

BEFORE THE WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

In RE:

CHAD POAGE, D.O.

Complaint No. 2018-03

AMENDED CONSENT ORDER

The West Virginia Board of Osteopathic Medicine ("Board") and Chad Poage, D.O. ("Dr. Poage"), agree to entry of the following Amended Consent 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. Poage is a licensee of the Board, possessing Board-issued license number 3015 to practice osteopathic medicine and surgery in the state of West Virginia.
2. On March 13, 2018, the Board received information regarding two separate incidents, one on March 7, 2018, and one on March 12, 2018, in which Dr. Poage prescribed controlled substances to patients and then picked up those prescriptions for his personal use using identification that did not belong to him.
3. Based on the information received, the Board initiated the above-referenced Complaint against Dr. Poage on July 12, 2018.
4. On December 12, 2018, the Board entered a Consent Order which found that Dr. Poage's continued practice of osteopathic medicine required a program of recovery, treatment, and monitoring.
5. Dr. Poage enrolled in the West Virginia Medical Professionals Health Program ("WVMPHP") and agreed to voluntarily stop practicing medicine until such time as the WVMPHP recommended that he return to practice.

6. The Consent Order required that Dr. Poage not be charged with any violation of criminal laws of the United States and further provided that, following any violation of the Consent Order, the Board could rescind or modify the Consent Order which could include suspension or revocation of Dr. Poage's license.

7. While subject to the terms of the Consent Order, on May 21, 2019, in Case Number 1:19CR24-1, *United States of America v. Chad H. Poage*, in the United States District Court for the Northern District of West Virginia, Dr. Poage entered a guilty plea to an Information charging him with one count of the felony offense of Obtaining Controlled Substances by Fraud, in violation of 21 U.S.C. § 843(a)(3).

8. The factual predicate for Dr. Poage's Plea Agreement with the United States is based upon the same incidents that were the subject of the original Consent Order in this matter, not subsequent conduct or incidents.

9. Dr. Poage first obtained his license from this Board on August 6, 2015 and was a licensee of the Board during the events set forth in the Plea Agreement.

10. On November 4, 2019, Dr. Poage was sentenced to five (5) years of probation and was ordered, *inter alia*, to comply with the terms of the WVMPHP.

11. Dr. Poage subsequently filed an application with the Board seeking reinstatement of his license.

12. At a meeting, the Board considered Dr. Poage's reinstatement application and noted his rehabilitative efforts, including his ongoing compliance with the terms of the WVMPHP since the above-referenced criminal conviction.

13. The Board finds that Dr. Poage's reinstatement to the practice of osteopathic medicine and surgery requires imposition of the probation terms detailed *infra*.

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 *et seq.*

2. W. Va. Code § 30-14-11(a)(1) imposes a nondiscretionary duty on the West Virginia Board of Osteopathic Medicine to revoke the license of a physician convicted of a felony offense, as shown by a certified copy of the record of the trial court, that involves the transfer, delivery, or illicit possession of a prescription drug.

3. Dr. Poage was convicted of a felony offense involving the transfer, delivery, or illicit possession of a prescription drug, to wit the offense of Obtaining Controlled Substances by Fraud, in violation of 21 U.S.C. § 843(a)(3). See Certified Copy of Nov. 4, 2019 *Judgment in a Criminal Case*.

4. The West Virginia Board of Osteopathic Medicine is authorized to enter into consent decrees and probation orders regarding reinstatement of a license 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(g).

ACKNOWLEDGMENT OF RIGHTS

I, Chad Poage, D.O., having read this document and by signing my name to it, 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, and I have exercised that right in this matter.

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, to the National Practitioner Data Bank, and to the Federation of State Medical Boards.

TERMS OF ORDER

The Board hereby **ORDERS** the following:

1. Chad Poage's license to practice osteopathic medicine and surgery in the State of West Virginia, license number 3015, is **REVOKED**, effective the date of the final judgment in the above-referenced criminal matter, **November 4, 2019**.

2. After having given due consideration to Dr. Poage's reinstatement application and recognizing his rehabilitative efforts, and continued compliance with the terms and conditions of his agreement with the WVMPHP and the terms and conditions of his federal probation agreement, the Board hereby does **REINSTATE** Dr. Poage's license number 3015 and orders said license to be on **PROBATION** pursuant to the following terms:

3. Dr. Poage shall continue to abide by the conditions of his federal probation and supervision.

4. Dr. Poage's shall only practice as an orthopedic surgeon under the supervision of a licensed physician or physicians approved by the Board for that purpose for a six-month period.

5. Dr. Poage shall submit a written practice monitoring plan to the Board for approval.

6. The workplace monitor(s) shall provide written reports quarterly to the Board regarding Dr. Poage's performance under the practice monitoring plan.

7. Dr. Poage shall not begin actively practicing until his practice monitoring plan has been approved by the Board, and the six-month monitoring period shall commence on Dr. Poage's first day practicing pursuant to the practice monitoring plan.

8. Dr. Poage shall abide by the terms of the original Consent Order, which are recited below:

a. Dr. Poage shall continue as a participant with the WVMPHP;

b. Dr. Poage shall comply with all treatment recommendations and requirements established by his WVMPHP continuing recovery and care agreement and said agreement will be submitted to the Board;

c. Dr. Poage'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. Poage's compliance with all aspects of his 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. Poage 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. Poage 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. Poage 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. Poage will be truthful and forthright in all communications with the Board; and

i. Dr. Poage 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.

9. The probationary restrictions stated herein do not automatically expire. Dr. Poage must apply to the West Virginia Board of Osteopathic Medicine to lift the probationary restrictions, and he must demonstrate to the Board that he has satisfactorily completed and complied with all of the terms of this Amended Consent Order.

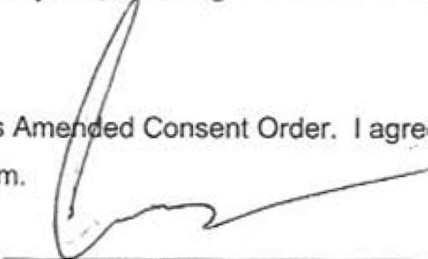
10. The preceding terms and conditions apply, and shall remain in effect, unless modified by order of the West Virginia Board of Osteopathic Medicine.

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

ACKNOWLEDGMENT OF LICENSEE:

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

Signed:


Chad Poage, D.O.

Date:

7/22/21

ORDERED BY THE BOARD OF OSTEOPATHIC MEDICINE:

By agreement of the West Virginia Board of Osteopathic Medicine, it is so ORDERED and entered this 21st day of July 2021.

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

by:


Jimmy W. Adams, D.O.

President

West Virginia Board of Osteopathic Medicine