

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

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

Case No.: 20-49-009383

vs.

**David Kalkstein, M.D.,
Respondent**

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and **David Kalkstein, 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 the Medical Practice Act of 1985, act of December 20, 1985, P.L. 457, No. 112, ("Act"), *as amended*, 63 P.S. §§ 422.1-422.53; 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 63 PaC.S. §§ 3101-3118.

LICENSURE STATUS

2. At all relevant and material times, Respondent held the following license to practice as a Medical Physician and Surgeon under the authority of the Board in the Commonwealth of Pennsylvania: license no. MD023723E, which was originally issued on July 1, 1980 and is current through December 31, 2026.

Prothonotary Filed On:
Mar 12 2025 04:44 PM
Department of State

STIPULATED FACTS

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

a. Absent additional 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 last known office address, as on file with the Board is: 1650 Market Street, Suite 3600, Philadelphia, PA 19103. Respondent has provided the Commonwealth with a current address of 27083 Firefly Blvd, Millsboro, DE 19966.

c. At all relevant and material times, Respondent was authorized to practice medicine in the state of Delaware under license number C1-0005516.

d. On or about October 14, 2015, the Delaware Department of State, Office of Controlled Substances ("Delaware Board") issued a Final Order at case 38-14-15 based on a signed Consent Agreement.

e. Per the Delaware Board's October 2015 Order, Respondent was issued a public reprimand, was fined one thousand dollars (\$1000), and was ordered to complete six additional hours of continuing medical education on the topics of recordkeeping and patient privacy. **See attached Exhibit A**

f. A true and correct copy of the Delaware Board's October 2015 Order is attached as **Exhibit A**, and is incorporated by reference herein.

g. Per the Delaware Board Consent Agreement, when Respondent closed his Delaware psychiatry practice in March 2015, he failed to remove or arrange for the removal of some of the materials from the practice.

h. The materials not removed from the practice included multiple patient intake forms and financial information, sample packs of non-controlled substances, three vials of controlled substance medications, and numerous prescription pads, some of which contained the DEA number of a former employee of the practice.

AUTHORITY OF THE BOARD

4. The Board is authorized to suspend or revoke, or otherwise restrict Respondent's license under sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; or impose a civil penalty under Section 908 of the Mcare Act, 40 P.S. §§ 1303.908, and/or 63 P.S. § 665(b), and/or 63 Pa.C.S. § 3108(b)(4); and/or impose the costs of investigation under 63 Pa.C.S. § 3108(b)(5)

SUMMARY OF DISCIPLINE

5. The following encapsulates the discipline as set forth in the Proposed Order:
- a. Respondent shall pay a civil penalty of \$500
 - b. Respondent will be publicly reprimanded

PROPOSED ORDER

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

- a. **VIOLATIONS:** Respondent violated the Act at:
 - (1) 63 P.S. § 422.41(4), in that Respondent had a license or other authorization to practice the profession suspended, revoked, refused or otherwise disciplined by the proper licensing authority of another state, territory, possession or country, or a branch of the Federal Government.

CIVIL PENALTY

b. A **CIVIL PENALTY** of five hundred dollars (\$500.00) is levied upon Respondent. Respondent shall tender the full sum of five hundred dollars (\$500.00) with this executed Consent Agreement and shall be paid by certified check, cashier's check, attorney's check, or money order issued by a usual, customary, and reputable issuer (e.g. U.S. Postal Money Order, Western Union Money Order, etc.). Payment shall be made payable to the "Commonwealth of Pennsylvania," and shall be valid for a period of at least one hundred eighty (180) days. Respondent agrees that payment shall only be made by one of the methods indicated above and shall not be made by uncertified personal or corporate check.

PUBLIC REPRIMAND

c. A **PUBLIC REPRIMAND** shall be placed on Respondent's permanent disciplinary record with the Board.

d. 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.

e. 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

7. Respondent agrees that if Respondent is charged with a violation of an Act enforced by the 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

8. Respondent acknowledges 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

9. Respondent acknowledges the right to consult with and 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 CLAIMS

10. Should the Board vote not to adopt the Order proposed in this Consent Agreement, the presentation and consideration of this Consent Agreement shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. Respondent expressly waives the right to raise any claims or issues, including any and all constitutional claims or issues, which may arise or have arisen during the review, presentation and deliberation of this Consent Agreement. These claims or issues include, but are not limited to, bias, the commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Board, in its discretion, recommending a different sanction based upon the facts set forth in the Consent Agreement. 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 a hearing unless otherwise separately stipulated.

LIMITS ON MODIFICATION OF ORDER

11. Respondent agrees not to seek modification of the Order adopting and implementing this Consent Agreement without first obtaining the express written permission from the prosecution division. Any modification is at the sole discretion of the Board.

AGREEMENT NOT BINDING UNTIL APPROVED

12. This Consent Agreement is between the Commonwealth and Respondent. The Office of General Counsel has approved this Consent Agreement as to form and legality. The disciplinary provisions of this Consent Agreement do not take effect unless and until the Board issues an order adopting this Consent Agreement.

ENTIRE AGREEMENT

13. This Consent Agreement contains the entire agreement between the parties. There are no other terms, obligations, covenants, representations, statements, or conditions, oral or otherwise, of any kind whatsoever concerning this agreement.

AGREEMENT DOES NOT PREVENT FUTURE DISCIPLINE

14. Nothing in this Order shall preclude the prosecution division of the Department of State from filing charges, or the Board from imposing disciplinary or corrective measures, for violations or facts not contained in this Consent Agreement;

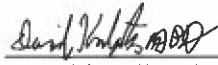
VERIFICATION OF FACTS AND STATEMENTS

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. § 4904 relating to unsworn falsification to authorities.



Adam J. Williams, Esq.
Prosecuting Attorney

DATED: 2-11-25



David Kalkstein, M.D.
Respondent

DATED: 1/29/2025

BEFORE THE DELAWARE SECRETARY OF STATE

**DEPARTMENT OF STATE
OFFICE OF CONTROLLED SUBSTANCES**

Statutory Authority: 16 Del. C. § 4735

**DAVID KALKSTEIN
Controlled Substance
Registration No.: MD3396**

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Case No.: 38-14-15

FINAL ORDER

WHEREAS, the Secretary of the Delaware Department of State is in receipt of the attached Consent Agreement filed by the State of Delaware and David Kalkstein, M.D. regarding Dr. Kalkstein's controlled substance registration, number MD3396; and

WHEREAS, the Controlled Substance Advisory Committee reviewed and recommends approval of said Consent Agreement;

WHEREAS, the Secretary finds this Consent Agreement provides an acceptable resolution to the State's complaint filed pursuant to 16 Del. C. § 4735; and

WHEREAS, the Secretary finds that the agreed upon discipline in the Consent Agreement, a fine and Letter of Reprimand, is in the interest of public protection;

NOW, THEREFORE, IT IS ORDERED this 14 day of October, 2015 that the Consent Agreement is adopted as a Final Order of the Secretary.

SECRETARY OF STATE



Jeffrey W. Bullock

EXHIBIT A



CANNON BUILDING
861 SILVER LAKE BLVD., SUITE 203
DOVER, DELAWARE 19904-2467

TELEPHONE: (302) 744-4500
FAX: (302) 739-2711
WEBSITE: DPR.DELAWARE.GOV
EMAIL: customerservice.dpr@state.de.us

October 12, 2015

David Kalkstein, M.D.



RE: Letter of Reprimand
Case No. 38-14-15
CSR No.: MD3396

Dear Dr. Kalkstein:

Pursuant to the Final Order approving the Consent Agreement in the above-referenced matter, you are found to have violated 16 *Del. C.* § 4735(b)(1) by failing to maintain effective controls against diversion of controlled substances. Specifically, when you closed your office in Wilmington, Delaware, you failed to remove a number of items, including controlled substance patient medications and prescription pads. You are therefore issued this Letter of Reprimand, which will be retained in your permanent file.

Sincerely,

Jeffrey W. Bullock
Delaware Secretary of State

cc: Zoe Plerhoples, Deputy Attorney General

**BEFORE THE DELAWARE SECRETARY OF STATE AND/OR
THE CONTROLLED SUBSTANCE ADVISORY COMMITTEE**

IN RE: DAVID KALKSTEIN

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) **Case No.: 38-14-15**

REGISTRATION NO.: MD3396

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CONSENT AGREEMENT

A written Complaint was filed with the Delaware Secretary of State and/or the Controlled Substance Advisory Committee ("Secretary") alleging that David Kalkstein ("Respondent") engaged in conduct that constituted grounds for discipline pursuant to Delaware's *Uniform Controlled Substances Act*. (16 Del.C. Ch. 47)

The State of Delaware and Respondent submit this Consent Agreement for approval by the Secretary as a means of resolving the pending administrative prosecution against Respondent.

IT IS UNDERSTOOD AND AGREED THAT:

1. Respondent is a medical doctor in the State of Delaware. His license, number C1-0005516, was issued January 5, 1999, and expires March 31, 2017. His license is currently active.
2. Respondent has a controlled substances registration (CSR), number MD3396. His CSR license was issued April 27, 1999, and is active.
3. Up until April of 2015, Respondent maintained a psychiatry practice at the Concord Plaza office complex ("Concord Plaza") located at 3411 Silverside Road, Suite 102 Wilmington Delaware 19810. Concord Plaza is managed by BPG Real Estate Services ("BPG").
4. Respondent terminated his lease with BPG effective March 31, 2015, and made a last visit to the office on February 6, 2015. After his last visit to that office, his office manager

for the last fifteen years assured him that everything had been removed from the office at Concord Plaza and taken to his Sussex County office. Respondent personally removed or oversaw the removal of most of the items from his office, but not all of them.

5. On or around April 1, 2015, BPG contacted the Division of Professional Regulation ("DPR") stating that numerous patient records, medications and prescription pads remained in the office. BPG had scheduled workers to clean out the office and throw away any remaining property on that date.

6. An investigator from DPR responded to the location to take possession of the above-referenced items.

7. An inventory of the items left in the property revealed that Respondent had left multiple patient intake forms and financial information, multiple sample packs of non-controlled prescriptive medications, three vials of controlled substance patient medications, and 560 prescription pads in the office. Eleven prescription pads contained the DEA number of an employee of the practice but none contained Respondent's DEA number.

8. At all times relevant, Respondent possessed a key to the property and had the ability to enter the property.

9. Respondent violated 16 *Del. C.* § 4735(b)(1) by failing to maintain effective controls against diversion of controlled substances.

10. Respondent admits that the facts set forth in paragraphs 1 through 9 above are true and accurate.

11. Respondent and State respectfully submit to the Secretary that the appropriate disciplinary sanctions for Respondent's conduct should be as follows:

- a. Respondent shall be issued a letter of reprimand;

- b. Respondent shall pay a fine of one thousand dollars (\$1,000.00) payable to the State of Delaware and mailed to the Division of Professional Regulation, The Controlled Substance Advisory Committee, Cannon Building, Suite 203, 861 Silver Lake Boulevard, Dover, Delaware 19904 within one hundred and eighty (180) days of the final order of the Secretary; and
- c. Within 90 days of this Consent Agreement being adopted as a final order of the Secretary, Respondent shall complete a total of six (6) continuing education credits in record-keeping and patient privacy. These credits shall be in addition to any continuing education credits required for re-certification.

12. The parties to this Consent Agreement are the State of Delaware and Respondent. The parties agree and acknowledge that nothing contained in this Consent Agreement shall affect any rights or interests of any person or entity not a party to this Agreement.

13. Respondent acknowledges that he is waiving his rights under 16 *Del. C. Ch. 47* and 29 *Del. C. Ch. 101* to a hearing before the Secretary prior to the imposition of disciplinary sanctions.

14. Respondent hereby acknowledges and agrees that he has carefully read and understands this Consent Agreement, and is entering into this Consent Agreement freely, knowingly, voluntarily, and after having received or having been afforded the opportunity to receive the advice of counsel.

15. Respondent acknowledges that this Consent Agreement is a public record within the meaning of 29 *Del. C.* § 10002 and will be available for public inspection and copying as provided for by 29 *Del. C.* § 10003.

16. The parties acknowledge and agree that this Consent Agreement is subject to approval by the Secretary.

17. The parties acknowledge and agree that if the Secretary does not accept this Consent Agreement, it shall have no force or effect, except as follows:

- a. Respondent, nor anyone on his behalf, will in any way or in any forum challenge the ability of the Secretary, the Controlled Substance Advisory Committee or any of its members to conduct an evidentiary hearing relating to the allegations in the subject Complaint;
- b. The Consent Agreement, or conduct or statements made in negotiating the Consent Agreement, will be inadmissible at any administrative, civil or criminal legal proceeding; and
- c. No provision contained in the Agreement shall constitute or have the effect of an admission by Respondent as to any fact alleged in the Complaint in this matter or in this Agreement.


18. If the Secretary accepts the Consent Agreement and enters it as an Order, the Consent Agreement shall be admissible as evidence at any future proceedings before the Secretary and/or the Controlled Substance Advisory Committee.

19. Respondent acknowledges and agrees that the Secretary will report this Consent Agreement to the licensing authority of any other state in which he is licensed to practice.


20. The parties acknowledge and agree that this Consent Agreement, along with any

exhibits, addendums, or amendments hereto, encompasses the entire agreement of the parties and supersedes all previous understandings and agreements between the parties, whether oral or written. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

21. This Consent Agreement shall be effective upon acceptance by the Secretary and entry of the Secretary's Order.


David Kalkstein
Respondent

Dated: 9/11/15


Zoe Plerhoples (I.D. No. 5415)
Deputy Attorney General

Dated: 9/17/15

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

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

vs.

**David Kalkstein, M.D.,
Respondent**

Case No.: 20-49-009383

ORDER

AND NOW, this 4th day of March, 2025, the **STATE BOARD OF MEDICINE** (“Board”) approves and adopts the foregoing Consent Agreement and incorporates the terms of paragraph 6, 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**



Arion R. Claggett
Acting Commissioner

For the Commonwealth:

For the Respondent:

Date:

**BY ORDER:
STATE BOARD OF MEDICINE**



Donald M. Yealy, M.D.
Chair

Adam J. Williams, Esq.
2400 Thea Drive, Suite 201
P.O. Box 69521
Harrisburg, PA 17106-9521

David Kalkstein, M.D.
27083 Firefly Blvd
Millsboro, DE 19966

March 13, 2025