

**BEFORE THE WEST VIRGINIA BOARD OF MEDICINE**

**IN RE:**

**Complaint No. 18-56-W**

**ROGER LEE MCCAULEY, M.D.**

**CONSENT ORDER**

The West Virginia Board of Medicine (“Board”) and Roger Lee McCauley, M.D. (“Dr. McCauley”) freely and voluntarily enter into the following Consent Order pursuant to West Virginia Code § 30-3-1, *et seq.*

**FINDINGS OF FACT**

The Board and Dr. McCauley stipulate to the truthfulness and accuracy of the facts, as set forth herein below:

1. Dr. McCauley holds an inactive West Virginia medical license, License Number 9252.
2. Dr. McCauley was initially licensed by the Board on August 10, 1970. Dr. McCauley’s West Virginia medical license has been in inactive status at all times relative to this Consent Order.
3. Dr. McCauley’s practice address of record with the Board is in Mocksville, North Carolina.
4. On June 19, 2017, Dr. McCauley submitted his electronic application for medical licensure renewal to the Board for the licensure period of July 1, 2017, through June 30, 2019.

5. Certification of completion of all required Continuing Medical Education (“CME”) is required to renew both active and inactive West Virginia medical licenses.

6. Renewal applicants who cannot certify that they have completed all required CME are ineligible for license renewal.

7. To accurately certify compliance with CME requirements and renew a medical license for the licensure period of July 1, 2017 through June 30, 2019, a renewal applicant must have, between July 1, 2015 and June 30, 2017, completed a minimum of three CME hours in a Board approved course on drug diversion training and best practice prescribing of controlled substances. Physicians who did not prescribe, administer or dispense any controlled substances whatsoever between July 1, 2015 and June 30, 2017 could request a waiver from the Board in lieu of completing the training.

8. In addition to the controlled substance CME, a renewal applicant must have, between July 1, 2015 and June 30, 2017:

- a. Completed a total of fifty (50) hours of CME credits, as described in W. Va. Code R. §11-6-3.2.1 (May 6, 2013); or
- b. Become ABMS board certified and/or possess documentation of successful involvement in maintenance of certification from the ABMS member board for the requisite period.

9. A licensee may claim up to twenty (20) hours of CME credit for teaching medical education courses to medical students, residents or licensed physicians, or by serving as a preceptor to medical students or residents as described in W. Va. Code R. §11-6-3.2.2 (May 6, 2013).

10. On his June 19, 2017 renewal application, Dr. McCauley certified to the Board that he had complied with all CME requirements for the renewal of his license.

11. Specifically, Dr. McCauley certified that he completed a minimum of fifty hours of continuing education satisfactory to the Board between July 1, 2015 and June 30, 2017, including a minimum of three hours of drug diversion training and best practice prescribing of controlled substances training through a Board approved course.

12. In association with his license renewal application, Dr. McCauley made the following attestation:

I understand that as a licensee, I am required to personally complete this application, and I am solely responsible for the accuracy and completeness of the information provided, including all information regarding my practice in the last two years and my certification of successful completion of all required continuing medical education.

I have carefully read and understood all the questions included on each page of this renewal and have answered all the questions completely, without reservations of any kind. I declare that my answers and all statements made by me herein are true and correct.

I understand that any license issued based upon this renewal application is based on the truth of the statements contained herein. Should I furnish false or misleading information in this renewal application, I hereby agree and understand that any such act shall constitute good cause for disciplinary action and/or the subsequent revocation of my license.

I understand that regardless of the date of my electronic signature, all statements in the online renewal application related to the entire period of July 1, 2015 to June 30, 2017. If, after I provide my electronic signature and prior to June 30, 2017, any answer should change for any reason, I have a duty to notify the Board and amend my renewal application.

13. On or about December 29, 2017, the Board notified Dr. McCauley that he had been randomly selected for the Board's annual CME audit.

14. Dr. McCauley was unable to produce documentation corroborating his certification that he successfully completed his CME requirements for the period of July 1, 2015 through June 30, 2017.

15. In response to the CME audit, Dr. McCauley submitted satisfactory proof of completion for only six CME hours during the period of July 1, 2015 through June 30, 2017.

16. Dr. McCauley was unable to provide documentation to support his timely completion of three hours of Continuing Medical Education in a Board approved course on drug diversion training and best practice prescribing of controlled substances.

17. Dr. McCauley averred that he reads regularly to stay informed and provided a list of materials he reviewed. However, he was unable to provide valid proof or certificates of completion for these activities. Dr. McCauley candidly acknowledged this deficit and his failure to complete a Board approved course on drug diversion training and best practice prescribing of controlled substances.

18. Dr. McCauley further averred that he is retired and only practices as a volunteer psychiatrist in North Carolina.

19. The Board and Dr. McCauley voluntarily enter into this Consent Order to resolve the complaint initiated against Dr. McCauley and to protect the public interest.

### **CONCLUSIONS OF LAW**

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

1. Dr. McCauley's license to practice medicine and surgery in the state of West Virginia is subject to regulation and discipline by the West Virginia Board of Medicine, the

“regulatory and disciplinary body for the practice of medicine and surgery” for physicians, podiatrists and physician assistants in West Virginia. W.Va. Code § 30-3-5 and § 30-3-7(a).

2. The Board has a mandate to ensure “a professional environment that encourages the delivery of quality medical services” to protect the public interest. W.Va. Code § 30-3-2.

3. The West Virginia Medical Practice Act sets forth conduct which may render an individual unqualified for licensure or subject to discipline or other restrictions upon licensure. W.Va. Code § 30-3-14. Pursuant to W.Va. Code § 30-1-8(c), the Board has promulgated legislative rules that “delineate conduct, practices or acts which, in the judgment of the board, constitute professional negligence, a willful departure from accepted standards of professional conduct and/or which may render an individual unqualified or unfit for licensure, registration or other authorization to practice.” See W. Va. Code R. § 11-1A-12.

4. Probable cause may exist to substantiate disciplinary charges against Dr. McCauley pursuant to W. Va. Code §30-3-14 (c)(1) and (17), W. Va. Code R. §§11-1A-12.1.e and 12.1.j, and W. Va. Code R. §§11-6-5.2 and 5.4 (May 6, 2013).

5. Given the explanation provided by Dr. McCauley, it is appropriate and in the public interest to waive the commencement of proceedings against Dr. McCauley and to proceed without further investigation, the filing of charges, or a formal Complaint and Notice of Hearing, subject to compliance by Dr. McCauley with the provisions of this Consent Order.

6. This Consent Order sets forth reasonable and appropriate discipline upon Dr. McCauley.

7. This Consent Order does not impose any discipline which is connected to the delivery of healthcare services by Dr. McCauley.

### CONSENT

By signing his name to this Consent Order, Roger Lee McCauley, M.D., acknowledges that he understands and agrees with the following:

1. Dr. McCauley has read and understands this entire Consent Order;
2. Dr. McCauley agrees that he has been given adequate time and opportunity to review and consider the terms set forth in this Consent Order;
3. Dr. McCauley understands that he has the right to legal representation in this matter, at his own expense, and agrees that he has been afforded adequate time and opportunity to exercise his right to consult with counsel regarding the legal effect of this Consent Order;
4. Dr. McCauley understands that this Consent Order is a legally binding Order of the West Virginia Board of Medicine that affects his rights and privileges;
5. Dr. McCauley acknowledges that he is fully aware that, without his consent, no permanent legal action may be taken against him except after a hearing held in accordance with West Virginia Code § 30-3-14(h) and § 29A-5-1, *et seq.*;
6. Dr. McCauley is aware of his legal rights in this matter, in addition to his right to be represented by counsel at his own expense, including: the right to a formal hearing, after reasonable notice, before the West Virginia Board of Medicine on the disciplinary charges before the Board; the right to confront and cross-examine witnesses against him; the right to present evidence and testify on his own behalf; the right to the issuance of subpoenas to compel

the attendance of witnesses and the production of documents; the right to appeal under Chapter 29A of the West Virginia Code in the event of a final order or decision adverse to him;

7. Dr. McCauley knowingly and voluntarily waives all such additional rights, and agrees to the entry of this Consent Order relative to his practice of medicine in the state of West Virginia;

8. Dr. McCauley acknowledges that if he violates any of the terms of this Consent Order, further action may be taken against his license by the Board, as permitted by law; and

9. Dr. McCauley understands that this Order is a public document which will be available for public inspection, will be accessible through the Board's website, and will be a permanent part of his historical record with the Board. Matters contained herein may be reported to other jurisdictions, the Federation of State Medical Boards and as otherwise required by law.

### **ORDER**

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

1. To satisfy his CME deficiency for the reporting period of July 1, 2015 through June 30, 2017, Dr. McCauley shall complete forty-four (44) hours of continuing medical education coursework designated as Category I by the American Medical Association or the American Academy of Family Physicians. Three of the required hours must be obtained by completing a Board approved course on drug diversion training and best practice prescribing of controlled substances.

2. Dr. McCauley shall provide written certification and documentation satisfactory to the Board corroborating his successful completion of the 44 hours of required CME on or before December 30, 2018.

3. Dr. McCauley may utilize CME courses completed at any time after June 30, 2017 to satisfy this obligation, so long as the proffered courses are otherwise credit eligible. Dr. McCauley may not utilize any of the 44 hours of CME he uses to comply with the terms of this Order to satisfy any of his CME obligations for the current reporting period of July 1, 2017 through June 30, 2019.

3. Dr. McCauley shall perform at least forty-four (44) hours of volunteer community service work and provide documentation demonstrating successful completion of the same to the Board **on or before June 30, 2019**.

4. No later than twenty (20) days after the entry of this Consent Order, Dr. McCauley shall review the Board's Legislative Rule, *Continuing Education for Physicians and Podiatrists*, W. Va. Code R. §11-6-1 *et seq.*, to ensure that he is familiar with his CME obligations for the current reporting cycle. Within **thirty (30) days** of the entry of this Order, Dr. McCauley shall provide written certification, with his original and dated signature, to the Board indicating that he has read and fully understands his CME obligations for the July 1, 2017, through June 30, 2019, reporting period.

5. Dr. McCauley agrees to comply fully with the requirements of the West Virginia Medical Practice Act and the legislative rules of the Board at all times he maintains a West Virginia license, and further agrees to comply with the terms of this Consent Order. In the event that Dr. McCauley fails to comply with the terms of this Order by the established deadlines,



the Board may elect to take any other action with regard to Dr. McCauley's license which is authorized by law.


6. This Consent Order shall be deemed entered on the date that this Order, with all required signatures affixed hereupon, is received in the Board's 101 Dee Drive, Charleston, West Virginia, office. The Executive Director of the West Virginia Board of Medicine is hereby authorized to denote the date of entry on behalf of the Board in accordance with this paragraph.

ENTERED ON: November 8, 2018

WEST VIRGINIA BOARD OF MEDICINE

  
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Kishore K. Challa, M.D., F.A.C.C.  
President

Date: 10/26/2018

  
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Rahul Gupta, M.D., M.P.H., M.B.A., F.A.C.P.  
Secretary

Date: 10/31/18

ACCEPTANCE

I, ROGER LEE MCCAULEY, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT ORDER. I HAVE BEEN GIVEN SUFFICIENT TIME AND OPPORTUNITY TO CONSIDER THIS CONSENT ORDER, AND I UNDERSTAND THE EFFECT IT WILL HAVE UPON MY LICENSE TO PRACTICE MEDICINE AND SURGERY IN WEST VIRGINIA.

BY SIGNING THIS CONSENT ORDER, I HAVE WAIVED CERTAIN RIGHTS, BUT I DO SO KNOWINGLY AND VOLUNTARILY, AND I DO NOT WISH TO ASSERT THOSE RIGHTS IN THIS MATTER.

I UNDERSTAND THAT I HAVE THE RIGHT TO LEGAL COUNSEL, AND I HAVE BEEN PROVIDED WITH AMPLE TIME TO SEEK LEGAL ADVICE REGARDING MY ACCEPTANCE OF THIS CONSENT ORDER FROM AN ATTORNEY.

I AM SIGNING THIS CONSENT ORDER VOLUNTARILY, AND I UNDERSTAND THE POTENTIAL CONSEQUENCES OF VIOLATING THIS CONSENT ORDER.

Roger Lee McCauley, MD  
Roger Lee McCauley, M.D.

Date: October 16 2018

STATE OF North Carolina

COUNTY OF Davie, to-wit:

I, Patricia A. Kopaskie, a Notary Public for said county and

state do hereby certify that Roger Lee McCauley, M.D., whose name is signed herein above has this day acknowledged the same before me.

Given under my hand this 16<sup>th</sup> day of October, 2018.

My Commission expires August 15, 2022

Patricia A. Kopaskie  
Notary Public

