

BEFORE THE WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

IN RE:

JEFFREY MULLEN, D.O.

Complaint No. 2018-09

CONSENT ORDER

The West Virginia Board of Osteopathic Medicine ("Board") and Jeffrey Mullen, D.O. ("Dr. Mullen") agree to entry of the following order pursuant to West Virginia Code § 30-14-1, *et seq.*

FINDINGS OF FACT

The West Virginia Board of Osteopathic Medicine makes the following findings:

1. Dr. Mullen is a licensee of the Board, holding Board-issued license number 2010 to practice osteopathic medicine and surgery in the state of West Virginia.
2. On April 18, 2018, the Board was notified by the West Virginia Medical Professionals Health Program (hereinafter referenced as "WVMPHP") that Dr. Mullen suffered a level 2 relapse and fell out of compliance with his Continuing Recovery Care Agreement. Dr. Mullen admitted the use of alcohol on or about March of 2018.
3. On July 12, 2018, the Board initiated the above referenced Complaint against Dr. Mullen based on the notification received from the WVMPHP.
4. The West Virginia Board of Osteopathic Medicine finds that Dr. Mullen's continued practice of osteopathic medicine requires a program of recovery, treatment and monitoring under terms that may be revoked or modified at any time that there is probable cause to believe that such program should be modified.

CONCLUSIONS OF LAW

1. The West Virginia Board of Osteopathic Medicine is a board of examination and registration created for the purpose of regulating the practice of osteopathic medicine and surgery in the State of West Virginia. *W. Va. Code* §§ 30-14-1 and 30-14A-1.

2. The West Virginia Board of Osteopathic Medicine is authorized to deny, suspend or revoke the license of an osteopathic physician when such physician is habitually addicted to the use of habit-forming drugs or alcohol. *W. Va. Code* § 30-14-11(a)(8).

3. The West Virginia Board of Osteopathic Medicine is authorized to enter into consent decrees and probation orders where such instruments may afford reasonable supervision and oversight of any person, subject to the licensing requirements of the Board, for the benefit of the practice of osteopathic medicine and protection of the public interest. *W. Va. Code* § 30-1-8(e).

ACKNOWLEDGMENT OF RIGHTS

I, Jeffrey Mullen, D.O., having read this document and, by signing my name to it, I understand and acknowledge the following:

1. This is a legally binding document that affects my rights and privileges.
2. I have the right to consult a lawyer concerning the terms of this agreement and the legal rights and remedies that may otherwise be available to me.
3. I understand that I have a right to a hearing regarding any charges against me or any action taken against my license. The West Virginia Board of Osteopathic Medicine may not suspend, revoke or take any other disciplinary action regarding my license unless one of three conditions occur: 1) I give my consent to entry of an order restricting, suspending or revoking my license, 2) the West Virginia Board of Osteopathic Medicine conducts a hearing before imposing any restriction, suspension or revocation, or 3) the Board finds that my continuation in practice constitutes an immediate danger to the public.

4. I understand that, instead of accepting this agreement, I may demand that the Board of Osteopathic Medicine prove the charges against me by presenting evidence in a hearing conducted under law. If I chose to have a hearing, I would not have the burden of proof. I could, however, present evidence on my own behalf and I would have the right to cross-examine any witnesses who might testify against me. I also understand that I have the right to subpoena witnesses and records in order to compel their production at the hearing.

5. I acknowledge that this agreement is also a legally-binding order. If I accept this agreement, I admit to violation of standards of professional conduct. I also acknowledge and admit that, if I violate any terms and conditions of this order, my violations would constitute an immediate danger to the public and that, for such reasons, the Board may suspend or revoke my license without a prior hearing.

6. I understand that this is a public document and that the Board is legally obligated to allow any person to review this Consent Order. I also understand that this action and order may be reported to other jurisdictions and to the National Practitioner Data Bank and to the Federation of State Medical Boards.

TERMS OF ORDER

1. The Board hereby **ORDERS** the following:

- a. Dr. Mullen shall continue as a participant with the WVMPHP;
- b. Dr. Mullen shall comply with all treatment recommendations and requirements established by his current WVMPHP continuing recovery and care agreement and said agreement will be submitted to the Board;
- c. Dr. Mullen's agreement with the WVMPHP shall include comprehensive monitoring, including random urine and/or blood screening for mood altering substances, with documentation of compliance;
- d. The WVMPHP will provide written documentation to the Board on a quarterly basis verifying Dr. Mullen's compliance with all aspects of his current

WVMPHP continuing recovery and care agreement during the period of treatment and monitoring, and will deliver a final report at least fourteen (14) days prior to the end of this period;

e. Dr. Mullen is financially responsible for payment of all expenses for treatment, counseling, monitoring, lab tests and the other terms and conditions of this order;

f. Dr. Mullen will give his written authorization that all records relating to his care, treatment and monitoring, including medical records, may be disclosed to the Board for their review, consideration and use in any subsequent proceedings before the Board;

g. Dr. Mullen will conduct himself in a professional manner in all aspects of his work and practice and will remain free of any charges of unprofessional conduct or disciplinary action before this Board, any corresponding board in any other jurisdiction, any other state or federal agency, or before any hospital, peer review committee, or medical corporation or partnership;

h. Dr. Mullen will be truthful and forthright in all communications with the Board; and

i. Dr. Mullen shall not violate, or be charged with, any criminal laws of the state of West Virginia, the United States, or of its states, possessions or territories.

2. The preceding terms and conditions apply, and shall remain in effect, unless modified by order of the West Virginia Board of Osteopathic Medicine.

3. If Dr. Mullen fails to comply with, or complete any of the terms stated herein, the West Virginia Board of Osteopathic Medicine may rescind or modify this order and take any other action, including revocation of Dr. Mullen's license, which is authorized by law.

ACKNOWLEDGMENT OF LICENSEE:

I have reviewed the provisions of this Consent Decree and Order. I agree to abide by the terms set out herein and to be bound by them.

Signed: _____

Jeffrey Mullen DO, FACEP
Jeffrey Mullen, D.O.

Date: _____

12/6/18

ORDERED BY THE BOARD OF OSTEOPATHIC MEDICINE:

By agreement of the West Virginia Board of Osteopathic Medicine, it is so ORDERED and entered this 12th day of December, 2018.

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

By: _____

Robert Whitler

ROBERT WHITLER

President

West Virginia Board of Osteopathic Medicine