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

2016 MAY 26 PM 1:32

Department of State

Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

File No.: 14-49-10826

vs.

David Michael Censits, M.D.
Respondent

Docket No: 0772-49-15

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and **David Michael Censits, M.D.** ("Respondent") stipulate as follows in settlement of the above-captioned case.

APPLICABLE LAW

1. This matter is before the State Board of Medicine ("Board") pursuant to Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, ("Act"), 63 P.S. §§ 422.1-422.53, *as amended*; the Medical Care Availability and Reduction of Error ("Mcare") Act, Act of March 20, 2002, P.L. 154, No. 13, 40 P.S. §§ 1303.101-1303.910, *as amended*; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), 63 P.S. §§ 2201-2207, *as amended*.

LICENSURE STATUS

2. At all relevant and material times, Respondent held the following license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania: license no. MD420076, which was originally issued on July 24, 2002, and which expires on December 31, 2016.

FACTUAL ALLEGATIONS

3. The Respondent admits that the following allegations are true:
 - a. 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 last known address, as on file with the Board is: 1226 Rodman Street, Philadelphia, PA 19147.
 - c. Respondent specializes in the practice of psychiatry.
 - d. On or about September 25, 2014, patient S.Z. filed a complaint with the Department of State against Respondent.
 - e. Patient S.Z. is a female patient.
 - f. During 2007, patient S.Z. was a student at the University of Pennsylvania.
 - g. Patient S.Z. was referred to Respondent by the University of Pennsylvania for mental health treatment.
 - h. Respondent began treating patient S.Z. for anxiety, depression, and sleep problems in 2007.
 - i. After completing a master's degree at the University of Pennsylvania in 2008, patient S.Z. was charged \$100 to \$125 per session and continued to have weekly appointments with Respondent.
 - j. In approximately April 2009, patient S.Z. informed Respondent that her best friend and mentor (D.H.) had passed away.
 - k. Respondent told patient S.Z. that he wanted to fill the role of her deceased friend and mentor referenced in paragraph 3j.

l. Respondent alleges that he stopped treating patient S.Z. in November 2009, but Respondent admits that prescriptions were issued under his name for Fluvoximine to this patient during the period of November 2009 to November 2013.

m. Shortly after November 2013, Respondent began texting patient S.Z. in a very personal tone.

n. A few days prior to December 31, 2013, Respondent sent a text message to patient S.Z..

o. As referenced in paragraph 3n, Respondent asked in the text message if patient S.Z. would like to go to Jamaica with him for New Year's Day.

p. Patient S.Z. did not respond to the text message referenced in paragraph 3n.

q. During the afternoon of December 31, 2013, Respondent met with patient S.Z. at a restaurant in Philadelphia.

r. After the meeting referenced in paragraph 3q, Respondent kissed patient S.Z. while leaving the restaurant.

s. During December 31, 2013 to January 2, 2014, Respondent sent numerous text messages to patient S.Z..

t. As referenced in paragraph 3s, the Respondent's text messages to patient S.Z. were romantic in nature.

u. As referenced in paragraph 3s, the Respondent texted patient S.Z. that he would not hurt her because after years of treatment, Respondent knew what

patient S.Z. had been through and that he knew that she was a very sensitive person.

v. At the Respondent's suggestion, Respondent began seeing patient S.Z. almost every other day.

w. As referenced in paragraph 3v, Respondent held hands and kissed patient S.Z..

x. Respondent told patient S.Z. that he had spoken with his psychiatrist and that he had decided it was time to tell his wife how he felt and that he was serious about divorcing his wife.

y. Respondent told patient S.Z. that it was nice to share in the happiness that he had created as the psychiatrist for patient S.Z..

z. In early February 2014, Respondent texted patient S.Z. to come to his office.

aa. As referenced in paragraph 3z, Respondent told patient S.Z. that he had left his wife, leaving her a note on the kitchen counter.

bb. Respondent told patient S.Z. that 'I am all yours baby,' and handed his office keys to patient S.Z..

cc. Respondent had sex with patient S.Z..

dd. Respondent would stay over several nights a week at patient S.Z.'s apartment in Philadelphia.

ee. Respondent had sex with patient S.Z. at her apartment.

ff. Respondent had sex with patient S.Z. at his apartment, which he referred to with patient S.Z. as "our apartment" or "The Palace".

gg. Respondent talked patient S.Z. out of a proposed business partnership with another individual, telling patient S.Z. that he did not want the proposed business partnership to impact “our relationship”.

hh. In mid-March 2014, Respondent traveled to Princeton, NJ with his estranged wife to visit a seriously ill nephew.

ii. Subsequent to mid-March 2014, the relationship between Respondent and patient S.Z. began to change.

jj. Respondent claimed to patient S.Z. to be in a depression and he would only text patient S.Z..

kk. Subsequent to mid-March 2014, Respondent was unable to be reached by patient S.Z. after he sent a text to patient S.Z. that described how nothing really mattered.

ll. Patient S.Z. was so upset with the text referenced in paragraph 3kk that she called the Respondent’s psychiatrist with fears that Respondent would hurt himself.

mm. Approximately three weeks after the text referenced in paragraph 3kk, Respondent sent a text message to patient S.Z. that said, “I no longer wish to lead a life outside of my marriage and family.”

ALLEGED VIOLATIONS

4. The Commonwealth alleges that the Board is authorized to suspend, revoke, or otherwise restrict Respondent's license under Sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; and/or impose a civil penalty upon Respondent under Sections 39 through 42 of the Act, 63 P.S. §§ 422.39-422.42, 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 63 P.S. §422.41(6) in that Respondent was in violation of Board regulations at 49 Pa. Code §16.110(c) by engaging in sexual behavior with a former patient involved with mental health treatment within two years of termination of treatment provided by Respondent to said patient.

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 finds that it is authorized to suspend, revoke, or otherwise restrict Respondent's license under Sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; and/or impose a civil penalty upon Respondent under Sections 39 through 42 of the Act, 63 P.S. §§ 422.39-422.42, 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 63 P.S. §422.41(6) in that Respondent was in violation of Board regulations at 49 Pa. Code §16.110(c) by engaging in sexual behavior with a former patient involved with mental health treatment within two years of termination of treatment provided by Respondent to said patient.

SUSPENSION

b. Respondent's license to practice as a **medical physician** in the Commonwealth of Pennsylvania, 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 FOR A MINIMUM PERIOD OF**

NINE (9) MONTHS. The suspension shall be effective thirty (30) days from the date of the adoption of this Order, so as to permit Respondent time to notify his patients of the suspension and to facilitate the retrieval or transmittal of their records.

c. Respondent shall, within ten (10) days of the beginning of any period of active suspension, surrender his wall certificate, biennial renewal certificate and wallet card (or notarized affidavit of their loss or destruction) by mailing them to:

Keith E. Bashore, Prosecuting Attorney Pennsylvania Department of State P.O. Box 69521 Harrisburg, PA 17106-9521

or by delivering them in person at:

Bureau of Professional and Occupational Affairs One Penn Center 2601 North 3rd St. Harrisburg, Pennsylvania
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d. Upon the adoption of this Order, and during any period of active suspension, Respondent shall cease and desist from practicing as a medical physician, and shall not represent himself as a Board licensee in any matter during any period of active suspension.

e. Respondent is advised that if the period of active suspension continues past the end of the current renewal period, prior to Respondent's license being reinstated, Respondent will be required to comply with the requirements for renewal of his license in effect at that time.

EVALUATION

f. Respondent shall undergo an evaluation assessing his fitness to practice the profession to be performed by psychiatrist George E. Woody, M.D. ("Dr. Woody") at Rehab After Work, 1420 Walnut Street, Suite 500, Philadelphia, PA 19102.

Respondent shall immediately contact Dr. Woody at (215) 694-9248, email (woody@tresearch.org) to schedule this evaluation, which shall be completed within ninety (90) days of the date of this Order. Respondent shall comply with all requests by Dr. Woody, including, but not limited to, the need for additional testing or referrals.

g. An evaluation report shall be provided by Dr. Woody to the prosecuting attorney in this matter. If the evaluator provides recommendations, Respondent must fully comply with those recommendations and failure to do so shall be considered to be a violation of this Order.

REMEDIAL EDUCATION

h. Respondent agrees to attend and complete the "Intensive Course in Medical Ethics, Boundaries and Professionalism" continuing medical education ("CME") course at Case Western Reserve University School of Medicine in Cleveland, Ohio. Respondent shall successfully complete said course and submit acceptable proof of his course attendance to the Pennsylvania Department of State no later than December 31, 2016.

i. Respondent shall also comply with all the following terms and conditions pertaining to completion of the remedial education hours:

(1) The additional hours of remedial education required by this Order shall consist of hours attended or completed after January 1, 2016;

(2) Credits specified in this Order shall be in compliance

with either the initial education or the continuing education regulations of the Board;

j. To the extent that the remedial education course(s) require Respondent to pass an examination in order for Respondent to be eligible for initial or continuing education credits, Respondent must take and successfully pass such examination in order for the remedial education course(s) to satisfy the requirement of this Order.

k. Respondent shall submit acceptable proof of successful completion of the remedial professional education course to the Prosecuting Attorney in this matter.

Respondent shall note the file number and docket number of this case on any documentation submitted to the Prosecuting Attorney at the following address: Keith E. Bashore, Prosecuting Attorney, Pennsylvania Department of State, P.O. Box 69521, Harrisburg, PA 17106-9521.

l. Acceptable proof of completion of the additional hours of remedial education shall consist of an official transcript, a certificate or letter of completion prepared by the sponsor of the remedial education course or a printout prepared by the sponsor indicating the completed course. Proof shall contain course titles, completion dates, final grade (if course is graded), and number of class hours or CME credits awarded. Acceptable proof shall not consist of receipts, course outlines or agendas, cancelled checks, payment acknowledgments, or self-prepared records, among other documents;

m. The additional hours of remedial education in this Order shall be completed in addition to the hours that Respondent shall take in this or subsequent

reporting periods for the renewal of his license. Credit hours required in this Order may not be used from any previous reporting period, nor may they be used in any subsequent biennial period for the renewal of Respondent's license to practice as a Medical Physician and Surgeon. Respondent may not utilize the credit hours required in this Order for purposes of satisfying any initial or continuing education requirement of any other authorization to practice the profession issued by the Board. For a period of twenty-four (24) months after Respondent submits acceptable proof of completion of the remedial education required by this Consent Agreement, Respondent shall be subject to non-random audit of her continuing or initial education when/if Respondent files any application for the renewal or issuance of a new of authorization to practice the profession issued by the Board;

REINSTATEMENT

n. Respondent may petition for reinstatement by filing a written petition with the Counsel for the Board, P.O. Box 2649, Harrisburg, PA 17105-2649. Respondent may petition for reinstatement subject to the following conditions: (1) his license has been suspended for a minimum period of nine (9) months from the adoption of this Order; (2) he is in complete compliance with all aspects of this Order; and (3) he demonstrates, to the satisfaction of the Board, that he can safely and competently practice medicine, including demonstrating that he does not have an illness or addiction to drugs or alcohol that renders him unable to practice the profession with reasonable skill and safety to patients. The Board shall schedule a hearing on Respondent's petition and shall afford the Commonwealth the opportunity to appear at the hearing and object to or otherwise contest Respondent's petition. At any such hearing, Respondent shall bear the burden of proving his fulfillment of the conditions for reinstatement set forth

hereinabove. This Consent Agreement and Order as well as the Order to Show Cause and Answer filed in this matter shall be admitted into evidence in lieu of witness testimony, and without objection, in any proceeding relating to any Petition for Reinstatement filed by Respondent. Upon Respondent's filing of any Petition for Reinstatement, the Commonwealth may direct Respondent to submit to a mental and physical examination by a physician of its selection, for the purpose of assessing whether the Commonwealth will object to, or otherwise contest, any Petition for Reinstatement. Ninety (90) days prior to Respondent's becoming eligible to file a Petition for Reinstatement, Respondent may submit a written request to the Commonwealth for the name of a physician it deems acceptable to conduct the mental and physical examination. The parties agree that the physician conducting any mental and physical examination under the terms of this Consent Agreement and Order shall be provided with copies of this Consent Agreement and Order, the Order to Show Cause and the Answer in this matter. Respondent shall bear responsibility for all costs associated with the mental and physical examination.

o. The decision to reinstate Respondent's license is within the sole discretion of the Board. Nothing in this Consent Agreement and Order will prohibit the Board from imposing additional restrictions and/or monitoring requirements, probationary or otherwise, upon Respondent's authorizations to practice the profession once reinstated by the Board.

p. In the event that the Board were to deny reinstatement of Respondent's license, Respondent may file a subsequent Petition for Reinstatement no less than six (6) months from the date of the Board's denial, unless otherwise directed by the Board. Any

subsequent Petition for Reinstatement filed by Respondent shall be governed by the same terms, conditions and procedures set forth in this Order.

q. Respondent shall be responsible for all costs incurred in complying with the terms of this Order.

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

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 acknowledges receipt of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and to 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. Respondent had an opportunity to consult with Attorney Joseph Goldberg, regarding this Consent Agreement.

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. Respondent specifically agrees that if the Board rejects this agreement, it may assume that the facts and averments as alleged in this Consent Agreement are true and correct for the limited purpose of recommending a sanction, based on those assumed facts, that would be acceptable to the Board before hearing the case. In the event that the Board does assume the facts and averments as alleged in this Consent Agreement are true for purposes of making a recommendation as to an acceptable sanction, such action shall not constitute commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Respondent expressly waives any constitutional rights and issues related to alleged commingling, bias, or violation of due process rights to have an unbiased and impartial adjudicator in any subsequent hearing. If a hearing is subsequently held, neither this Consent Agreement nor the proposed terms of settlement may be admitted into evidence and any facts, averments, and allegations contained in the Consent Agreement must be proven at hearing unless otherwise separately stipulated. This paragraph is binding on the participants even if the Board does not approve 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

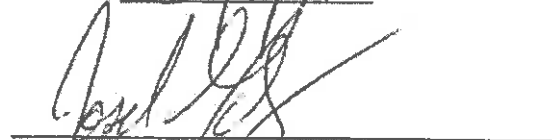
15. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. §4904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


Keith E. Bashore, Esq.
Prosecuting Attorney

DATED: 3/21/16


David Michael Censits, M.D.
Respondent

DATED: 3/7/16


Joseph Goldberg, Esq.
Attorney for Respondent

DATED: 3/8/16

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

**Commonwealth of Pennsylvania
Bureau of Professional and
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vs.

**David Michael Censits, M.D.
Respondent**

File No.: 14-49-10826

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ORDER

AND NOW, this *24th* day of *May*, 2016, the STATE BOARD OF 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**



Ian J. Harlow
Commissioner

For the Commonwealth:

For the Respondent:

Date of mailing:

**BY ORDER:
STATE BOARD OF MEDICINE**



Marilyn J. Heine, M.D.
Chair

Keith E. Bashore, Prosecuting Attorney
Pennsylvania Department of State
P. O. Box 69521
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May 26, 2016