

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

630 Camp Street, New Orleans, LA 70130

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BEFORE THE
LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS

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Writer's Direct Dial:

(504) _____

IN THE MATTER OF:

No. 19-A-022

DAVID LEE SPENCE, M.D.

(Certificate No. MD.06921R)

Respondent

STIPULATION AND AGREEMENT FOR
VOLUNTARY SURRENDER OF MEDICAL
LICENSE

This *Stipulation and Agreement* is made by David Lee Spence, M.D. ("Dr. Spence"), a physician who was licensed practicing as an OB/GYN in and around Alexandria, Louisiana, with the Louisiana State Board of Medical Examiners (the "Board").

1. *Acknowledgment and Stipulations.* Dr. Spence hereby acknowledges, stipulates and agrees that:

- (a) An investigation was initiated by the Board after receipt of information indicating Dr. Spence may have improperly written prescriptions for controlled substances, including to members of his immediate family.
- (b) Investigation of the captioned matter was assigned to the Director of Investigations for the Board, whose review and analysis confirmed that just cause exists for recommending that a formal Administrative Complaint be filed charging Dr. Spence with violations of La. R.S. 37:1285(A)(6)¹; (13)²; (30)³ and La. Admin. Code, Title 46, Part XLV, §§ 7603(A)(10)⁴ & (11)⁵.

¹ Under La. R.S. 37:1285A(6), the Board may take action against the license of a physician based on "[p]rescribing, dispensing, or administering legally controlled substances or any dependency-induced medication without legitimate medical justification therefore or in other than a legal or legitimate manner."

² Under La. R.S. 37:1285A(13), the Board may take action against the license of a physician based on "[u]nprofessional conduct, including but not limited to, . . . failing to cooperate with the board[.]"

³ Under La. R.S. 37:1285A(30), the Board may take action against the license of a physician based on a "[v]iolation of any rules and regulations of the board, or any provisions of this Part."

⁴ Under La. Admin. Code, tit. 46, Pt. XLV, § 7603(A)(10), "a physician shall create and maintain adequate and legible patient records."

- (c) The Investigating Officer accordingly filed a formal Administrative Complaint charging Dr. Spence with the above-identified violations in December 2019.
- (d) Throughout this administrative process, Dr. Spence has cooperated with the Director of Investigations, including by responding to subpoenas and providing the Board with written explanations of the circumstances of his prescribing. Dr. Spence further voluntarily underwent screening that confirmed he presented no signs of opiate or narcotic use.
- (e) Although the charges against him remained pending, Dr. Spence declined to renew his medical license and it expired in February 2020. Since August 2019, and before the filing of the Administrative Complaint, Dr. Spence has stated his intention to retire from the practice of medicine, and that due to personal and family commitments he has no further desire to retain a medical license or otherwise practice medicine in Louisiana. Accordingly, without admitting to the allegations raised in the Administrative Complaint, he would prefer to resolve these proceedings through a stipulation for voluntary surrender rather than undertaking an administrative hearing.
- (f) In recognition of Dr. Spence's cooperativeness and truthfulness throughout these administrative proceedings, the Director of Investigations concurs that Dr. Spence should be permitted to voluntarily surrender his license without further sanction.
- (g) Pursuant to the Louisiana Medical Practice Act, La. R.S. 37:1261 *et. seq.*, and the Louisiana Administrative Procedure Act, La. R.S. 49:951 *et. seq.*, Dr. Spence would be entitled, prior to final disciplinary action against his medical license, to an administrative adjudication of such charges, pursuant to La. R.S. 49:955–958. At such hearing, Dr. Spence would be entitled to be represented by legal counsel, to have those charges proved against him by evidence, to appear and confront adverse witnesses, to call witnesses and present evidence on his own behalf in defense or in mitigation of the charges made, to a decision thereon by the Board based upon written findings of fact and conclusions of law pursuant to La. R.S. 49:958, and to any other right to which he may be afforded by the Louisiana Administrative Procedure Act, La. R.S. 49:951 *et seq.* or otherwise.

2. ***Voluntary Surrender of License.*** Notwithstanding his right to an administrative hearing and a decision thereon, as provided by La. R.S. 49:951 *et. seq.*, in recognition of the stipulations set forth hereinabove toward final disposition of the pending formal administrative

⁵ Under La. Admin. Code tit. 46, Pt. XLV, § 7603(A)(11), “except in cases of emergency, physicians shall not prescribe controlled substances for themselves or their immediate family members. As respects a physician, *immediate family members* include the physician's spouse, children, parents, and siblings.” (Emphasis in original.)

proceedings, Dr. Spence nonetheless, acknowledges the substantial accuracy of the foregoing information and hereby waives his right to formal adjudication and voluntarily surrenders to the Board for cancellation his license to practice medicine in the state of Louisiana, as evidenced by Certificate No. MD.06921R. By his subscription hereto, Dr. Spence also hereby authorizes the Investigating Officer designated by the Board with respect hereto to present this Stipulation and Agreement for Voluntary Surrender of Medical License to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation, and he waives any objection to such disclosures under La. R.S. 49:960.

3. *Effect of Voluntary Surrender of License.* Dr. Spence acknowledges, stipulates and agrees that the voluntary surrender of his medical license affected hereby in the presence of an administrative investigation shall have, and shall be deemed by the Board to have, the same effect as if the Board had entered an order of revocation upon the conclusion of formal administrative proceedings. Further, Dr. Spence acknowledges, stipulates and agrees that reinstatement of such license shall be at the sole discretion of the Board and upon whatever probationary terms, conditions and restrictions that it may then determine to be appropriate. In addition, Dr. Spence acknowledges, stipulates and agrees that no request for reinstatement shall be considered by the Board until and unless he has: (i) attended a meeting at the Board office with the Director of Investigations; (ii) successfully completed all recommendations by the Director of Investigations to demonstrate to the Board that he is competent to return to the practice of medicine with reasonable skill and safety; and (iii) otherwise complied with all applicable statutory and regulatory requirements for the reinstatement of an expired license. *See, e.g.,* La. R.S. 37:1280; 37:1281(A)(3)(c); La. Admin. Code tit. 46, Pt. XLV, § 419.

4. *Termination of Proceedings.* By the voluntary surrender of his medical license, and the attendant dismissal of the proceedings occasioned hereby Dr. Spence, moreover, acknowledges, stipulates and agrees that he hereby waives any right to which he may be entitled pursuant to the Louisiana Administrative Procedure Act, La. R.S. 49:951 *et. seq.* or to which otherwise may be afforded to him by any law, to contest his agreement to or the force and effect of this document in any court or other forum relating to the stipulations, agreements, acknowledgments and other matters referred to herein.

5. *Advice of Counsel.* Dr. Spence acknowledges that he has had the opportunity to seek the advice and guidance of legal counsel with respect to this Stipulation and Agreement for Voluntary Surrender of Medical License and that all of the terms, conditions, restrictions and limitations contained herein have been explained to him and/or that he fully understands them.

6. *Public Record.* Dr. Spence acknowledges, stipulates and agrees that this Stipulation and Agreement for Voluntary Surrender of Medical License shall be, and shall be deemed to be, a **PUBLIC RECORD**.

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STIPULATION
AND AGREEMENT

STATE OF LOUISIANA
PARISH OF Rapides

I, DAVID LEE SPENCE, M.D., hereby acknowledge that I have had the opportunity to seek the advice and guidance of legal counsel with respect to this Stipulation and Agreement for Voluntary Surrender of Medical License and that all of its terms and conditions have been fully explained to me and/or that I fully understand them. I further acknowledge that I approve, accept and consent to entry of the above and foregoing Stipulation and Agreement without duress and of my own free will and accord, this 15 day of July, 2020.

David Lee Spence, M.D.
DAVID LEE SPENCE, M.D.

Angela Rivers

WITNESSES:

Juna Callis
Signature

Angela Rivers
Signature

Juna Callis
Typed Name

Typed Name

6560 Windy Oaks
Street Address

1412 Centre Court
Street Address

Alexandria LA 71307
City/State/Zip Code

Alexandria, LA 71301
City/State/Zip Code

Sworn to and subscribed before me
this 16th day of July, 2020,
in the presence of the two stated
witnesses.

Amanda Wood Barnett
Notary Public (Signature)

Name: Amanda Wood Barnett

Notary Bar No.: 19225

Commission expires: at death


Amanda Wood Barnett
Bar Roll # 19225
Notary ID # 53767
State of Louisiana
Commission is for life.

ACCEPTANCE

CONSIDERING THE ABOVE AND FOREGOING, the Stipulation and Agreement for Voluntary Surrender of Medical License is hereby **APPROVED AND ACCEPTED** by the Louisiana State Board of Medical Examiners, at New Orleans, Louisiana, on this 28th day of September, 2020.

**LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS**

BY: _____


RODERICK V. CLARK, M.D., M.B.A.
President