

STATE OF MAINE
BOARD OF OSTEOPATHIC LICENSURE

In re:) CONSENT AGREEMENT
ELLIOT GRUEN, D.O.)
Complaint No. CR 2021-06)

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to practice osteopathic medicine in the State of Maine held by Elliot Gruen, D.O. The parties to the Consent Agreement are: Elliot Gruen, D.O. (“Dr. Gruen”), the State of Maine Board of Osteopathic Licensure (“the Board”), and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 2591-A.

STATEMENT OF FACTS

1. Dr. Gruen has held a license to practice medicine in the State of Maine since July 19, 1994 (license number DO 1457) and specializes in psychiatry.

2. On April 8, 2021, the Board initiated a complaint following a report from Dr. Gruen’s former hospital that he had resigned his staff membership and privileges, while a suspension was in place and formal review was pending. The hospital reported a concern for Dr. Gruen’s medical management of a particular patient who had access to high doses of benzodiazepines in the fall of 2020. The management of the same patient had triggered a review by the hospital in 2015, whereby Dr. Gruen was encouraged to conduct urine drug screens and to monitor the dosage level of controlled substances prescribed by him. Subsequent audits by the hospital did not reveal any concerns.

3. In 2021, the hospital conducted a further review of patients and noted that just over 50% of Dr. Gruen's patients seen in the previous six months were on non-opiate controlled substances. The hospital also noted that a random sampling of other practitioners revealed that 50% of patients seen by two other practitioners were being prescribed controlled substances. The hospital expressed concern that 18% of Dr. Gruen's patients being prescribed non-opiate controlled substances were being either prescribed high doses of benzodiazepines or prescribed benzodiazepines and amphetamines together, and Dr. Gruen did not conduct urine drug screens. The hospital also claimed that Dr. Gruen did not know how to use the Prescription Monitoring Program (PMP)

4. The Board docketed the complaint as CR2021 06 and sent it to Dr. Gruen for a response.

5. By letter dated June 25, 2021, Dr. Gruen responded to the complaint. In his response, Dr. Gruen admitted that the prescriptions for the original patient had gotten out of hand in fall 2020 and detailed his long-term care. Dr. Gruen also stated that he had many complex patients who had first seen other physicians, and that they were often already on the controlled substances when they were referred to him, often within the hospital practice. Dr. Gruen stated that at the hospital, the PMP was checked when medical assistants expressed a concern about a patient and that in his private practice his assistant runs a PMP report for every patient visit. Dr. Gruen noted that the hospital only encouraged urine drug screens and conceded that he did not keep up with urine drug screens for his patients. Dr. Gruen also stated that he intends to retire from practice in 2022 and that he intended to not take on new patients.

6. Pursuant to 32 M.R.S. § 2591-A(2)(F), the Board may impose discipline if the licensee has engaged in unprofessional conduct. A licensee is considered to have engaged in

unprofessional conduct if the licensee violates a standard of professional behavior that has been established for the practice of medicine.

7. Pursuant to 32 M.R.S. § 2591-A(2)(O), the Board may impose discipline if the licensee has failed to comply with 22 M.R.S. § 7253, Prescribers and dispensers required to check prescription monitoring information.

8. On July 8, 2021, the Board reviewed Complaint CR2021-06, and voted to set this matter for an adjudicatory hearing. In addition, the Board voted to offer Dr. Gruen this Consent Agreement to resolve this matter without further proceedings. Absent Dr. Gruen's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Board of Osteopathic Licensure, 142 State House Station, Augusta, Maine 04333-0137 on or before September 8, 2021, the matter shall proceed to an adjudicatory hearing.

COVENANTS

9. Dr. Gruen admits that the Board could find the facts stated above and agrees that the Board would have sufficient evidence to conclude, and has concluded, that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. § 2591-A(2)(F) for engaging in unprofessional conduct and § 2591-A(2)(O) for non-compliance with 22 M.R.S. § 7253 by not ensuring the PMP was checked at the hospital as required by Section 7253.

10. As discipline for the foregoing conduct, Dr. Gruen agrees to accept, and the Board imposes:

PROBATION for at least three (3) years during which the following is required:

a) Dr. Gruen shall not accept any new patients as he indicated.

b) Within thirty (30) days of the effective date of this Consent Agreement,

Dr. Gruen shall submit to the Board Secretary for approval in the Board Secretary's sole discretion, the name of a physician mentor. The physician mentor shall be a physician, including a psychiatrist, who is experienced in controlled substance prescribing and who is actively practicing. The physician mentor shall mentor Dr. Gruen in the standard of care and practice of controlled substances prescribing, including the use of the Prescription Monitoring Program, urine screens, and pill counts. The physician mentor shall also mentor Dr. Gruen in transferring his patients' care to other providers and winding down his practice. The mentoring contemplated by this paragraph may NOT occur solely by telephone and must include communication at least monthly in person or via HIPAA compliant shared portal access or interface. Dr. Gruen shall permit the physician mentor full access to his medical practice, including but not limited to all patient information. The physician mentor must randomly select and review at least five (5) patient charts each month of patients who are prescribed controlled substances by Dr. Gruen. The physician mentor shall submit written reports to the Board no later than the 28th day of the month following the end of every other month following his or her approval. In the reports to the Board, the physician mentor shall provide a summary of his or her mentoring and shall identify any issues with controlled substance prescribing and progress transferring patients and winding down the practice and make any appropriate recommendations. Dr. Gruen shall implement the recommendations the practice monitor makes regarding his prescribing of controlled substances and his transferring of patients and winding down his practice.

c) If Dr. Gruen does close his practice and cease treating all patients prior to the end of this probation, Dr. Gruen may make a request to the Board for termination of this consent agreement that includes documentation of the closure. Upon receipt of such request, the Board may grant or deny the request in its sole discretion.

11. Violation by Dr. Gruen of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

12. This Consent Agreement is not appealable and is effective until modified or rescinded in writing by the parties hereto.

13. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. Gruen or any other matter relating to this Consent Agreement.

14. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408-A.

15. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Federation of State Medical Boards (FSMB), and other licensing jurisdictions.

16. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

17. Dr. Gruen acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this

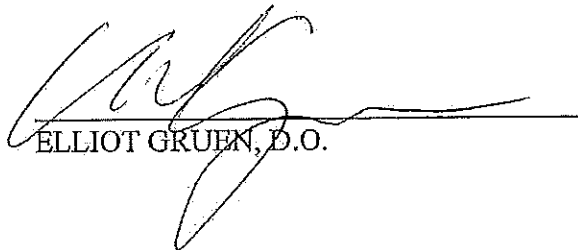
Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

18. Dr. Gruen has been represented by Ronald W. Schneider, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

19. For the purposes of this Consent Agreement, the terms "execution" and "effective date" mean the date on which the final signature is affixed to this Consent Agreement.

I, ELLIOT GRUEN, D.O., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT, THAT I WAIVE CERTAIN RIGHTS. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 11/2/21


ELLIOT GRUEN, D.O.

STATE OF Maine

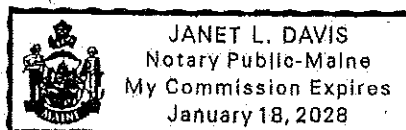
Cumberland, S.S. (COUNTY)

Personally appeared before me the above-named Elliot Gruen, D.O., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

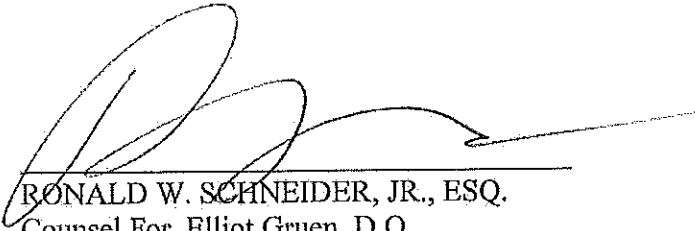
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NOTARY PUBLIC

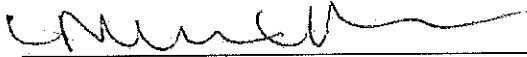
MY COMMISSION ENDS: 01-18-2028



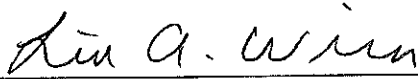
DATED: 11-4-2021


RONALD W. SCHNEIDER, JR., ESQ.
Counsel For Elliot Gruen, D.O.

DATED: 11/23/2021


MELISSA MICHAUD, P.A.-C, Chair
MAINE BOARD OF OSTEOPATHIC
LICENSURE

DATED: 12/3/21


LISA A. WILSON, AAG
OFFICE OF THE ATTORNEY
GENERAL