¶ 9(b) and 243 CMR 1.03(5)(a)(2) (committed an offense/offenses against a provision of the laws of the Commonwealth relating to the practice of medicine, or a rule or regulation adopted thereunder, to wit:
  - Mass. Gen. LAWs c. 94C § 19(a); and

- Prescribing Practices Policy and Guidelines, adopted by the Board of Registration in Medicine August 1, 1989, amended May 19, 2010.);
- 243 CMR 2.07(13)(a), which requires a physician to:
  - maintain a medical record for each patient which is adequate to enable the licensee to provide proper diagnosis and treatment;
  - maintain a patient's medical record in a manner which permits the former patient or a successor physician access to them;
- Pursuant to *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982), the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has engaged in conduct that undermines the public confidence in the integrity of the medical profession.

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§ 5, 61, and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01.

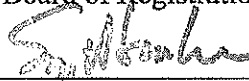
#### Nature of Relief Sought

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation of the Respondent's inchoate right to renew his license to practice medicine in Massachusetts.

#### Order

Wherefore, it is hereby **ORDERED** that the Respondent show cause why the Board should not discipline the Respondent for the conduct described herein.

By the Board of Registration in Medicine,



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George M. Abraham, M.D.  
Board Chair

Date: January 14, 2021

## **Attachment A**

DEPARTMENT OF FINANCIAL AND PROFESSIONAL )  
REGULATION of the State of Illinois, )  
DIVISION OF PROFESSIONAL REGULATION, )  
Complainant, )  
v. ) No. 2016-04169  
JONATHAN KIEV, )  
License No. 036.134306, ) Respondent. )  
336.095570

The Department of Financial and Professional Regulation of the State of Illinois, Division of Professional Regulation (Department), by and through Brooke Harper, Staff Attorney, and JONATHAN KIEV, M.D. (Respondent), by and through his attorney, Michael Lieber, hereby agree to the following:

Respondent holds a Certificate of Registration as a Physician and Surgeon in the State of Illinois, License No. 036.134306. Said license is currently in ACTIVE status. Respondent also holds a Controlled Substance License, License No. 336.095570. Said license has been in NOT RENEWED status since July 31, 2017. At all times material to the matter set forth in this Consent Order, the Department had jurisdiction over the subject matter and parties herein.

On May 9, 2016, the Department received a complaint from an officer of the Downers Grove Police Department. The complaint reported that in April 2016, Respondent authorized a refill of his girlfriend's Xanax prescription. His girlfriend was not a patient and Respondent did not maintain any medical records associated with the prescription.

A review of Respondent's Illinois prescribing activity revealed that he also prescribed a controlled substance, Tylenol with codeine, to an individual named M.H. on approximately four

separate occasions in 2017, 2018, and 2019. The 2019 prescription authorized three refills. M.H. is also a personal acquaintance of Respondent's. M.H. was never a patient of Respondent's and Respondent did not maintain any medical records in connection with his prescriptions to M.H.

Respondent relocated to Kentucky in 2017, and his Controlled Substance License lapsed into NOT RENEWED status. Respondent authorized the 2018 and 2019 prescriptions for M.H., an Illinois patient, from Kentucky. He did so without having an active Controlled Substance License issued by the State of Illinois, without checking the patient's history in the Illinois PMP, without examining the patient, and without inquiring as to why the patient was reaching out to Respondent for pain medication instead of to a regular treating physician.

The allegations as set forth herein, if proven to be true, would constitute grounds for the Department to revoke, suspend, or otherwise discipline Respondent's license as a Physician and Surgeon on the authority of 225 ILCS 60/22(A)(5); 68 Ill. Admin. Code 1285.240; 20 ILCS 2105/2105-130.

Respondent has been advised of the right to a hearing to contest the pending charges and the right to administrative review of any order resulting from a hearing. Respondent knowingly waives each of these rights, as well as the right to administrative review of this Consent Order. Such waiver ceases if this Consent Order is rejected by either the Board or the Director of the Division of Professional Regulation of the Department (Director).

Respondent has freely and willingly entered into this Consent Order without any threat or coercion by any person. Respondent acknowledges that he has not relied upon any statement or promise made on behalf of the Department except as set forth herein.

Respondent and the Department have agreed, in order to resolve this matter, that Respondent be permitted to enter into a Consent Order with the Department providing for the



imposition of disciplinary measures which are fair and equitable under the circumstances and which are consistent with the best interests of the People of the State of Illinois.

**CONDITIONS**

WHEREFORE, the Department, by and through Brooke Harpor, Staff Attorney, and Jonathan Kiev, M.D., Respondent, by and through his attorney, Michael Lieber, hereby agree to the following:

A. Respondent's Illinois Physician and Surgeon License, No. 036.134306, shall be REPRIMANDED;

B. Upon the effective date of this Consent Order, Respondent's Illinois Controlled Substance License, No. 336.095570, shall be SUSPENDED for a period of thirty (30) days. It will thereafter return to NOT-RENEWED status.

C. Respondent shall pay a fine in the amount of ten thousand dollars (\$10,000.00). Said fine shall be paid within one hundred eighty (180) days of the effective date of this Consent Order. The fine is to be paid by personal check, cashier's check, or personal money order. Said check shall be made payable to "Illinois Department of Financial and Professional Regulation" and mailed to the following address:

Illinois Dept. of Financial and Professional Regulation  
SSC- Accounts Receivable Section- Fines  
PO BOX 7086  
Springfield, Illinois 62791-7086

D. In the notation portion of the check, Respondent shall list the above stated case number and Respondent's license number. If Respondent fails to pay the aforementioned fine and the Department initiates a collection effort to retrieve the fine, Respondent shall be responsible for all costs and fees incurred by the Department in said collection effort;

E. Respondent shall complete ten (10) hours of category I Continuing Medical Education credits (CMEs) related to professional responsibility; and ten (10) hours of category I CMEs related to

prescribing controlled substances;

1. Respondent must seek pre-approval in writing by the Department's Chief Medical Coordinator prior to attendance of said CMEs. Respondent shall send his written request for pre-approval to the Department's Chief Medical Coordinator at:

**Illinois Department of Financial and Professional Regulation  
Attn: Chief Medical Coordinator  
100 W. Randolph Street, Suite 9-300  
Chicago, IL 60601.**

2. Respondent shall submit proof of completion of the aforesaid CMEs within twelve (12) months of the final approval of this Consent Order to the following address:

**Illinois Department of Financial and Professional Regulation  
Attn: Chief Medical Coordinator  
100 W. Randolph Street, Suite 9-300  
Chicago, IL 60601.**

3. The aforementioned CMEs may count towards the total required to renew Respondent's license in 2021.

F. Respondent agrees that any violation of the aforementioned terms and conditions of this Order permits the Director to issue an Order forthwith mandating the automatic, indefinite, and immediate suspension of his Physician and Surgeon License, No. 036.134306, for a minimum period of twelve (12) months. This suspension shall not preclude the Department from taking any other disciplinary or other actions it deems appropriate. In the event that Respondent contests the factual basis underlying said indefinite suspension in a written petition that complies with the Department's Rules of Practice in Administrative Hearings, which is filed with the Department within fifteen (15) days of the effective date of the indefinite suspension, then Respondent shall be afforded a hearing on the merits within thirty (30) days from the filing of said petition;

G. This disposition is considered a discipline for reporting purposes to entities such as the National Practitioner Data Bank;

H. This Consent Order shall become effective upon signing and approval by the Director.

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DEPARTMENT OF FINANCIAL AND  
PROFESSIONAL REGULATION  
of the State of Illinois

2/27/2020

DATE

  
Brooke Harper  
Attorney for the Department

2/26/20

DATE

  
Jonathan Kiev, M.D.  
Respondent

2/26/20

DATE

  
Michael Lieber  
Attorney for the Respondent

3/4/20

DATE

  
Member  
Medical Disciplinary Board

The foregoing Consent Order is approved in full.

DATED THIS 10th day of March, 2020.

DEPARTMENT OF FINANCIAL AND  
PROFESSIONAL REGULATION  
of the State of Illinois;  
Deborah Hagan, Secretary  
DIVISION OF PROFESSIONAL REGULATION

  
CECILIA ABUNDIS  
Acting Director

REF: Case No. 2016-04169  
Lic. No. 036.134306