

IN THE MATTER OF
TRUNG NAM NGUYEN, D.O.

Respondent

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2223-0101A

License Number: H85495

CONSENT ORDER

On September 21, 2023, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) charged **Trung Nam Nguyen, D.O.** (the “Respondent”), License Number H85495, under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2021 Repl. Vol. and 2022 Supp.).

Panel A charged the Respondent with violating the following provisions of the Act:

§ 14-404. Denials, reprimands, probations, suspensions, and revocations – Grounds.

(a) *In general.* – Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

...

(21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under this section[.]

The underlying ground for disciplinary action under Health Occ. § 14-404(a)(21)

includes the following provision of Health Occ. § 14-404(a):

(22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State[.]

The Respondent was also charged with violating the following provisions of Health Occ. § 14-404(a):

(3)(ii) Unprofessional conduct in the practice of medicine; ... [and]

(11) Willfully makes or files a false report or record in the practice of medicine[.]

On January 10, 2024, Panel A was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on the negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

Panel A finds the following:

BACKGROUND & LICENSING INFORMATION

1. At all relevant times, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent initially was licensed to practice medicine in the State of Maryland on May 16, 2018, under License Number H85495. His license expires on or about September 30, 2023. The Respondent also is licensed to practice medicine in 42 other states.

2. The Respondent practices telemedicine in the field of weight loss. As part of his practice, the Respondent prescribes controlled dangerous substances (“CDS”) for weight loss. The Respondent is employed by a national weight loss clinic, and is its Chief Medical Officer. The Respondent’s medical specialty is family medicine. The Respondent is not board-certified in any medical specialty.

BOARD INVESTIGATION

3. The Board initiated an investigation into the Respondent after being notified that the Kentucky Board of Medical Licensure (the “Kentucky Board”) and the Respondent on March 6, 2023 entered into a disciplinary Agreed Order (the “Order”) that restricted/limited the Respondent’s license to practice osteopathy. A copy of the Order is attached as Exhibit 1.

4. Based on a review of patient charts by the Kentucky Office of Inspector General regarding the Respondent’s prescription of CDS, the Kentucky Board found that the Respondent departed from acceptable and prevailing medical practices. As part of the Order, the Respondent “SHALL NOT prescribe, dispense, administer, or otherwise professionally utilize controlled substances unless and until approved to do so by the Panel” for an indefinite period of time. (original capitalization). A copy of the Kentucky Board Order is attached hereto as Exhibit 1.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent is subject to discipline under Health Occ. § 14-404(a)(21) based on the disciplinary action against the Respondent taken by the Kentucky Board, for an act or acts that would be grounds for disciplinary action under Health Occ. § 14-404(a)(22) had those offenses been committed in this State (fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State). Panel A dismisses the charges under the provisions of Health Occ. §§ 14-404(a)(3)(ii) and (11).

ORDER

It is, on the affirmative vote of a majority of the quorum of Disciplinary Panel A of the Board, hereby:

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED that the license of the Respondent to practice osteopathy in the State of Maryland is **RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME**, subject to the following terms and conditions:

(a) The Respondent **SHALL NOT** prescribe, dispense, administer, or otherwise professionally utilize controlled dangerous substances unless and until approved to do so by the Kentucky Board of Medical Licensure;

(b) The Respondent shall comply with all terms and conditions of the March 6, 2023 Agreed Order into which he entered with the Kentucky Board of Medical Licensure; and it is further

ORDERED that the Respondent's failure to comply with all terms and conditions of the March 6, 2023 Agreed Order with the Kentucky Board of Medical Licensure constitutes a violation of this Consent Order; and it is further

ORDERED that the Respondent agrees that the Controlled Dangerous Substances ("CDS") Registration issued by the Maryland Office of Controlled Substances Administration will be subject to the restrictions and limitations set forth in this Order; and it is further

ORDERED that the disciplinary panel may issue administrative subpoenas to the Maryland Prescription Drug Monitoring Program on a quarterly basis for the Respondent's

Controlled Dangerous Substances (“CDS”) prescriptions. The administrative subpoenas will request the Respondent’s CDS prescriptions from the beginning of each quarter; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order, and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings followed by an exceptions process before a disciplinary panel; and if there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent’s license to practice medicine in

Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent, and it is further

ORDERED that this Consent Order is a public document. *See* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

02/14/2024
Date

Signature On File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Trung Nam Nguyen, D.O., acknowledge that I have consulted with counsel before signing this document.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* concerning the pending charges. I waive this right and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order.

I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

I sign this Consent Order, without reservation, and fully understand the language and meaning of its terms.

Signature On File

²⁰²⁴
2/8/2024
Date

Trung Nam Nguyen, D.O.
Respondent

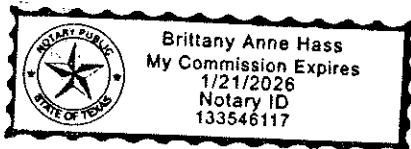
NOTARY

STATE OF TEXAS

CITY/COUNTY OF TYLER/SMITH

I HEREBY CERTIFY that on this 8th day of FEBRUARY 2024, before me, a Notary Public of the foregoing State and City/County, Trung Nam Nguyen, D.O., personally appeared and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSTH my hand and notarial seal.



[Handwritten Signature]

Notary Public

My commission expires: 1-21-2026

EXHIBIT 1

FILED OF RECORD

MAR 8 2023

COMMONWEALTH OF KENTUCKY
BOARD OF MEDICAL LICENSURE
CASE NO. 2096

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE OSTEOPATHY IN THE COMMONWEALTH
OF KENTUCKY HELD BY TRUNG NAM NGUYEN, D.O., LICENSE NO.
04360, 120 E. SOUTH TOWN DRIVE, TYLER, TEXAS 75703

AGREED ORDER

Come now the Kentucky Board of Medical Licensure (hereafter "the Board"), acting by and through its Inquiry Panel A, and Trung Nam Nguyen, D.O., (hereafter "the licensee"), and, based upon their mutual desire to fully and finally resolve the pending investigation without an evidentiary hearing, hereby ENTER INTO the following
AGREED ORDER:

STIPULATIONS OF FACT

The parties stipulate the following facts, which serve as the factual bases for this
Agreed Order:

1. At all relevant times, Trung Nam Nguyen, D.O., was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is family medicine.
3. On or about July 22, 2022, the Board received an Office of Inspector General ("OIG") Investigative Report alleging the licensee may have prescribed controlled substances improperly, sometimes overlapping, during telemedicine visits.
4. The OIG reported that a review of the licensee's KASPER data for the period of August 27, 2021 through August 27, 2022 raised concerns that the licensee is only prescribing controlled substance medications for weight loss. Based on this, OIG identified eight (8) patient charts illustrative of this concern for further Board review.

5. On or about September 14, 2022, the licensee, through his counsel, responded to the OIG Investigative Report. The licensee reported that he believes he has been acting in conformance with telehealth standards and has prescribed medicine in accordance with the appropriate clinical standards that have developed over a number of years of experience treating obese patients. He concedes that he has not obtained and reviewed KASPER reports for patients but does obtain Virginia Department of Health Professions PMP reports to review patients' prescription history across multiple states, including Kentucky.
6. On or about November 30, 2022, a Board consultant completed a review of the eight charts identified by the OIG. Although the consultant discussed each chart individually, she explains that each patient chart reviewed was below the minimum standards and the majority of chart reviews say something to the following effect:

[...] Examples of violations of [201 KAR 9:016. Restrictions on use of amphetamine and amphetamine-like anorectic controlled substances] include: no carefully prescribed diet, counselling on exercise, behavior modification and other appropriate supportive and collateral therapies on initial visit. There is not an adequate patient record in accordance with subsection (4) of [201 KAR 9:016]. No eating habits, exercise habits, weight history, and weight loss history, are asked on new patient forms. They do no inquiry about other anorectic or other controlled substances used. They do not ask about patient's compliance to past programs. A menstruation history is not documented. There is no family history. There is no physical exam. There is no obtaining or evaluation of the seven required laboratory tests. There is no evaluation/documentation of the patient's compliance with the total treatment regimen. No KASPER reports are reviewed. There are multiple occurrences where BMI is below 27 without any co-morbidities documented yet anorectic medications are still prescribed. No sig is documented for medications prescribed. There is no justification of use of scheduled IV substances beyond three months, etc. [...] The licensee prescribed controlled substances across numerous state lines with multiple refills. There is no evidence of any obesity specialty knowledge. The patients simply pay for a virtual visit and obtain medication.

The consultant also found that the licensee's departures from acceptable and prevailing medical practices were so serious that she would consider them to exhibit gross ignorance, gross negligence, and gross incompetence.

7. On or about January 4, 2023, the licensee, through his counsel, responded to the consultant's report. The licensee reiterated that he believes he has been acting in conformance with telehealth standards and has prescribed medication in accordance with appropriate clinical standards that have developed over a number of years of experience treating obese patients. He again notes that he reviews PMP.

The licensee summarized his response as follows:

[T]he Consultant's Report contains numerous inaccurate statements regarding the standard of care governing Dr. Nguyen's practice, Dr. Nguyen's practice [sic], documentation, and the requirements of the relevant Kentucky regulations. In some cases, this was because the documentation that the Clinic produced was narrowly tailored to the Investigative Report, which we have sought to address with more comprehensive patient documentation, but in other cases due to what we believe to be inappropriately strict regulatory interpretation. In their report, the Consultant uses a "guideline" previously utilized by the ABBM that is inapplicable to Dr. Nguyen as a rigid step-by-step set of rules to govern Dr. Nguyen's standard of care. The Consultant repeatedly mischaracterizes a laundry list of factors to consider given in Kentucky 201 KAR 9:016 as "requirements" and how Dr. Nguyen failed to adhere to the "requirements." The Consultant takes an unrealistic approach to documenting conversations held with patients in the medical record. And the Consultant made numerous oversights in their chart review regarding how many visits Dr. Nguyen had with certain patients throughout the duration of their care.

8. The Board consultant considered the licensee's response and related attachments and stands by her original report.
9. On or about February 16, 2023, the licensee appeared before the Panel and stated that he is helping people, as evidenced by the fact that all but one of his patients whose records were reviewed had weight loss. He stated he is using medicine which recent studies show it is safe and nonaddictive. He does not perform urine testing

or an in-person physical and asked: "Where's the science that you need labs?" He admits he does not review KASPER but is happy to start. He has reviewed the Kentucky Regulations and Medical Practice Act and gets Kentucky's Board newsletter.

10. On March 2, 2023, the licensee, through his counsel, stated that he has already acted to implement a KASPER PMP check for any forthcoming Kentucky patients and implemented a process by which patients are educated on disposal of medications. He further states that Express Weight Loss Clinic and Dr. Nguyen are re-visiting their lab testing protocol to ensure that lab tests conducted by the patient's primary care providers as part of their evaluation for weight loss treatment are incorporated into the patient's medical record and to implement a process by which the clinic shows its consideration of the need for lab testing if no lab tests are conducted on patients.

11. The licensee agreed to enter into this Agreed Order, in lieu of the issuance of a Complaint and Emergency Order of Restriction.

STIPULATED CONCLUSIONS OF LAW

The parties stipulate the following Conclusions of Law, which serve as the legal bases for this Agreed Order:

1. The licensee's osteopathy license is subject to regulation and discipline by the Board.
2. Based upon the Stipulations of Fact, the licensee engaged in conduct which violates the provisions of KRS 311.595(9) [as illustrated by KRS 311.597(4)] and KRS 311.595(12). Accordingly, there are legal grounds for the parties to enter into this Agreed Order.

3. Pursuant to KRS 311.591(6) and 201 KAR 9:082, the parties may fully and finally resolve this matter without an evidentiary hearing by entering into an informal resolution such as this Agreed Order.

AGREED ORDER

Based upon the foregoing Stipulations of Fact and Stipulated Conclusions of Law, and, based upon their mutual desire to resolve the pending matter without an evidentiary hearing, the parties hereby ENTER INTO the following AGREED ORDER:

1. The license to practice osteopathy within the Commonwealth of Kentucky held by Trung Nam Nguyen, D.O., is RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME, effective immediately upon the filing of this Agreed Order.
2. During the effective period of this Agreed Order, the licensee's osteopathic license SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:
 - a. The licensee SHALL NOT prescribe, dispense, administer, or otherwise professionally utilize controlled substances unless and until approved to do so by the Panel;
 - b. Pursuant to KRS 311.565(1)(v), the licensee SHALL REIMBURSE the Board's costs of \$1,750.00 within six (6) months from entry of this Agreed Order; and
 - c. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.
3. The licensee understands and agrees that the Panel SHALL NOT consider a request by the licensee to resume prescribing, dispensing, administering or the professional utilization of controlled substances unless and until the Board has received an assessment report, and educational or remediation plan (if recommended), following the licensee's completion of a clinical skills assessment(s) in the specialty of bariatric (weight loss and/or management) medicine, at his expense, from either:

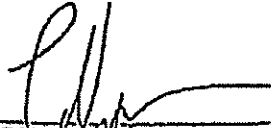
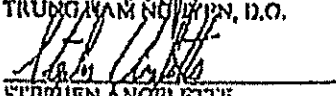
- a. Center for Personalized Education for Professionals ("CPEP"), 720 South Colorado Boulevard, Suite 1100-N, Denver, Colorado 80246, Tel. (303) 577-3232 Fax: (303) 577-3241; or
 - b. LifeGuard, 400 Winding Creek Boulevard, Mechanicsburg, Pennsylvania, 17050, Tel. (717) 909-2590.
4. Further, the licensee understands and agrees that both the licensee and the Board may provide relevant information to either CPEP or LifeGuard for consideration as part of the clinical skills assessment. In order to permit the Board to provide such relevant information, the licensee shall immediately notify the Board's Legal Department of any scheduled assessment dates once an assessment is scheduled and the licensee shall complete any necessary waiver/release to facilitate communication between the Board and CPEP or LifeGuard.
5. The licensee expressly agrees that if he should violate any term or condition of this Agreed Order, the licensee's practice will constitute an immediate danger to the public health, safety, or welfare, as provided in KRS 311.592 and 13B.125. The parties further agree that if the Board should receive information that the licensee has violated any term or condition of this Agreed Order, the Panel Chair is authorized by law to enter an Emergency Order of Suspension or Restriction immediately upon a finding of probable cause that a violation has occurred, after an *ex parte* presentation of the relevant facts by the Board's General Counsel or Assistant General Counsel. If the Panel Chair should issue such an Emergency Order, the parties agree and stipulate that a violation of any term or condition of this Agreed Order would render the licensee's practice an immediate danger to the health, welfare and safety of patients and the general public, pursuant to KRS 311.592 and 13B.125; accordingly, the only relevant question for any emergency

hearing conducted pursuant to KRS 13B.125 would be whether the licensee violated a term or condition of this Agreed Order.

6. The licensee understands and agrees that any violation of the terms of this Agreed Order would provide a legal basis for additional disciplinary action, pursuant to KRS 311.595(13), and may provide a legal basis for criminal prosecution.


SO AGREED on this 6th day of March, 2023.

FOR THE LICENSEE:


TRUONG NAM NGUYEN, D.O.

STEPHEN ANCELETTE
COUNSEL FOR THE LICENSEE

FOR THE BOARD:


WAQAR A. SALIM, M.D.
CHAIR, INQUIRY PANEL A


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