BEFORE THE DELAWARE BOARD OF MEDICAL LICENSURE AND DISCIPLINE

IN RE: DAVID M. EPSTEIN )
) Case No.: 10-125-14
LICENSE NO.: C1-0002711 )

ORDER

WHEREAS, the Board of Medical Licensure and Discipline has reviewed this matter and hereby approves the Consent Agreement of the parties, and enters it now as an Order of the Board;

IT IS SO ORDERED this 5th day of May, 2015.

Date Mailed: 5/8/15
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MEDICAL LICENSURE AND DISCIPLINE

IN RE: DAVID M. EPSTEIN   )  
)  Case No.: 10-125-14
LICENSE NO.: C1-0002711  )

CONSENT AGREEMENT

A written Complaint was filed with the Delaware Board of Medical Licensure and Discipline ("Board") alleging that David M. Epstein, M.D., a licensed medical doctor, engaged in conduct that constitutes grounds for discipline pursuant to Delaware's Medical Practice Act.

The State of Delaware, by the undersigned Deputy Attorney General, and Dr. Epstein submit this Consent Agreement for approval by the Board as a means of resolving the pending administrative proceeding against Dr. Epstein pursuant to 24 Del. C. § 1731.

IT IS UNDERSTOOD AND AGREED THAT:

1. Dr. Epstein's license was issued in April 1986 and is active.

2. On or around June 19, 2014, Dr. Epstein received a phone call from the mother of a long-time pediatric patient with an Asperger's diagnosis, developmental delays, ongoing impulse control problems, and a history of inappropriate touching who was well-known to Dr. Epstein. The mother reported to Dr. Epstein that her younger son had complained that her older son (with the Asperger's diagnosis, developmental delays, and ongoing impulse control problems) had inserted a finger into the younger brother's anus.

3. Dr. Epstein instructed the mother to bring the older child to Rockford Center for expert psychiatric evaluation. Later that same day or early the next day (June 20, 2014), Dr. Epstein received a courtesy call from Rockford Center advising that his patient had been admitted.

4. Dr. Epstein did not make a report to the Department of Services for Children,
Youth and Their Families ("DSCYF") as required by the mandatory report law set forth in 16 Del. C. § 903 and in violation of 24 Del. C. § 1731(b)(3).

5. Dr. Epstein states that he believed he had too little reliable information to make a good faith report of child sexual abuse and acknowledges that he was mistaken and a report was required based on the information he had.

6. Dr. Epstein acknowledges that the allegations set forth in paragraphs one through five above are true and correct.

7. Dr. Epstein's license was renewed in March 2015 and on March 15, 2015 he took the Medical Professionals Mandatory Reporting Training as required by 24 Del. C. 1723(c) for purposes of his licensure renewal.

8. Dr. Epstein and the State propose that the Board impose the following as a disciplinary sanction for this conduct:

   a. Within 30 days of the date that the Board accepts this Agreement and enters it as an Order, Dr. Epstein shall be required to pay a fine in the amount of $1000.00 payable to the State of Delaware and mailed to the Division of Professional Regulation, Board of Medical Licensure and Discipline, Cannon Building, Suite 203, 861 Silver Lake Boulevard, Dover, Delaware 19904; and

   b. Within 90 days of the date of the Board’s Order, Dr. Epstein is required to provide proof to the Executive Director of the Board of successful completion of one (1) CME credit class in the area of ethics which shall be in addition to, and not counted towards, his annual Delaware CME licensure requirements.
9. The parties to this Consent Agreement are the State of Delaware and Dr. Epstein. The parties agree and acknowledge that nothing contained in this Consent Agreement shall affect any rights or interests of any person not a party to this Agreement.

10. Dr. Epstein acknowledges that he is waiving his rights under 24 Del. C. Ch. 17 and 29 Del. C. Ch. 101 to a hearing before the Board prior to the imposition of disciplinary sanctions.

11. Dr. Epstein 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.

12. Dr. Epstein 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.

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

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

   a. Neither Dr. Epstein, nor anyone on his behalf, will in any way or in any forum challenge the ability of the Board 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 Dr. Epstein as to any fact alleged in the Complaint in this matter or in this Agreement.

15. Dr. Epstein acknowledges and agrees that the Board will report this Consent Agreement to the licensing authority of any other state in which he is licensed to practice.

16. 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.

17. This Consent Agreement, and any disciplinary sanctions contained herein, shall be effective upon acceptance by the Board and entry of the Board’s Order.

David M. Epstein, M.D.  
Dated: 4/3/2015

Stacey X. Stewart (I.D. # 4667)  
Deputy Attorney General  
Dated: 4/10/15

Shauna Slaughter  
Executive Director  
Delaware Board of Medical Licensure and Discipline  
Dated: 5/15/15