

**BEFORE THE WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE**

**WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE,**

**Complainant,**

**v.**

**Complaint No. 2021-09**

**JUSTIN SPRATT, D.O.,**

**Respondent.**

**CONSENT ORDER**

The West Virginia Board of Osteopathic Medicine ("Board") and Justin Spratt, D.O. ("Dr. Spratt"), agree to entry of the following Consent Order pursuant to W. Va. Code § 30-14-1 *et seq.*, W. Va. Code § 30-1-1 *et seq.*, and the rules of the Board.

**FINDINGS OF FACT**

The Board and Dr. Spratt stipulate to the truthfulness and accuracy of the following facts:

1. Dr. Spratt is a licensee of the Board, possessing Board-issued license number 2847 to practice osteopathic medicine and surgery in the state of West Virginia.
2. On July 21, 2021, the Board issued Complaint No. 2021-09 alleging that Dr. Spratt:
  - 1) prescribed a Schedule II controlled substance to a patient without first accessing the Controlled Substances Monitoring Program Database regarding a patient;<sup>1</sup>
  - 2) failed to make and keep documentation of the examination of the patient, diagnosis, basis for treatment, and treatment plan, in a manner consistent with the standards of acceptable and prevailing medical practice;
  - and 3) failed to perform any statutory or legal obligation placed upon a licensed physician,

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<sup>1</sup> This patient shall be referred to as "Individual 1," as identified in the Confidential Addendum included in the Complaint No. 2021-09 file.

including those obligations set forth in the West Virginia Controlled Substances Monitoring Act and the Opioid Reduction Act.

3. Dr. Spratt was employed by a healthcare system to work in emergency medicine.
4. During Dr. Spratt's employment with that healthcare system, the Drug Enforcement Administration ("DEA") initially issued Dr. Spratt a Controlled Substance Registration Certificate with an expiration date of February 28, 2019, which did not carry a designation of "Limited to Government Duties Only."
5. Dr. Spratt's employer subsequently applied for a renewed Controlled Substance Registration Certificate, which the DEA issued on February 24, 2019.
6. Dr. Spratt's renewed Controlled Substance Registration Certificate, with an expiration date of February 28, 2022, carried a designation of "Limited to Government Duties Only."
7. Dr. Spratt states that he did not give his employer permission to alter his prescribing capabilities and was previously unaware that his renewed Controlled Substance Registration Certificate carried a designation of "Limited to Government Duties Only."
8. According to the medical records provided by Dr. Spratt, he began treating Individual 1 on October 17, 2019, via a phone conversation.
9. Dr. Spratt continued to treat Individual 1 outside of the hospital setting until at least March 2021.<sup>2</sup>
10. From December 24, 2019, to March 9, 2021, while treating Individual 1 outside of the hospital setting, Dr. Spratt prescribed Individual 1 Schedule II controlled substances on 21 separate occasions while using his Controlled Substance Registration Certificate that carried a designation of "Limited to Government Duties Only."

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<sup>2</sup> Dr. Spratt did treat Individual 1 in the hospital setting one (1) time on February 7, 2020.

11. The 21 occasions mentioned in paragraph 10 occurred on:

March 9, 2021<sup>3</sup>  
February 20, 2021  
January 8, 2021  
December 1, 2020  
November 17, 2020  
November 1, 2020  
October 14, 2020  
October 1, 2020  
September 5, 2020  
August 3, 2020  
July 18, 2020  
July 5, 2020  
June 11, 2020  
May 24, 2020  
May 23, 2020  
May 9, 2020  
April 3, 2020  
March 11, 2020  
February 12, 2020  
December 25, 2019  
December 24, 2019

12. Pursuant to W. Va. Code § 60A-9-5a(b), a practitioner is required to access the Controlled Substances Monitoring Program (“CSMP”) Database, “upon initially prescribing or dispensing any Schedule II controlled substance, any opioid or any benzodiazepine to a patient who is not suffering from a terminal illness, and at least annually thereafter should the practitioner or dispenser continue to treat the patient with a controlled substance....”<sup>4</sup>

13. In response to Complaint No. 2021-09, Dr. Spratt admitted that he did not access the CSMP Database prior to prescribing to Individual 1 and indicated that he now has a better understanding of the requirements and his responsibilities as a prescriber.

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<sup>3</sup> The March 9, 2021, prescription was not filled by the pharmacy.

<sup>4</sup> This requirement is also set forth in the Board’s legislative rule regarding the CSMP at W. Va. Code R. § 24-7-4.

14. Any practitioner who fails to access the CSMP as required by W. Va. Code § 60A-9-5a(b) shall be subject to such discipline as the licensing board deems appropriate and be subject to a \$100 administrative penalty per violation. See W. Va. Code § 60A-9-7(g).

15. Since Dr. Spratt never accessed the CSMP Database when prescribing Schedule II controlled substances to Individual 1 from December 24, 2019, to March 9, 2021, the Board interprets this as 21 violations of W. Va. Code § 60A-9-5a(b).

16. The Board and Dr. Spratt voluntarily enter into this Consent Order to resolve Complaint No. 2021-09.

### **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. Pursuant to W. Va. Code § 30-1-8(c), the Board has promulgated legislative rules that establish grounds for disciplinary action against the Board's licensees. W. Va. Code R. § 24-1-18.

3. Probable cause may exist to substantiate disciplinary action against Dr. Spratt pursuant to W. Va. Code § 60A-9-5a(b) and pursuant to the Board's legislative rules including, but not limited to, the provisions of W. Va. Code R. § 24-1-18.1.o relating to failure to perform any statutory or legal obligation placed upon a licensed physician.

4. The Board is authorized to enter into consent orders where appropriate, and the Board finds that entry of a consent order is appropriate in this case. W. Va. Code § 30-1-8(g).

### **ACKNOWLEDGMENT OF RIGHTS**

I, Justin Spratt, D.O., having read this 8-page 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 case.
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, or 2) the Board 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 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 understand that the Board is required to enter a final order in this matter by January 24, 2023, unless the parties agree to waive that deadline or there is a finding that I or my agent caused a delay in this matter. I understand that, if a final order is not entered by that date, this matter could be dismissed. I understand that, if the Board scheduled a hearing in this matter, it would have to give me 30 days' notice of such hearing.

6. 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 may constitute an immediate danger to the public and that, for such reasons, the Board may suspend or revoke my license without a prior hearing.

7. 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 boards, to other jurisdictions, to the National Practitioner Data Bank, and to the Federation of State Medical Boards.

8. I understand that the Board could move to impose more sanctions, including revocation of my license, if I am subjected to penalties in another administrative, civil, or criminal forum for the same or similar conduct described in this Consent Order.

9. I understand that, as a result of this Consent Order, other licensing boards and authorities may take adverse action against my licenses, including revocation.

### **TERMS OF ORDER**

**WHEREFORE**, based on the foregoing Findings of Fact and Conclusions of Law, and with the consent of Justin Spratt, D.O., the West Virginia Board of Osteopathic Medicine **ORDERS** as follows:

1. Dr. Spratt's license shall be placed on probation for a period of one (1) year.
2. During the probation term, Dr. Spratt may only prescribe, dispense, or administer controlled substances in a hospital or clinical setting. Dr. Spratt may not prescribe, dispense, or administer controlled substances when seeing patients outside of a hospital or clinical setting.

3. The Board **FINES** Dr. Spratt a total of **\$2,500.00**. \$2,100.00 of this fine consists of Dr. Spratt's failure to access the CSMP on the 21 occasions described *supra* and will be deposited in the Fight Substance Abuse Fund pursuant to W. Va. Code § 60A-9-7(g). Dr. Spratt shall pay the fine within 90 days of entry of this Consent Order.

4. Dr. Spratt shall complete a 3-hour continuing medical education course regarding controlled substances and drug diversion. The Board finds that Dr. Spratt has satisfied this requirement by completing a 3.5-hour continuing medical education course titled "Opioid and Diversion Awareness: The Current State of the Opioid Epidemic," which was provided by the Federation of State Medical Boards and the United States Drug Enforcement Administration.

5. The probation terms and conditions described herein shall not automatically expire. Dr. Spratt must apply to the Board to lift the restrictions and must demonstrate to the Board that he has satisfactorily completed and complied with all of the terms of this Consent Order.

6. If Dr. Spratt fails to comply with the terms of this Consent Order, the Board may elect to take any other action against Dr. Spratt's license authorized by law.

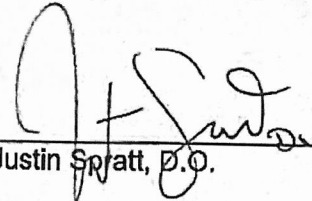
7. The Board **DISMISSES** the remaining allegations set forth in Complaint No. 2021-09.

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**ACKNOWLEDGMENT OF LICENSEE:**

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

Signed:

  
Justin Spratt, D.O.

Date:

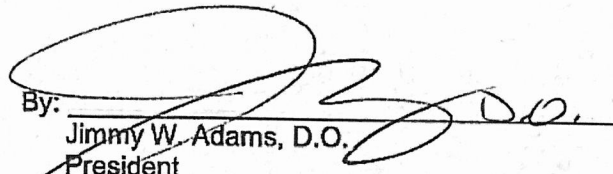
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**ORDERED BY THE BOARD OF OSTEOPATHIC MEDICINE:**

By agreement of the West Virginia Board of Osteopathic Medicine, it is so **ORDERED** and entered this 18<sup>th</sup> day of NOVEMBER, 2022.

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

By:

  
Jimmy W. Adams, D.O.  
President  
West Virginia Board of Osteopathic Medicine