

**BEFORE THE TENNESSEE BOARD OF MEDICAL EXAMINERS**

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<b>IN THE MATTER OF:</b>	)	
	)	
<b>Michael R. Martin, M.D.</b>	)	<b>Case No. 2015002721</b>
<b>Respondent.</b>	)	
	)	
<b>Kingsport, TN</b>	)	
<b>Tennessee License No. 40026</b>	)	

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**CONSENT ORDER**

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The Division of Health Related Boards of the Tennessee Department of Health ("State"), by and through the Office of General Counsel, and Michael R. Martin, M.D. ("Respondent"), respectfully move the Tennessee Board of Medical Examiners ("Board") for approval of this Consent Order affecting Respondent's medical license in the State of Tennessee.

The Board is responsible for the regulation and supervision of medical doctors licensed to practice in the State of Tennessee. *See* Tennessee Medical Practice Act ("Act"), Tennessee Code Sections 63-6-101, *et seq.* It is the policy of the Board to require strict compliance with the laws of this State, and to apply the laws so as to preserve the quality of medical care provided in Tennessee. It is the duty and responsibility of the Board to enforce the Tennessee Medical Practice Act in such a manner as to promote and protect the public health, safety and welfare in every practicable way, including disciplining medical doctors who violate the provisions of the Act or the Rules and Regulations promulgated by the Board in the *Official Compilation Rules and Regulations of the State of Tennessee* ("TENN. COMP. R. & REGS.").

Respondent, by his signature to this Consent Order, waives the right to a contested case hearing and any and all rights to judicial review in this matter. Respondent agrees that presentation to and consideration of this Consent Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should this Order not be ratified. Likewise, all matters, admissions and statements disclosed or exchanged during the attempted ratification process shall not be used against Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

Respondent understands that by signing this Consent Order, Respondent is allowing the ~~Board to issue its order without further process. Respondent acknowledges that this is a formal~~ disciplinary action and will be reported to the Health Integrity and Protection Data Bank. In the event that the Board rejects this Consent Order for any reason, it will be of no force or effect for either party.

#### **Stipulations of Fact**

1. Respondent has been at all pertinent times licensed by the Board as a medical doctor in the State of Tennessee, license number 40026 on July 12, 2005 with a current expiration date of August 31, 2016.
2. From in or around January 2010 to in or around January 2015, Respondent provided treatment for addiction to numerous patients which included prescribing buprenorphine and buprenorphine related products and Respondent did not sufficiently justify the prescribing in your patients' charts.
3. Respondent failed to document adequate support for diagnoses sufficient to justify the treatment rendered and failed to integrate consultations, previous hospitalizations and other medical information into the treatment plan.
4. Respondent prescribed controlled substances and other medications without documenting a written treatment plan and without performing physical exams.
5. For instance, Respondent prescribed benzodiazepines to patient A.E. without providing any documented medical justification. Likewise, Respondent prescribed both Suboxone and benzodiazepines to patients N.M., A.M., G.K. and C.W. without documenting medical justification for that prescribing. Respondent also prescribed Suboxone, Xanax, and Adderall to patient G.K. without providing documentation of sufficient medical justification to support that prescribing.

#### **Grounds for Discipline**

The facts stipulated above are sufficient to establish that grounds for discipline of Respondent's medical license exist. Respondent admits the above stipulations of fact are true and establish grounds for the agreed upon discipline in this Consent Order. Specifically, Respondent

admits he violated the following statutes or rules which are part of the Tennessee Medical Practice Act:

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6. The facts stipulated constitute a violation of TENN. CODE ANN. § 63-6-214(b)(12):

Dispensing, prescribing or otherwise distributing any controlled substance or any other drug not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, or in amounts and/or for durations not medically necessary, advisable or justified for a diagnosed condition;

7. The facts stipulated constitute a violation of TENN. COMP. R. & REGS. 0880-02-.14(6)(e)(3), which authorizes disciplinary action against a Respondent who prescribes, orders, administers or dispenses dangerous drugs or controlled substances without observing the following guidelines:

- (i) After a documented medical history, which may be provided orally or in writing by the patient, and physical examination by the physician providing the medication including an assessment and consideration of the pain, physical and psychological function, any history and potential for substance abuse, coexisting diseases and conditions, and the presence of a recognized medical indication for the use of a dangerous drug or controlled substance;
- (ii) Pursuant to a written treatment plan tailored for the individual needs of the patient by which treatment progress and success can be evaluated with stated objectives such as pain relief and/or improved physical and psychosocial function. Such a written treatment plan shall consider pertinent medical history and physical examination as well as the need for further testing, consultations, referrals, or use of other treatment modalities;
- (iii) The physician should discuss the risks and benefits of the use of controlled substances with the patient or guardian;
- (iv) Subject to documented periodic review of the care by the physician at reasonable intervals in view of the individual circumstances of the patient in regard to progress toward reaching treatment objectives which takes into consideration the course of medications prescribed, ordered, administered, or dispensed as well as any new information about the etiology of the pain;
- (v) Complete and accurate records of the care provided as set forth in parts (i)-(iv) of this paragraph should be kept. When controlled substances are prescribed, names, quantities prescribed, dosages, and number of authorized refills of the drugs should be recorded, keeping in mind that pain patients with a history of substance abuse or who live in an environment posing a risk for medication

misuse or diversion require special consideration. Management of these patients may require closer monitoring by the physician managing the pain and consultation with appropriate health care professionals.

8. The facts stipulated constitute a violation of TENN. COMP. R. & REGS. 0880-02-.14(7)(a):

Except as provided in subparagraph (b), it shall be a prima facie violation of T.C.A. § 63-6-214 (b) (1), (4), and (12) for a physician to prescribe or dispense any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines, unless the physician, or his/her licensed supervisee pursuant to appropriate protocols or medical orders, has first done and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed, all of the following:

1. Performed an appropriate history and physical examination; and
2. Made a diagnosis based upon the examinations and all diagnostic and laboratory tests consistent with good medical care; and
3. Formulated a therapeutic plan, and discussed it, along with the basis for it and the risks and benefits of various treatments options, a part of which might be the prescription or dispensed drug, with the patient; and
4. Insured availability of the physician or coverage for the patient for appropriate follow-up care.

#### Policy Statement

9. The Tennessee Board of Medical Examiners takes this action in order to protect the public by ensuring safe prescribing practices of controlled substances are strictly followed.

#### Order

Therefore, Respondent AGREES and the Board ORDERS as follows:

10. For the purpose of avoiding further administrative action with respect to this cause, Respondent agrees to **VOLUNTARILY SURRENDER** his Tennessee medical license, no. 40026 on or before July 1, 2016. Respondent understands and acknowledges that this **VOLUNTARY SURRENDER** has the same effect as a Revocation and is a formal

disciplinary action, which will be reported to the Health Integrity and Protection Data Bank.

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11. Respondent shall not apply for reinstatement of his medical license or a new Tennessee medical license during the twelve month period following the entry of this Order.
12. Before applying for reinstatement of his medical license or for a new Tennessee medical license:
  - a. Respondent must enroll in and successfully complete the course entitled "*Intensive Course in Controlled Substance Prescribing*" offered at The Case Western Reserve University Continuing Medical Education Program, or an equivalent course pre-approved by the Board's Medical Director.
  - b. Respondent must enroll in and successfully complete the course entitled "*Intensive Course in Medical Documentation*" offered at The Case Western Reserve University Continuing Medical Education Program, or an equivalent course pre-approved by the Board's Medical Director.
13. Respondent must pay, pursuant to TENN. CODE ANN. § 63-6-214(k), the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the Department's Office of Investigations in connection with the prosecution of this matter. These costs shall be established by an Assessment of Costs prepared and filed by counsel for the Department. The maximum amount for the assessment of costs shall be two thousand dollars (\$2,000.00). Costs are due within forty-five (45) days of the issuance of the Assessment of Costs. Respondent's probation shall not be lifted until these costs are paid in full.
14. All costs shall be paid by submitting a certified check, cashier's check, or money order payable to the State of Tennessee, mailed or delivered to:

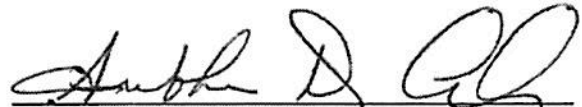
Disciplinary Coordinator  
Office of Investigations  
Tennessee Department of Health  
665 Mainstream Drive  
Nashville, Tennessee 37243.

The check or money order shall note that it is payable for the civil penalties  
and/or costs of Michael R. Martin, M.D., License No. 40026.

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15. If Respondent applies for reinstatement of his medical license or for a new medical license, Respondent must appear in person, submit proof of completion of all requirements contained in this Consent Order, answer any questions and provide any requested documentation to satisfy the Board that he is able to safely practice medicine.

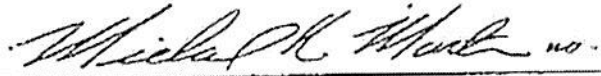
This **CONSENT ORDER** was approved by a majority of a quorum of the Tennessee Board of Medical Examiners at a public meeting of the Board and signed this 18<sup>th</sup> day of May, 2016.



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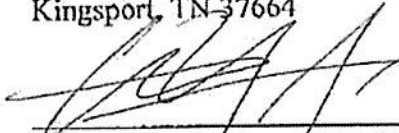
Tennessee Board of Medical Examiners

APPROVED FOR ENTRY:



Michael R. Martin, M.D. Lic. # 40026  
Respondent  
PO Box 7090  
Kingsport, TN 37664

5/18/16  
DATE



Andrew W. Coffman/BPR #027160  
Assistant General Counsel  
Tennessee Department of Health  
665 Mainstream Drive  
Nashville, Tennessee 37243

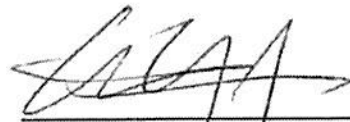
5/18/16  
DATE

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of this Consent Order has been served upon Respondent by delivering same in the United States Mail, Certified Number 701609100000 2431 5126, return receipt requested, and United States First Class Postage Pre-Paid Mail, with sufficient postage thereon to reach its destination, to the following addresses:

Michael R. Martin, M.D.  
PO Box 7090  
Kingsport, TN 37664

This 19<sup>th</sup> day of May, 2016.



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Andrew W. Coffman  
Assistant General/Counsel  
Tennessee Department of Health