

BEFORE THE WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE,

Complainant,

v.

Complaint No. 2020-32

MARK CLARKSON, D.O.,

Respondent.

CONSENT ORDER

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

1. Dr. Clarkson is a licensee of the Board, possessing Board-issued license number 2175 to practice osteopathic medicine and surgery in the state of West Virginia.
2. On February 15, 2018, an Indictment was filed in the United States District Court for the Southern District of West Virginia, Case Number 5:18-cr-00026, captioned *United States of America v. Blume, et al.*, against Dr. Clarkson and several co-defendants related to their medical practice at the HOPE Clinic.
3. Several superseding indictments were subsequently filed against Dr. Clarkson and his co-defendants.
4. On August 3, 2020, the Board initiated Complaint No. 2020-32 against Dr. Clarkson based on the allegations set forth in the pending criminal matter.

5. Upon receipt of the Complaint, Dr. Clarkson's counsel filed a motion to stay these proceedings during the pendency of the criminal matter.

6. On February 19, 2021, the Board and Dr. Clarkson entered into an Agreement to Stay Proceedings during the pendency of the criminal matter.¹

7. Subsequently, the United States of America filed a five-count Information in the United States District Court for the Southern District of West Virginia, Case Number 2:22-cr-00170, charging Dr. Clarkson with five (5) misdemeanor counts of misbranding of a drug in interstate commerce or the misbranding after shipment in interstate commerce in violation of 21 U.S.C. §§ 331(a) and 333(a)(1) and 18 U.S.C. § 2.

8. On September 8, 2022, Dr. Clarkson entered a guilty plea to the five (5) misdemeanor counts set forth in the Information in Case Number 2:22-cr-00170.²

9. On July 12, 2023, the United States of America and Dr. Clarkson filed a Joint Motion to set aside the guilty plea as to Counts Two and Five of the Information and to dismiss those counts in Case Number 2:22-cr-00170.

10. On July 12, 2023, the Court entered an Order granting the parties' Joint Motion.

11. On July 13, 2023, the Court sentenced Dr. Clarkson to probation for a period of five (5) years based on Dr. Clarkson's plea of guilty to Counts One, Three, and Four of the Information.

12. The Board and Dr. Clarkson voluntarily enter into this Consent Order to resolve Complaint No. 2020-32.

¹ Although Dr. Clarkson has continued to hold an active medical license during the pendency of the criminal matter, he has not practiced medicine in the state of West Virginia since being indicted.

² Pursuant to the Plea Agreement, the United States of America agreed to move the Court to dismiss the charges against Dr. Clarkson in Case Number 5:18-cr-00026.

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

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, Mark Clarkson, 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 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 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.

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, to the Federation of State Medical Boards, and as otherwise required by law.

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.

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TERMS OF ORDER

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

1. Dr. Clarkson shall not prescribe, administer, or dispense controlled substances during his federal probation term.
2. For a period of one (1) year, Dr. Clarkson shall practice under the supervision of a licensed physician or physicians who are Board-approved for that purpose.
3. Dr. Clarkson shall submit a written practice monitoring plan to the Board for approval.
4. The workplace monitor(s) shall provide written reports quarterly to the Board regarding Dr. Clarkson's performance under the practice monitoring plan.
5. Dr. Clarkson shall not begin practicing until his practice monitoring plan has been approved by the Board, and the one-year period shall commence on Dr. Clarkson's first day practicing pursuant to the practice monitoring plan.
6. Any interruptions in Dr. Clarkson's practice shall not count toward the one-year period required pursuant to this Consent Order.
7. Dr. Clarkson 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. Clarkson will be truthful and forthright in all communications with the Board.
9. Dr. Clarkson 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.
10. Dr. Clarkson shall abide by the conditions of his federal probation and supervision.

11. The conditions stated herein do not automatically expire. Dr. Clarkson must apply to the West Virginia Board of Osteopathic Medicine to lift these conditions, and he must demonstrate to the Board that he has satisfactorily completed and complied with all of the terms of this Consent Order.

12. If Dr. Clarkson 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 which is authorized by law, including revocation of Dr. Clarkson's license.

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:

Mark A. Clarkson, D.O.
Mark Clarkson, D.O.

Date:

August 13, 2023

ORDERED BY THE BOARD OF OSTEOPATHIC MEDICINE:

By agreement of the West Virginia Board of Osteopathic Medicine, it is so ORDERED and entered this 15th day of August 2023.

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

By:

Jimmy W. Adams, D.O.

President

West Virginia Board of Osteopathic Medicine