

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

**WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE**

**Complainant,**

**v.**

**Complaint No. 2015-03**

**FELIX BRIZUELA, D.O.,**

**Respondent.**

**CONSENT ORDER**

The West Virginia Board of Osteopathic Medicine (hereinafter referenced as the "Board") received a complaint against Felix Brizuela, D.O., (hereinafter referenced as the "Respondent") claiming that he may have engaged in unprofessional conduct. The Board has investigated the facts relating to this complaint, and has undertaken a discussion with the Respondent. The Board and the Respondent have reached an agreement as to an appropriate disposition of the complaint.

The West Virginia Board of Osteopathic Medicine and FELIX BRIZUELA, D.O. therefore, agree to entry of the following Order:

**FINDINGS OF FACT**

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

1. The Respondent, FELIX BRIZUELA, D.O., is a licensee of the Board, holding Board-issued license #2084 to practice osteopathic medicine and surgery in the State of West Virginia.

2. The Respondent first treated Patient 1 on October 11, 2012. The patient was seen for headaches and neck pain. At the time of this visit, Patient 1 was taking Klonopin 0.5 milligrams at night and Tramadol 50 milligrams every six hours as needed.

3. Patient 1 was next seen by the Respondent on November 20, 2012. The Respondent ordered Botox treatment for Patient 1's cervical dystonia and neck pain. The Respondent prescribed Roxicodone 10 milligrams, three times a day for Patient 1's headaches. Klonopin and Tramadol are not mentioned, so it is unclear if Patient 1 was still taking those medications.

4. Patient 1's next appointment with the Respondent was on February 26, 2013. The records indicate that the Respondent cancelled the Botox injections because Patient 1 had been involved in a motor vehicle accident and had suffered a liver laceration. The record shows that the patient was taking Tramadol 50 milligrams three times a day and Nucynta as needed. The record also fails to mention the Roxicodone that the Respondent previously prescribed to Patient 1. On this date, the Respondent adds Xanax 4 milligrams 2 to 3 times daily and told the patient to take Tramadol as needed. This is the first time that Nucynta is mentioned. It is unclear exactly what the patient has been prescribed and is taking. The Respondent provided poor documentation for prescribing opioids and benzodiazepines.

5. Patient 1 was next treated by the Respondent on April 12, 2013. The patient received a Botox procedure for her cervical dystonia. The Respondent prescribed Skelaxin three times daily. Oxycodone and Tramadol are listed in the patient's medication list, but not addressed in the Respondent's treatment plan for the patient. There is no mention of the previously prescribed Klonopin, but there is no evidence that this medication has been discontinued. It is unclear what the patient is actually taking and what is being prescribed.

6. The patient was next seen on April 21, 2013. The Respondent discussed an episode where the patient may have been pulled over by law enforcement while driving. He



also notes that the patient's mother was mad at him and thinks that the patient should not be taking Klonopin and oxycodone. The record states that the patient is prescribed Klonopin 1 milligram at bedtime and Topamax 50 milligrams twice a day. The record also notes that the patient cannot afford Suboxone. There is no mention of Skelaxin, which was prescribed at the patient's last visit, or Tramadol. Oxycodone 10 milligrams three times a day is listed in the patient's medications but not mentioned in the treatment plan. It is unclear what the patient is being prescribed. The Respondent may have prescribed Methadone 5 milligrams three times daily.

7. Patient 1 was next seen by the Respondent on May 20, 2013. The record reflects that the patient tested positive for amphetamines on a drug screen. The patient reported to the Respondent that she was taking diet pills. The patient stopped taking Topamax and reported to be better overall and to be functioning better. However, she also reported that her pain was excruciating. The note indicates that Patient 1 was taking methadone 5 milligrams twice a day and 2.5 milligrams at night. The patient reports that she weaned herself from the Klonopin and wanted to be weaned from the methadone. There is no mention of Tramadol or Skelaxin.

8. The Respondent next treated Patient 1 on August 6, 2013. The patient's medications were listed as oxycodone 15 milligrams three times daily, Klonopin 1 milligram twice daily and Topamax 50 milligrams twice daily. There is no note documenting when oxycodone was restarted or continued. There is also no note documenting where the Respondent restarted and increased Klonopin. On this date, the Respondent increases the patient's Klonopin to 1 milligram three times a day. There is no mention of Tramadol, but it is listed as a prescribed drug in the patient's drug screen.

9. Patient 1 was treated again by the Respondent on February 24, 2014. The patient's medications are listed as oxycodone 15 milligrams three times a day, Klonopin 1

milligram twice a day and Topamax 50 milligrams twice a day. There is no documentation of why the patient's prescription for Klonopin is decreased from three times a day to twice a day. Patient 1 received a Botox procedure for her cervical dystonia on April 9, 2014.

10. Patient 1 was next treated by the Respondent on June 10, 2014. Her medications are listed as Klonopin 1 milligram twice a day, oxycodone 15 milligrams three times a day, Topamax 5 milligrams twice a day and a Duragesic patch 50 micrograms every three days. The Respondent noted that the patient's mother interfered and did not want him to work the patient up for seizures. This is the first time Duragesic (Fentanyl) is mentioned. There is no documentation of when it was started. The Respondent stopped treating the patient with the Duragesic patch and increased her oxycodone to 30 milligrams three times a day. The combination of Fentanyl 50 micrograms every 72 hours, oxycodone 15 milligrams three times a day and Klonopin 1 milligram twice a day is outside the standard of care. The doses of these medications in combination with one another are too high.

11. The Respondent next treated Patient 1 on August 25, 2014. Patient 1's medications are listed as oxycodone 30 milligrams three times a day, Klonopin 1 milligram three times a day and Topamax 100 milligrams twice a day. This combination of medications is extremely sedating and the doses are outside the standard of care for treating cervical dystonia.

12. Patient 1 saw the Respondent on September 30, 2014. The Respondent noted that the muscle relaxers are "really helping". However, there had been no mention of muscle relaxers in previous notes. The patient's medications are listed as oxycodone 30 milligrams three times a day and Klonopin 1 milligram per day. The doses of these two medications in combination are outside the standard of care for treating pain related to cervical dystonia.

13. Patient 1 was treated by the Respondent again on November 17, 2014. Her medications are listed as oxycodone 30 milligrams three times a day and Topamax 100 milligrams twice a day. The record indicates that the patient was involved in another motor



vehicle accident and reported that pain in her neck was worse. The Respondent instructed the patient to stop driving because he believed that she was suffering from seizures. He prescribed an anti-seizure medication, Vimpat and increased the patient's oxycodone to 30 milligrams four times a day, adds Xanax 4 milligrams three times a day for pain. There is no mention of Klonopin or Tramadol. Increasing the patient's oxycodone to 30 milligrams four times a day and adding Xanax is high risk for causing respiratory depression and death, especially if the patient is still taking the Klonopin and Tramadol.

14. The Respondent does not follow the patient frequently enough to assess for potential adverse effects caused by increasing opioids with multiple other sedatives. There is no clear documentation for starting, changing doses or stopping pain medications. Additionally, there is no documentation of how many pills the patient was receiving per prescription. The Respondent did not meet the standard of care for prescribing opioid medications on a routine basis to this patient due to poor documentation.

### **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 and the practice of osteopathic physician assistants in the State of West Virginia. *W. Va. Code* §§ 30-14-1 and 30-14A-1.

2. The West Virginia Board of Osteopathic Medicine has established rules outlining conduct, practices and acts which may render an individual unfit to practice or subject to disciplinary action by the Board. 24 CSR 1.

3. The West Virginia Board of Osteopathic Medicine is authorized to enter into consent decrees, to reprimand, to enter into probation orders, and to levy fines when a licensee of the Board is found to have engaged in conduct, practices, or acts that the board has defined as unprofessional in its rules. *W. Va. Code* §30-1-8(a).

4. By failing to meet the standard of care in his treatment of Patient 1, the Respondent has engaged in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public, in violation of 24 C.S.R. 1 §§ 18.2.a.6 and 18.2.a.7.

5. A licensee of the Board may waive his rights to a formal statement of charges and a hearing before the Board if the licensee understands those rights and chooses to proceed without a hearing.

#### **RESPONDENT'S ACKNOWLEDGMENT OF RIGHTS**

I, Felix Brizuela, D.O., have 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, or 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 in 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 a 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.

#### **TERMS OF ORDER**

1. The Respondent shall pay a fine of five thousand dollars (\$5000.00) for violation of the rules of the Board and the laws of this State.

2. The Respondent shall enroll in a Board-approved continuing medical education course on medical documentation and a Board-approved continuing medical education course on prescribing controlled substances. The three hour course that is required for license renewal will not meet this requirement.

3. The Respondent must agree to allow the Board to review random medical charts for a period of one year.

4. If the Respondent engages in any act inconsistent with this Consent Order or inconsistent with accepted standards of professional conduct, or any violation of state and/or federal laws, the Board may rescind, terminate, modify or dissolve this Consent Order or, in its discretion, seek revocation of the Licensee's license to practice osteopathic medicine.

**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: \_\_\_\_\_

Felix Brizuela, D.O.

Date: \_\_\_\_\_

4/6/16

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

By agreement of the West Virginia Board of Osteopathic Medicine, it is so ORDERED and entered this 15 day of April, 2016.

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

by: \_\_\_\_\_

Ernest Miller D.O.

ERNEST MILLER, D.O.

President

West Virginia Board of Osteopathic Medicine