

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE QUALITY AND SAFETY BRANCH**

In re: Gayle Klein, M.D.

Petition No. 2018-695

CONSENT ORDER

WHEREAS, Gayle Klein of Mansfield (hereinafter "respondent") has been issued license number 048835 to practice as a physician and surgeon by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 370 of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. During the course of approximately February through October 2017, respondent prescribed alprazolam on one or more occasions to Patient #1, an acquaintance, without maintaining sufficient medical records for said prescriptions. On or around May 10, 2017, respondent inappropriately provided Patient #1 with a sublingual cannabidiol spray to address Patient #1's medical conditions.
2. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-13c, including, but not limited to, §20-13c(4).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest this matter and agrees that for purposes of this or any future proceedings before the Connecticut Medical Examining Board (hereinafter "the Board"), this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10, 19a-14 and 20-13c of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17 and 20-13c of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives her right to a hearing on the merits of this matter.
2. Respondent's license number 048835 to practice as a physician and surgeon in the State of Connecticut is hereby reprimanded.
3. Respondent's license shall be placed on probation for a period of one year under the following terms and conditions:
 - i. Respondent shall obtain at her own expense, the services of a physician, pre-approved by the Department (hereinafter "supervisor"), to conduct a quarterly random review of twenty percent (20%) or twenty (20) of respondent's patient records, whichever is the larger number, for patients which respondent prescribes controlled substances or certifies for a medical marijuana certificate. In the event respondent has twenty (20) or fewer patients, the supervisor shall review all of respondent's patient records.
 - (1) Respondent shall provide a copy of this Consent Order to her practice supervisor. Respondent's supervisor shall furnish written confirmation to the Department of his or her engagement in that capacity and receipt of a copy of this Consent Order within fifteen (15) days of the effective date of this Consent Order.
 - (2) Respondent's supervisor shall conduct such review and meet with her not less than once every quarter for the duration of her probationary period.
 - (3) The supervisor shall have the right to monitor respondent's practice by any other reasonable means which he or she deems appropriate. Respondent shall fully cooperate with the supervisor in providing such monitoring.

- (4) Respondent shall be responsible for providing written supervisor reports directly to the Department quarterly for the duration of the probationary period. Such supervisor's reports shall include documentation of dates and duration of meetings with respondent, number and a general description of the patient records and patient medication orders and prescriptions or certifications reviewed, additional monitoring techniques utilized, and statement as to whether respondent is practicing with reasonable skill and safety. A supervisor report indicating that respondent is not practicing with reasonable skill and safety shall be deemed to be a violation of this Consent Order.
- ii. Within the first six months of probation, respondent shall attend and successfully complete coursework in professional ethics, documentation standards and controlled substance prescribing practices, pre-approved by the Department. Within fourteen days of the completion of such coursework, respondent shall provide the Department with proof, to the Department's satisfaction, of the successful completion of such courses.
4. All correspondence and reports are to be addressed to:
- Lavita Sookram, R.N., Nurse Consultant
Practitioner Compliance and Monitoring Unit
Department of Public Health
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308
5. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.
6. Respondent shall comply with all state and federal statutes and regulations applicable to her licensure.

7. Respondent shall pay all costs necessary to comply with this Consent Order.
8. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
 - a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
 - b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.
 - c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 8a above to demonstrate to the satisfaction of the Department that she has complied with the terms of this Consent Order or, in the alternative, that she has cured the violation in question.
 - d. If respondent does not demonstrate compliance or cure the violation within the fifteen (15) days specified in the notification of violation to the satisfaction of the Department, she shall be entitled to a hearing before the Board which shall make a final determination of the disciplinary action to be taken.
 - e. Evidence presented to the Board by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.
9. In the event respondent does not practice as a physician for periods of thirty (30) consecutive days or longer, respondent shall notify the Department in writing. Such periods of times shall not be counted in reducing the probationary period covered by this Consent Order and such terms shall be held in abeyance. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order. In the event respondent resumes the practice of physician, respondent

shall provide the Department with thirty (30) days prior written notice. Respondent shall not return to the practice of medicine without written pre-approval from the Department. Respondent agrees that any return to the practice of medicine without pre-approval from the Department shall constitute a violation of this Consent Order and may subject the respondent to further disciplinary action.

10. If, during the period of probation, respondent practices medicine outside Connecticut, she shall provide written notice to the Department concerning such practice. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order, and such time period shall not be counted in reducing the probationary period covered by this Consent Order. Respondent may comply with the terms of probation while practicing outside Connecticut if pre-approved by the Department. In the event respondent intends to return to the practice of medicine in Connecticut, respondent shall provide the Department with thirty (30) days prior written notice and agrees to comply with all terms and conditions contained in paragraph 3 above.
11. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of her license before the Board.
12. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Quality and Safety Branch of the Department.
13. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Board.
14. Respondent understands and agrees that this Consent Order shall be deemed a public document and the above violations shall be deemed true in any proceeding before the Board in which her compliance with this Consent Order or with §20-13c of the General Statutes of Connecticut, as amended, is at issue. Further, respondent understands and

acknowledges that any discipline imposed by this Consent Order shall be reported to the National Practitioner Data Bank maintained by the United States Department of Health and Human Services and that all disciplinary actions will appear on her physician profile pursuant to Connecticut General Statutes 20-13j.

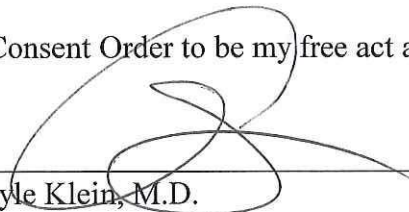
15. In the event respondent violates a term of this Consent Order, respondent agrees immediately to refrain from practicing as a physician, upon request by the Department, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that failure to cooperate with the Department's investigation shall be considered by the Board and shall, as a matter of law, constitute a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c). The Department and respondent understand that the Board has complete and final discretion as to whether a summary suspension is ordered.
16. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
17. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Respondent agrees that this Consent Order shall not be subject to modification as a result of any claim that the terms contained herein may result in action by third parties, including, but not limited to,

healthcare facilities and/or credentialing or licensure boards and respondent waives any right to seek reconsideration or modification of this Consent Order pursuant to §4-181a of the General Statutes of Connecticut. Respondent assumes all responsibility for assessing such actions prior to the execution of this document. Further, this Consent Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that she may have under the laws of the State of Connecticut or of the United States.

18. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
19. Respondent permits a representative of the Department to present this Consent Order and the factual basis for this Consent Order to the Board . Respondent understands that the Board has complete and final discretion as to whether this executed Consent Order is approved or accepted. Respondent hereby waives any claim of error that could be raised that is related to or arises during the course of the Board's discussions regarding whether to approve or reject this Consent Order and/or a Board member's participation during this process, through the Board member's review or comments, including but not limited to bias or reliance on evidence outside the administrative record if this matter proceeds to a hearing on a statement of charges resulting in a proposed decision by the Board and/or a panel of the Board and a final decision by the Board.
20. Respondent understands and agrees that she is responsible for satisfying all of the terms of this Consent Order during vacations and other periods in which she is away from her residence.
- 21 Respondent has the right to consult with an attorney prior to signing this document.

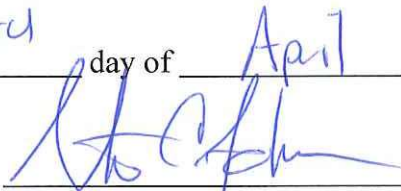
22. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the State's Attorney's Office where the allegation occurred or Bureau Chief of the applicable unit in the Chief State's Attorney's Office. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.
23. This Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this consent order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

I, Gayle Klein, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.




Gayle Klein, M.D.

Subscribed and sworn to before me this 3rd day of April 2019.




Notary Public or person authorized
by law to administer an oath or affirmation

The above Consent Order having been presented to the duly appointed agent of the
Commissioner of the Department of Public Health on the 8th day of
April 2019, it is hereby accepted.



Christian D. Andresen, Section Chief
Practitioner Licensing and Investigations Section
Healthcare Quality and Safety Branch

The above Consent Order having been presented to the duly appointed agent of the _____
on the 21st day of May 2019, it is hereby ordered and accepted.



Connecticut Medical Examining Board