

BEFORE THE WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

IN RE:

ROBERT T. HOGAN, II, D.O.,

CONSENT ORDER

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

FINDINGS OF FACT

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

1. Dr. Hogan is a licensee of the Board, holding Board-issued license number 2547 to practice osteopathic medicine and surgery in the state of West Virginia.
2. On March 10, 2014, the Board summarily suspended Dr. Hogan's license to practice osteopathic medicine and surgery in the state of West Virginia after the Board received information that Dr. Hogan had been arrested for the unlawful diversion and distribution of controlled substances.
3. Dr. Hogan is a voluntary participant in the West Virginia Medical Professionals Health Program and has been compliant with all aspects of his Continuing Care Recovery agreement.
4. Dr. Hogan has applied with the Board to have his license to practice osteopathic medicine and surgery in the state of West Virginia reinstated.
5. The West Virginia Board of Osteopathic Medicine finds that Dr. Hogan's continued practice of osteopathic medicine requires that he continue in a program of recovery,

treatment, and monitoring under terms that may be revoked or modified at any time that there is probable cause to believe that such program should be modified.

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 is authorized to deny, suspend or revoke the license of an osteopathic physician when such physician is habitually addicted to the use of habit-forming drugs or alcohol.

3. The West Virginia Board of Osteopathic Medicine is authorized to enter into consent decrees and probation orders where such instruments may afford reasonable supervision and oversight of any person, subject to the licensing requirements of the Board, for the benefit of the practice of osteopathic medicine and protection of the public interest. *W. Va. Code § 30-1-8(e).*

RESPONDENT'S ACKNOWLEDGMENT OF RIGHTS

I, Robert T. Hogan, II, D.O., having 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 violation of standards of professional conduct. I also acknowledge and admit that, if I violate any terms and conditions of this order, my violations would 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 jurisdictions and to the National Practitioner Data Bank and to the Federation of State Medical Boards.

TERMS OF ORDER

1. After Respondent satisfies all statutory and regulatory requirements for licensure, the Board will **REINSTATE** Board-issued license number 2547 under the following terms:

- a. The Board will place Dr. Hogan's license to practice osteopathic medicine and surgery on probation for a period of twenty-four months.

- b. During the twenty-four-month probationary period, Dr. Hogan will only practice under the supervision of another licensed physician approved by the Board for such purpose.
- c. Dr. Hogan shall not receive a permit to prescribe Controlled Substances in this State until he demonstrates to the satisfaction of the Board, following at least two years of practice under probation, that he is sufficiently responsible and trustworthy that the public interest would not be adversely affected through the issuance of such authority AND Respondent has registered with the Drug Enforcement Administration under the Controlled Substances Act of 1970.
- d. Dr. Hogan shall continue as a participant with the WVMPHP;
- e. Dr. Hogan shall comply with all treatment recommendations and requirements established by his WVMPHP continuing recovery and care agreement and said agreement will be submitted to the Board;
- f. Dr. Hogan's agreement with the WVMPHP shall include comprehensive monitoring, including random urine and/or blood screening for mood altering substances, with documentation of compliance.;
- g. The WVMPHP will provide written documentation to the Board on a quarterly basis verifying Dr. Hogan's compliance with all aspects of his WVMPHP continuing recovery and care agreement during the period of treatment and monitoring, and will deliver a final report at least fourteen (14) days prior to the end of this period ;
- h. Dr. Hogan is financially responsible for payment of all expenses for treatment, counseling, monitoring, lab tests and the other terms and conditions of this order;
- i. Dr. Hogan will give his written authorization that all records relating to his care, treatment and monitoring, including medical records, may be disclosed to the

Board of their review, consideration, and use in any subsequent proceedings before the Board;

- j. Dr. Hogan 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;
- k. Dr. Hogan will be truthful and forthright in all communications with the Board; and
- l. Dr. Hogan 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.

4. The term of probation shall commence immediately upon the filing of this Consent Agreement and Order.

5. The preceding terms and conditions apply, and shall remain in effect, throughout the duration of the period of probation, unless modified by order of the West Virginia Board of Osteopathic Medicine.

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

7. This probationary period does not expire automatically at the end of the period stated above. Dr. Hogan must apply to the West Virginia Board of Osteopathic Medicine to lift the probationary restrictions and he must demonstrate to the Board that he has satisfactorily completed and complied with all of the terms of this Order.

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: _____

Robert T. Hogan, II, D.O.

Date: _____

12/7/18

ORDERED BY THE BOARD OF OSTEOPATHIC MEDICINE:

By agreement of the West Virginia Board of Osteopathic Medicine, it is so ORDERED and entered this 12th day of December, 2018.

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

by: _____

Robert Whittler

Robert Whittler, D.O.

President

West Virginia Board of Osteopathic Medicine