

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

**WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE,**

**Complainant,**

**v.**

**Complaint No. 2022-08**

**BRANDON CESTARIC, D.O.,**

**Respondent.**

**CONSENT ORDER**

The West Virginia Board of Osteopathic Medicine ("Board") and Brandon Cestaric, D.O. ("Dr. Cestaric"), 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. Cestaric stipulate to the truthfulness and accuracy of the following facts:

1. Dr. Cestaric is a licensee of the Board, possessing Board-issued license number 1905 to practice osteopathic medicine and surgery in the state of West Virginia.
2. On September 26, 2016, the Board initiated Complaint No. 2016-18 against Dr. Cestaric after being informed that he had fallen out of compliance with his Continuing Recovery Care Agreement with the West Virginia Medical Professionals Health Program ("WVMPHP") by using alcohol.
3. On March 14, 2017, the Board and Dr. Cestaric entered into a Consent Order regarding Complaint No. 2016-18 that suspended Dr. Cestaric's license for a period of six (6) months and required his participation in a program of counseling or therapy for addiction and substance abuse.

4. On May 15, 2017, the Board initiated Complaint No. 2017-14 against Dr. Cestarc after being informed that he had fallen out of compliance with his Continuing Recovery Care Agreement with the WVMPHP by testing positive for testosterone.

5. On September 14, 2017, the Board and Dr. Cestarc entered into a Consent Order regarding Complaint No. 2017-14 that suspended Dr. Cestarc's license for an additional period of six (6) months and required his continued participation in a program of counseling or therapy for addiction and substance abuse.

6. On May 31, 2018, the Board entered an Order finding that Dr. Cestarc was currently in compliance with his Continuing Recovery Care Agreement with the WVMPHP and ordering that his license be restored to active status with the requirement that he continue as a participant in the WVMPHP.<sup>1</sup>

7. On January 28, 2022, the Board entered an Order terminating the Consent Order in Complaint No. 2017-14 and removing all restrictions from Dr. Cestarc's license, and Dr. Cestarc was released from the WVMPHP a short time later.

8. On the night of February 4, 2022, the Nitro Police Department arrested Dr. Cestarc at Mardi Gras Casino and Resort and charged him with two (2) misdemeanor counts of obstructing an officer and one (1) misdemeanor count of disorderly conduct.

9. In the Criminal Complaint filed in the Magistrate Court of Kanawha County, West Virginia (Case No. 22-M20M-00871), Patrolman M.A. Clay swore or affirmed that: 1) the casino's security supervisor told him that she told Dr. Cestarc that he was too intoxicated and needed to stop drinking and return to his hotel room; and 2) he observed Dr. Cestarc with glassy and bloodshot eyes, slurring his words, and with the odor of alcohol on his breath.

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<sup>1</sup> On December 20, 2018, the Board entered an Order terminating the Consent Order regarding Complaint No. 2016-18 finding that its terms were redundant with the requirements of the Consent Order entered in Complaint No. 2017-14.

10. Dr. Cestarcic's arrest occurred only one (1) week after he was released from the Consent Order in Complaint No. 2017-14.

11. On April 5, 2022, all charges were dismissed without prejudice in Case No. 22-M20M-00871 after the complaining officer failed to appear in Magistrate Court.

12. Dr. Cestarcic denies the criminal charges against him but acknowledges the evidence the Board might present against him at an administrative hearing.

13. The Board finds that Dr. Cestarcic's continued practice of osteopathic medicine requires a program of recovery, treatment, and monitoring under appropriate terms.

14. The Board and Dr. Cestarcic voluntarily enter into this Consent Order to resolve Complaint No. 2022-08.

### **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. Cestarcic pursuant to the Board's legislative rules including, but not limited to, the provisions of W. Va. Code R. § 24-1-18.1.e.

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).

5. Entry of this Consent Order does not constitute an admission of guilt regarding the charges that were filed and dismissed in the Magistrate Court of Kanawha County, West Virginia, (Case No. 22-M20M-00871) or any related criminal charges that could be filed.

### **ACKNOWLEDGMENT OF RIGHTS**

I, Brandon Cestaric, 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.
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 acknowledge that this agreement is also a legally-binding Order. I also acknowledge 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.

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

7. 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 Brandon Cestaric, D.O., the West Virginia Board of Osteopathic Medicine **ORDERS** as follows:

1. Dr. Cestaric shall undergo a program of counseling and treatment for addiction and substance abuse with a Board-approved addiction psychiatrist and a Board-approved addiction counselor, and both providers shall submit written reports to the Board on a quarterly basis describing and detailing Dr. Cestaric's progress in the program, with recommendations for additional treatment requirements or changes as they become necessary.

2. Dr. Cestaric shall submit detailed treatment plans to the Board, prepared with guidance and assistance from the providers described in paragraph 1, listing his treatment goals, methods, and milestones for measuring progress or recovery, and shall provide the Board with an updated plan at any time that the plan requirements, objectives, or methods are amended or

adjusted. Dr. Cestarc shall remain compliant with the treatment plans and may not practice in West Virginia until those treatment plans have been submitted to and approved by the Board.

3. Dr. Cestarc shall also find a home group or local chapter, such as Alcoholics Anonymous, for assistance and support in his program of recovery, and he shall attend meetings on a regular basis with his home group or, when traveling or away from home, with a local group or chapter nearest his location.

4. Dr. Cestarc shall abstain from using addictive substances or habit-forming drugs. Dr. Cestarc shall submit to chemical screenings, including urinalysis or other analysis of bodily substances or excretions, at least two (2) times per month, plus on a random basis at any time under the request of the providers listed in paragraph 1 or the Board to detect the use or abuse of any or all addictive substances or habit-forming drugs. Nothing in this Consent Order shall prohibit Dr. Cestarc from using medications in medically necessary amounts that are validly prescribed by his healthcare providers for his own use and are disclosed to his providers.

5. Dr. Cestarc is financially responsible for payment of all expenses for treatment, counseling, monitoring, lab tests, and the other terms and conditions of this Consent Order.

6. Dr. Cestarc will give his written authorization that all records relating to this care, treatment, and monitoring, including medical records, may be disclosed to the Board for its review, consideration, and use in any subsequent proceedings before the Board, and he will specifically arrange for the providers described in paragraph 1 to provide written reports on the progress of counseling and treatment to the Board during the period of this Consent Order and the delivery of a final report at least fourteen (14) days prior to the end of the Consent Order.

7. Dr. Cestarc 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.

8. Dr. Cestaric 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. Dr. Cestaric will be truthful and forthright in all communications with the Board.

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

11. The preceding terms and conditions shall remain in effect for at least **three (3) years** following entry of this Consent Order, unless modified by order of the West Virginia Board of Osteopathic Medicine. The terms and conditions do not automatically expire at the end of the three-year period. In order to be released from this Consent Order, Dr. Cestaric must apply to the Board to terminate the Consent Order and must demonstrate that he has satisfactorily completed and complied with all of the terms of this Consent Order.

12. If Dr. Cestaric is unable to secure a Board-approved addiction psychiatrist and a Board-approved addiction counselor to treat him for the duration of this Consent Order by **May 31, 2023**, this Consent Order will be voided, and the Board may proceed with a hearing in this matter on the Amended Complaint and Statement of Charges.

13. For good cause shown, the parties may agree in writing to extend the deadline set forth in paragraph 12.

14. Dr. Cestaric agrees to waive any constitutional, statutory, or administrative due process time limits on a final resolution in this matter, should this Consent Order be voided pursuant to paragraph 12.

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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:

Brandon A. Cestaric DO  
Brandon Cestaric, D.O.

Date:

3.20.23

ORDERED BY THE BOARD OF OSTEOPATHIC MEDICINE:

By agreement of the West Virginia Board of Osteopathic Medicine, it is so **ORDERED**  
and entered this 20<sup>th</sup> day of MARCH 2023.

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

By:

Jimmy W. Adams, D.O.

President

West Virginia Board of Osteopathic Medicine