

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

**IN RE:**

**FELIX BRIZUELA, D.O.**

**Complaint No. 2018-02**

**CONSENT ORDER**

The West Virginia Board of Osteopathic Medicine ("Board") and Felix Brizuela, D.O. ("Dr. Brizuela") agree to entry of the following order pursuant to West Virginia Code § 30-14-1, *et seq.*

**FINDINGS OF FACT**

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

1. Dr. Brizuela is a licensee of the Board, holding Board-issued license number 2084 to practice osteopathic medicine and surgery in the state of West Virginia.
2. On January 9, 2018, an indictment was filed in the United States District Court for the Northern District of West Virginia, case number 1:18-cr-00001-IMK-MJA, captioned *United States of America v. Felix A Brizuela, Jr. et al.*, charging Dr. Brizuela with the following:
  - a. Twenty-one counts of knowingly intentionally and unlawfully distributing schedule-II controlled substances without a legitimate medical purpose and outside the usual course of professional practice, a felony, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(c);
  - b. One count of conspiracy to knowingly, intentionally, and unlawfully distribute schedule-II controlled substances without a legitimate medical purpose and outside the usual course of professional practice, a felony, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(E)(i), 841(b)(1)(E)(iii), and 846; and
  - c. Sixteen counts of knowingly and willfully soliciting and receiving remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly and covertly, in cash and in kind, in return for ordering and arranging for and recommending ordering any good, facility service or item for which payment may

be made in whole or in part under a Federal health care program, a felony, in violation of 42 U.S.C. §§ 1320a-7b(b)(1)(B).

3. On or about February 2, 2018, the Board received notice that the Pennsylvania State Board of Osteopathic Medicine ("Pennsylvania Board") took disciplinary action against Dr. Brizuela's license to practice osteopathic medicine and surgery in Pennsylvania, resulting in a consent agreement between Dr. Brizuela and the Pennsylvania Board in which Dr. Brizuela agreed, among other things, that Dr. Brizuela's Pennsylvania license would be placed on probation for a period of 180 days, and that he would not "prescribe, dispense, or administer any controlled substance, Schedule I through V," during the 180-day probationary period.

### **CONCLUSIONS OF LAW**

The Board and Dr. Brizuela stipulate to the following conclusions of law:

1. The West Virginia Board of Osteopathic Medicine ("Board") is a licensing authority 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. West Virginia Code §§ 30-14-11 sets forth conduct which may render an individual unqualified for licensure or subject to discipline or other restrictions upon licensure.

3. Pursuant to W. Va. Code § 30-14-14, the Board has promulgated legislative rules outlining conduct, practices and acts which may render an individual unfit to practice or subject to disciplinary action by the Board. W. Va. Code R. § 24-1-18.

4. Probable cause may exist to substantiate disciplinary charges against Dr. Brizuela pursuant to West Virginia Code § 30-14-11 and the Board's legislative rules, including, but not limited to, the following provisions:

a. W. Va. Code § 30-14-11, relating to engaging in conduct, practices, or acts which constitute gross malpractice; and/or

- b. W. Va. Code R. § 24-1-18.e, relating to engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member of the public; and/or
- c. W. Va. Code R. § 24-1-18.g, relating to having his license to practice osteopathic medicine revoked, suspended, restricted or limited, or otherwise acted against in any other state, territory, or jurisdiction.

5. 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).

6. 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.

7. It is appropriate and in the public interest to waive the commencement of proceedings against Dr. Brizuela and to proceed without the filing of charges, subject to compliance by Dr. Brizuela with the provisions of this Consent Order.

8. This Consent Order sets forth reasonable, appropriate and necessary terms and conditions upon the practice of osteopathic medicine and surgery by Dr. Brizuela in West Virginia.

#### **LICENSEE'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 the 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 an evidentiary hearing in which I may participate; or (3) the Board finds that my continuation in practice constitutes an immediate danger to the public.

4. I acknowledge that this agreement is also a legally binding order. If I accept this agreement, I accept the temporary restrictions, limitations, and/or conditions listed below. I also acknowledge and admit that, if I violate any terms and conditions of this order, the Board may suspend or revoke my license without a prior hearing.

5. 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**

**WHEREFORE**, on the basis of the foregoing stipulated Findings of Fact and Conclusions of Law, and with the consent of Dr. Brizuela, the West Virginia Board of Osteopathic Medicine hereby **ORDERS** the following:

1. Dr. Brizuela shall not prescribe, dispense, or administer any controlled substance, Schedule I through V.

2. Dr. Brizuela shall not possess and/or utilize any registration, license, or other authorization issued by the DEA, which permits and/or authorizes him to prescribe controlled substances in West Virginia.

3. Dr. Brizuela shall not possess and/or utilize a Drug Addiction Treatment Act Waiver to administer, dispense, and/or prescribe buprenorphine products.

4. Dr. Brizuela shall not directly supervise or have any active written or collaborative agreements with any allied health professionals, including but not limited to physician assistants, and certified registered nurse practitioners who hold an authorization and/or waiver referenced in the preceding paragraphs.

5. Dr. Brizuela shall not employ any individual who is permitted to independently prescribe controlled substances.

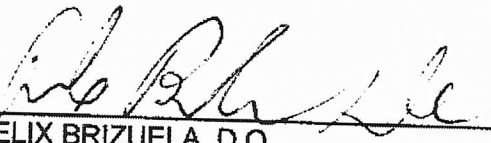
6. The above restrictions on Dr. Brizuela's license shall remain in place until such time as a final judgement is entered in the above referenced case, styled *United States of America v. Felix A Brizuela, Jr. et al.*, and until such time as Dr. Brizuela has applied to the Board and the Board is satisfied that Dr. Brizuela is fit to return to the unrestricted practice of osteopathic medicine and surgery with reasonable skill and safety in the state of West Virginia.

7. If the Dr. Brizuela fails to comply with, or complete any of the terms stated herein, or engages in any act inconsistent with the accepted standards of professional conduct, the Board may rescind or modify this order and take any other action, including revocation of the Dr. Brizuela's license, which is authorized by law.

8. The above terms shall commence immediately upon the filing of this Consent Agreement and Order.

**ACKNOWLEDGMENT OF LICENSEE:**

I have reviewed the provisions of this Consent Order. I understand that, by entering into this agreement, I am giving up the legal rights set out above, but I do so voluntarily, and I do not wish to assert those rights in this matter. I agree to abide by the terms set out herein and to be bound by them.


Signed:   
FELIX BRIZUELA, D.O.

Date: 12/14/18

**ENTRY**

By agreement of the West Virginia Board of Osteopathic Medicine, it is so ORDERED and entered this 17<sup>th</sup> day of December, 2018.

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

By:   
Robert Whitler  
President  
West Virginia Board of Osteopathic Medicine