

**STATE OF TENNESSEE
DEPARTMENT OF HEALTH**

IN THE MATTER OF:)	BEFORE THE TENNESSEE BOARD
)	OF MEDICAL EXAMINERS
ZHIQIANG SUN, M.D.,)	
RESPONDENT)	CASE NOS: 2020034891, 2021000291,
)	2021000521, & 2022014191
MEMPHIS, TENNESSEE)	
MEDICAL LICENSE NO. 44296)	

CONSENT ORDER

Comes now the Division of Health Related Boards of the Tennessee Department of Health (hereinafter the "Department"), by and through the Office of General Counsel, and Respondent, Zhiqiang Sun, M.D. (hereinafter "Respondent"), who respectfully move the Tennessee Board of Medical Examiners (hereinafter the "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 professionals licensed to practice in the State of Tennessee. *See* Tennessee Medical Practice Act, Tennessee Code Annotated sections ("Tenn. Code Ann. §§") 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 individuals who violate the provisions of Tenn. Code Ann. § 63-6-101, *et seq.* or the General Rules and Regulations Governing the Practice of Medicine promulgated by the Board and recorded in the *Official Compilation Rules and Regulations of the State of Tennessee* ("Tenn. Comp. R. & Regs.") 0880-02, *et seq.*

Respondent, Zhiqiang Sun, M.D., 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 expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to challenge or contest the validity of this Consent Order. Respondent understands that by signing this Consent Order, Respondent is allowing the Board to issue its order without further process. Respondent acknowledges this is a formal disciplinary action and will be reported to the National Practitioner Data Bank (NPDB) and/or a similar agency to comply with all of the public reporting obligations of the Health-Care Consumer Right to Know Act of 1998 (Tenn. Code Ann. §§ 63-51-101, *et seq.*). In the event the Board rejects this Consent Order for any reason, it will be of no force or effect for either party.

I. STIPULATIONS OF FACT

1. Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor in Tennessee, having been granted medical license number 44296 by the Board on October 13, 2008, which is currently scheduled to expire on April 30, 2024.

2. From at least 2017 to 2021, Respondent provided treatment to multiple patients, including twenty-eight (28) patients to whom Respondent prescribed controlled substances, predominately benzodiazepines, and whose medical records were reviewed by the Department.
3. The Department's review included a review of twenty-eight (28) medical records for patients to whom Respondent prescribed controlled substances, as well as a review of Respondent's Tennessee Controlled Substance Monitoring Database ("CSMD") and medical records of the following twenty-eight (28) patients (only initials are provided to maintain confidentiality): A.H.; A.V.; A.W.A.; A.W.; A.N.; B.N.; C.V.; C.N.; D.Y.; E.N.; G.R.; J.N.; J.Z.; J.Y.; J.W.; K.N. K.W.; K.E.W.; L.N.; N.L.; N.N.; R.N.; S.N.; S.B.; T.V.; T.T.; Z.O.; and T.E.
4. Respondent failed to check the Tennessee Controlled Substance Monitoring Database (CSMD) for Respondent's patients when Respondent prescribed them controlled substances, and Respondent failed to document such checks in Respondent's patients' charts.
5. Much of Respondent's handwritten medical documentation is not legible to patients or to other physicians. Because many of Respondent's handwritten notes are not legible, those notes fail to show a clear medical decision-making plan that patients and other physicians can understand.
6. Although Respondent utilized urine drug screens, Respondent failed to consistently utilize urine drug screens to monitor whether Respondent's patients receiving controlled substances were in fact taking their medications.

7. When Respondent discovered that patients on a benzodiazepine were prescribed an opiate, Respondent cancelled patients' prescriptions for benzodiazepines without properly notifying them of the cancellation.
8. Respondent failed to notify Respondent's patients long enough of Respondent's intent to cancel their prescriptions in advance to permit Respondent's patients to secure another physician in order to continue care.
9. Respondent failed to communicate with Respondent's patients in a timely manner when they became aware of the cancelled prescriptions to facilitate transfer of care.

II. GROUNDS FOR DISCIPLINE

The facts stipulated to in the Stipulations of Fact are sufficient to establish that grounds for discipline of Respondent's medical license exist. Specifically, Respondent has violated the following statutes or rules which are part of the Tennessee Medical Practice Act ("Practice Act") (Tenn. Code Ann. §§ 63-6-101 *et seq.*), the Tennessee Prescription Safety Act (Tenn. Code Ann. §§ 53-10-301 *et seq.*), and General Rules and Regulations Governing the Practice of Medicine (Tenn. Comp. R. & Regs. 0880-02 *et seq.*), for which disciplinary action before and by the Board is authorized:

10. The facts stipulated in paragraphs two (2) through nine (9), *supra*, constitute grounds for discipline with regard to Tenn. Code Ann. § 63-6-214(b)(1), which establishes that the Board may discipline a medical doctor for:

Unprofessional, dishonorable, or unethical conduct.

11. The facts stipulated in paragraphs two (2) through nine (9), *supra*, constitute grounds for discipline with regard to Tenn. Code Ann. § 63-6-214(b)(2), which establishes that the Board may discipline a medical doctor for:

Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of this chapter or, any lawful order of the board issued pursuant thereto or any criminal statute of this state.

12. The facts stipulated in paragraphs two (2) through nine (9), *supra*, constitute grounds for discipline with regard to Tenn. Code Ann. § 63-6-214(b)(4), which establishes that the Board may discipline a medical doctor for:

Gross health care liability or a pattern of continued or repeated health care liability, ignorance, negligence or incompetence in the course of medical practice.

13. The facts stipulated in paragraphs two (2) through nine (9), *supra*, constitute grounds for discipline with regard to Tenn. Code Ann. § 63-6-214(b)(14), which establishes that the Board may discipline a medical doctor for:

Dispensing, prescribing or otherwise distributing any controlled substance, controlled substance analogue or other drug to any person in violation of any law of the state or of the United States.

14. The facts stipulated in paragraphs two (2) through nine (9), *supra*, constitute grounds for discipline with regard to Tenn. Code Ann. § 53-10-310(e), which establishes that the Board may discipline a medical doctor for:

- (1) When prescribing a controlled substance, all healthcare practitioners, unless otherwise exempted under this part, shall check the controlled substance database prior to prescribing one (1) of the controlled substances identified in subdivision (e)(4) to a human patient at the beginning of a new episode of treatment, prior to the issuance of each new prescription for the controlled substance for the first ninety (90) days of a new episode of treatment, and shall check the controlled substance database for that human patient at least every six (6) months when that prescribed controlled substance remains part of the treatment. An authorized healthcare practitioner's delegate may check the controlled substance database on behalf of the healthcare practitioner. A 'new episode of treatment' means a prescription for

a controlled substance that has not been prescribed by that healthcare practitioner within the previous six (6) months.

- (2) When dispensing a controlled substance, all healthcare practitioners, unless otherwise exempted under this part, shall check the controlled substance database prior to dispensing one (1) of the controlled substances identified in subdivision (e)(4) to a human patient the first time that patient is dispensed a controlled substance at that practice site. The dispenser shall check the controlled substance database again at least once every six (6) months for that human patient after the initial dispensing for the duration of time the controlled substance is dispensed to that patient. The initial dispensing check fulfills the check requirement for the first six-month period. An authorized healthcare practitioner's delegate may check the controlled substance database on behalf of the healthcare practitioner.
 - (3) Before prescribing or dispensing, a healthcare practitioner shall have the professional responsibility to check the database or have a healthcare practitioner delegate check the database if the healthcare practitioner is aware or reasonably certain that a person is attempting to obtain a Schedule II-V controlled substance, identified by the committee or commissioner as demonstrating a potential for abuse for fraudulent, illegal, or medically inappropriate purposes, in violation of § 53-11-402.
 - (4) The controlled substances that trigger a check of the controlled substance database pursuant to subdivisions (e)(1) and (2) include, but are not limited to, all opioids and benzodiazepines. By rule, the commissioner, pursuant to § 53-10-311, may require a check of the database for additional Schedule II-V controlled substances that are identified by the committee or commissioner as demonstrating a potential for abuse.
15. The facts stipulated in paragraphs two (2) through nine (9), *supra*, constitute grounds for discipline with regard to Tenn. Comp. R. & Regs. 0880-02-.14(8) Code of Ethics, which establishes that the Board may discipline a medical doctor for:
- The Board adopts, as if fully set out herein and to the extent that it does not conflict with state law, rules or Board Position Statements, as its code of medical ethics the "Code of Medical Ethics" published by the American Medical Association ("A.M.A.") Council on Ethical and Judicial Affairs as it may, from time to time, be amended.
16. The facts stipulated in paragraphs two (2) through nine (9), *supra*, constitute grounds for discipline with regard to Tenn. Comp. R. & Regs. 0880-02-.15(4)(d), Medical Records - Content, which establishes that the Board may discipline a medical doctor for:

All medical records, or summaries thereof, produced in the course of the practice of medicine for all patients shall include all information and documentation listed in Tenn. Code Ann. § 63-2-101(c)(4) and such additional information that is necessary to insure that a subsequent reviewing or treating physician can both ascertain the basis for the diagnosis, treatment plan and outcomes, and provide continuity of care for the patient.

17. The facts stipulated in paragraphs two (2) through nine (9), *supra*, constitute grounds for discipline with regard to Tenn. Comp. R. & Regs. 0880-02-.15(5) Violations, which establishes that the Board may discipline a medical doctor for:

Violation of any provision of these rules is grounds for disciplinary action pursuant to Tenn. Code Ann. §§ 63-6-214(b)(1) and/or (2).

18. The facts stipulated in paragraphs two (2) through nine (9), *supra*, constitute grounds for discipline with regard to Tenn. Comp. R. & Regs. 1140-11.07 (effective April 1, 2013, until January 25, 2022), which establishes that the Board may discipline a medical doctor for:

- (1) All prescribers or their designated healthcare practitioner's extenders, unless otherwise exempted by T.C.A. Title 53, Chapter 10, part 3, shall check the database prior to prescribing one of the controlled substances identified below in paragraph (3) to a human patient at the beginning of a new episode of treatment and shall check the database for the human patient at least annually when that prescribed controlled substance remains part of treatment.
- (2) Before dispensing, a dispenser shall have the professional responsibility to check the database or have a healthcare practitioner extender check the database, if the dispenser is aware or reasonably certain, that a person is attempting to obtain a Schedule II-V controlled substance, identified by the Committee as demonstrating a potential for abuse for fraudulent, illegal, or medically inappropriate purposes, in violation of T.C.A. § 53-11-402.
- (3) The controlled substances which trigger a check of the database pursuant to paragraph (1) above include, but are not limited to, all opioids and benzodiazepines.
- (4) Prescribers are not required to check the database before prescribing or dispensing one of the controlled substances identified in paragraph (3) above or added to that list by the Committee if one (1) or more of the following conditions is met:
 - (a) The controlled substance is prescribed or dispensed for a patient who is currently receiving hospice care;

- (b) The Committee has determined that prescribers in a particular medical specialty shall not be required to check the database as a result of the low potential for abuse by patients receiving treatment in that medical specialty;
- (c) The controlled substance is prescribed or dispensed to a patient as a non-refillable prescription as part of treatment for a surgical procedure that occurred in a licensed healthcare facility;
- (d) The quantity of the controlled substance which is prescribed or dispensed does not exceed an amount which is adequate for a single, seven-day treatment period and does not allow a refill.

III. POLICY STATEMENT

The Tennessee Board of Medical Examiners takes this action in order to protect, promote and improve the health and prosperity of people in Tennessee by ensuring that physicians follow all legal and ethical requirements for prescribing and dispensing controlled medications and maintain appropriate records and logs.

IV. ORDER

NOW THEREFORE, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

19. The Tennessee medical license of Zhiqiang Sun, M.D., Tennessee medical license number 44296, is hereby placed on **PROBATION for a period of one (1) year** effective the date of entry of this Consent Order by the Board. Respondent is prohibited from supervising any physician assistant, advanced practice registered nurse, registered nurse, licensed practical nurse, or other health care professional until the probation of Respondent's license is lifted.

20. The period of probation shall act as an encumbrance on Respondent's medical license. Pursuant to Tenn. Code Ann. § 63-1-301(4), Respondent shall be ineligible to act as the medical director of a pain management clinic while Respondent's license is on probation. Pursuant to Tenn. Comp. R. & Reg. Rule 0940-05-35-.04(2), Respondent shall be ineligible to operate or participate in the ownership structure of a Nonresidential office-based opiate treatment facility ("OBOT"), while Respondent's license is on probation.
21. During the probationary period, Respondent shall maintain good and lawful conduct, and any violation of law that relates to the practice of medicine or Respondent's ability to safely and competently practice medicine will be a violation of the terms of this Consent Order.
22. Within thirty (30) days of entry of this Order, Respondent shall obtain practice monitoring through Affiliated Monitors or another practice monitoring program preapproved by the Board's Medical Consultant. The monitoring agreement shall require the following:
 - a. The monitoring shall continue for a period of at least one (1) year or until such time as the probation of Respondent's license is lifted, whichever is longer. If Respondent fails to continue monitoring through Affiliated Monitors or another practice monitoring program preapproved by the Board's Medical Consultant, then Respondent shall be in violation of this Consent Order.
 - b. Respondent shall have at least ten (10) patient records reviewed quarterly by the practice monitor. The records shall consist of patients seen within the prior (3) months and receiving controlled substances. The practice monitor shall randomly determine which records to review from a list of patients that meet the required criteria.
 - c. Respondent shall cause the practice monitor to issue a report to the Board's Medical Consultant regarding each quarterly review, beginning three (3) months after the

practice monitor is engaged, detailing the findings of the practice monitor with regard to Respondent's:

- (a) Compliance with practice monitor's recommendations;
- (b) Completion of any educational program prescribed by the practice monitor;
- (c) Respondent's prescribing practices, including but not limited to prescribing of controlled substances;
- (d) Respondent's medical record keeping;
- (e) Pain management practices; and
- (f) Opioid treatment practices—where the practice monitoring is longer than the restriction against prescribing opioids.

d. Respondent shall comply with all recommendations of the practice monitor program. Respondent's failure to comply with all recommendations of the practice monitor shall constitute a violation of this Consent Order and may subject Respondent's license to additional discipline. Respondent shall not be eligible to petition to terminate the probation of his license or the period of practice monitoring until he provides proof that he has complied with all recommendations of the practice monitor.

e. Respondent shall be responsible for all costs associated with the monitoring agreement.

23. Within six (6) months of the date this Consent Order is approved by the Board, Respondent must:

- a. Enroll in and successfully complete the medical course titled "*Intensive Course in Medical Documentation: Clinical, Legal and Economic Implications for Healthcare*

Providers” offered by the Case Western Reserve University Continuing Medical Education Program at Case Western Reserve University School of Medicine located in Cleveland, Ohio, or an equivalent course approved in advance in writing by the Board’s Medical Director. Within thirty (30) days after completion of such course, Respondent shall mail or deliver proof of compliance with this course requirement to: **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, 665 Mainstream Drive, TN 37243**. Respondent may also deliver proof of compliance with this course requirement by email to disciplinary.coordinator@tn.gov. Any Continuing Medical Education (“CME”) course hours earned from attendance and completion of the course required by this paragraph shall be in addition to the CME hours required to maintain licensure.

- b. Enroll in and successfully complete the medical course titled “*Proper Prescribing of Controlled Substances*” offered by Vanderbilt University Medical Center or an equivalent course approved in advance in writing by the Board’s Medical Director. Within thirty (30) days after completion of such course, Respondent shall mail or deliver proof of compliance with this course requirement to: **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, 665 Mainstream Drive, TN 37243**. Respondent may also deliver proof of compliance with this course requirement by email to disciplinary.coordinator@tn.gov. Any CME course hours earned from attendance and completion of the course required by this paragraph shall be in addition to the CME hours required to maintain licensure.

24. Respondent acknowledges this order does not preclude the Department from initiating additional investigations or disciplinary actions.
25. Respondent is assessed and must pay, pursuant to Tenn. Comp. R. & Regs. 0880-02-.25(2)(d), nine (9) Type "B" Civil Penalties for the grounds of discipline, stated *supra*, in this case, in the amount of one hundred fifty dollars (\$150.00) each for a total of **One Thousand Three Hundred Fifty Dollars (\$1,350.00)**.
26. Respondent must pay, pursuant to Tenn. Code Ann. § 63-1-144, the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the Division's Bureau of Investigations in connection with the prosecution of this matter. These costs will be established by an Assessment of Costs prepared and filed by counsel for the Division. The maximum amount for the assessment of costs for this case shall be six thousand dollars (\$6,000.00) and shall be paid in full within twenty-four (24) months from the issuance of the Assessment of Costs. Such costs shall include, but not be limited to, the following:
 - a. All costs absorbed by or assessed against the Board by the Department's Office of Investigations in connection with the prosecution of the matter including all investigator time, travel and lodging incurred during the prosecution;
 - b. All costs absorbed by or assessed against the Board by the Division of Health Related Boards for the use of the division facilities and personnel for prosecution of the matter;
 - c. All costs assessed against the Board for the appearance fees, transcripts, time, travel and lodging of administrative law judges and court reporters and witnesses required in the prosecution of the matter; and

- d. All costs attributed to and assessed against the Board by the Department's Office of General Counsel in connection with the prosecution of the matter, including all attorney and paralegal time, travel and lodging incurred during the prosecution of the matter.
27. Following the expiration of the one (1) year probationary period, and Respondent's full compliance with the other terms and conditions contained herein, Respondent becomes eligible to petition the Board for an Order of Compliance lifting the restrictions imposed by this Order. Respondent must personally appear before the Board to petition for the Order of Compliance.
28. Respondent understands this is a formal disciplinary action and will be reported to the National Practitioner Data Bank (NPDB) and/or a similar agency to comply with all of the public reporting obligations of the Health-Care Consumer Right to Know Act of 1998 (Tenn. Code Ann. §§ 63-51-101, *et seq.*).
29. Each condition of discipline herein is a separate and distinct condition. If any condition of this Consent Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Consent Order, and all other applications thereof, shall not be affected. Each condition of this Consent Order shall separately be valid and enforceable to the fullest extent permitted by law.

IV. NOTICE


30. Any and all civil penalties and costs shall be paid in full within twenty-four (24) months from the issuance of the Assessment of Costs. Payments shall be made in equal monthly installments by the fifth day of each month until paid in full, with payments to commence

the fifth day of the month immediately following the issuance of the Assessment of Costs. Payment shall be made by **certified check, cashier's check, or money order**, payable to the **State of Tennessee**, Department of Health by mail. Proof of compliance regarding CMEs or any other submitted documents can be submitted via electronic means (e-mail) to disciplinary.coordinator@tn.gov. All disciplinary terms submitted, including continuing medical education courses, civil penalties and/or cost payments, Zhiqiang Sun, M.D., and Case Nos. 2020034891, 2021000291, 2021000521 and 2022014191, on the instrument. All payments can be mailed or delivered to:

**Office of Investigations
Attn: Disciplinary Coordinator
Tennessee Department of Health
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243**

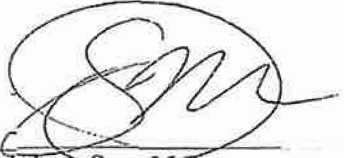
31. A violation of this Agreed Order shall constitute a separate violation, pursuant to Tenn. Code Ann. § 63-6-214(b)(2) and is grounds for further disciplinary action by the Board, including revocation of Respondent's license.

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 7TH day of November, 2023.



Chairperson
Tennessee Board of Medical Examiners

APPROVED FOR ENTRY:



Zhiqiang Sun, M.D.
Tennessee Medical License No. 44296
Respondent
5388 Alladin Avenue
Memphis, TN 38120
zsun1776@yahoo.com

10/27/2023


Date



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10/31/23

Date



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November 1, 2023

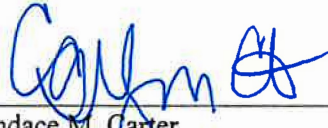
Date

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon Respondent's counsel by delivering the same via the United States Postal Service Certified Number 9589 0710 5270 0627 2731 74 return receipt requested, United States Postal Service First Class Postage Pre-Paid Mail, both with sufficient postage thereon to reach its destination, and electronic mail to:

Joseph Matthew Clark, II, Esq.
Lewis Thomason, P.C.
Suite 2900, One Commerce Square
40 S. Main Street
Memphis, TN 38103
JClark@LewisThomason.com

This 7th day of November, 2023.



Candace M. Carter
Senior Associate General Counsel
Tennessee Department of Health