

**BEFORE THE WEST VIRGINIA BOARD OF MEDICINE**

**IN RE:**

**MARC JONATHAN SPELAR, M.D.**

**CONSENT ORDER**

The West Virginia Board of Medicine (“Board”) and Marc Jonathan Spelar, M.D. (“Dr. Spelar”) 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. Spelar stipulate to the truthfulness and accuracy of the facts, as set forth herein below:

1. Dr. Spelar holds a West Virginia medical license, No. 25264. Dr. Spelar’s West Virginia medical license was issued on May 20, 2013.
2. Dr. Spelar was arrested at the Holiday Inn Express, South 9<sup>th</sup> Street, Ironton, Ohio.
3. On or about May 18, 2017, criminal complaints were filed against Dr. Spelar in Ironton Municipal Court in Lawrence County, Ohio. The criminal complaints allege that Dr. Spelar:
  - a. Endangered the welfare of a child by creating a substantial risk to the health or safety of a child under his care and supervision;

- b. Possessed instruments of drug abuse, including used and new syringes believed to be used to administer illegal drugs;
- c. Illegally possessed marijuana, and prepared or packaged marijuana for distribution;
- d. Illegally possessed Acetaminophen and Hydrocodone Bitartrate, a Schedule II Controlled Substance; and
- e. Illegally possessed Cocaine.

4. A physician holding an inactive status West Virginia medical license may not practice medicine and surgery in this state.

5. At a Special Meeting on May 25, 2017, the Complaint Committee elected to initiate a complaint, Complaint No. 17-122-W, to investigate Dr. Spelar's alleged misconduct, and his fitness to practice medicine and surgery in West Virginia.

6. At this time, Dr. Spelar has declined to provide a substantive response to initiated complaint 17-122-W, and has declined to discuss the allegations of the complaint with the Board, and has "invoke[d] his rights under the U.S. Constitution, Amendment V and the West Virginia Constitution, Article 3 §5 not to be compelled as a witness against himself."

7. The Board's investigation into Dr. Spelar's professional conduct is ongoing, and is not resolved by the terms and conditions set forth in this Consent Order.

8. The Board and Dr. Spelar voluntarily enter into this Consent Order to protect the public interest and to establish the terms and conditions upon Dr. Spelar's West Virginia medical license while the complaint and investigation process of the Board is ongoing.

## CONCLUSIONS OF LAW

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

1. Dr. Spelar'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. The Board is currently investigating Dr. Spelar's professional conduct, including the facts and circumstances which form the basis of his May 2017 arrest, the subsequent criminal charges filed against him, his fitness to practice medicine and surgery, and his care and treatment of his patients. At the conclusion of its investigation, the Board will determine whether or not probable cause exists to substantiate disciplinary charges against Dr. Spelar pursuant to:

- a. W. Va. Code §30-3-14(c)(21) and W. Va. Code R. §11-1A-12.1.h, relating to an inability to practice podiatry with reasonable skill and safety due to physical or mental impairment, including deterioration through the aging process, loss of motor skill or abuse of drugs or alcohol;
- b. W. Va. Code §30-3-14(c)(17) and W. Va. Code R. §11-1A-12.1.e, relating to dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof;
- c. W. Va. Code §30-3-14(c)(17) and W. Va. Code R. §11-1A-12.1.j, relating to unprofessional conduct including, but not limited to, any departure from, or failure to conform to, the standards of acceptable and prevailing medical or podiatric practice, or the ethics of the profession, irrespective of whether or not a patient is injured thereby, and/or any the commission of act contrary to honesty, justice or good morals, whether the same is committed in the course of her practice or otherwise and whether committed within or without this State;
- d. W. Va. Code §30-3-14(c)(17) and W. Va. Code R. §11-1A-12.2.d, relating to conduct which is calculated to bring or has the effect of bringing the profession into disrepute, including, but not limited to, any departure from or failure to conform to the standards of acceptable and prevailing practice within the state, and any departure from or failure to conform to the current principles of medical ethics; and/or
- e. Any other provisions of the West Virginia Medical Practice Act, W. Va. Code §30-3-1, et. seq., and/or the rules of the Board which are implicated by the facts as developed during the course of the Board's investigation.

5. Given the gravity of the charges currently pending against Dr. Spelar, the serious criminal charges pending in collateral proceedings, and in light of his decision not to participate in the investigation at this time, it is appropriate and in the public interest to enter into this interim Consent Order while Complaint No. 17-122-W is under investigation by the Board.

6. This Consent Order sets forth reasonable and appropriate restriction and limitations upon Dr. Spelar's West Virginia medical license.

### CONSENT

By signing his name to this Consent Order, Marc Jonathan Spelar, M.D., acknowledges that he understands and agrees with the following:

1. Dr. Spelar has read and understands this entire Consent Order;
2. Dr. Spelar agrees that he has been given adequate time and opportunity to review and consider the terms set forth in this Consent Order;
3. Dr. Spelar 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 his counsel regarding the legal effect of this Consent Order;
4. Dr. Spelar 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. Spelar 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. Spelar 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. With the exception of his right to legal counsel, which he has exercised, Dr. Spelar 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. Spelar expressly acknowledges that the restrictions imposed by this Consent Order upon his West Virginia medical license do not impose discipline upon his West Virginia license for any allegations of professional misconduct which are currently pending before the Board or which may be alleged against him in the future; nor does this Consent Order resolve any such allegations;

9. Dr. Spelar understands that should the Board's investigation conclude that probable cause exists to institute disciplinary charges, the temporary restrictions imposed by this Consent Order will remain in effect until a Final Order is rendered upon any such disciplinary charges;

10. Dr. Spelar acknowledges that if he violates any of the terms of this Consent Order, such constitute clear and convincing evidence that Dr. Spelar's continued licensure constitutes and immediate threat to public safety; and

11. Dr. Spelar 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 will be reported

to the National Practitioner Data Bank, and 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. Spelar, the West Virginia Board of Medicine hereby **ORDERS** as follows:

1. During the effective dates of this Consent Order, Dr. Spelar is temporarily prohibited from practicing medicine to patients in West Virginia. This restriction expressly prohibits Dr. Spelar from engaging in any form of clinical medicine, including but not limited to: patient care and/or treatment of any kind; forensic evaluations; independent medical and/or psychological evaluations of patients or other persons; and occupational evaluations of patients or nonpatients.

2. During the effective dates of this Consent Order, Dr. Spelar is strictly prohibited from administering, ordering, dispensing or prescribing any and all medications.

3. The Board may, in its discretion, query Dr. Spelar's prescribing practices with the West Virginia Board of Pharmacy's Controlled Substance Monitoring Database and/or similar state or federal entities in surrounding states to monitor Dr. Spelar's compliance with the prescribing restrictions imposed by this Order.

4. If Dr. Spelar violates any of the terms and conditions set forth hereinabove, such conduct shall constitute clear and convincing evidence that Dr. Spelar's continued licensure constitutes an immediate threat to public safety.

5. 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.

6. This Consent Order shall only terminate upon:

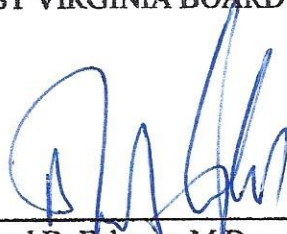
a. A determination by the Board that probable cause does not exist to institute disciplinary charges upon Complaint No. 17-122-W; or

b. The entry of a Final Order of the Board upon the facts and circumstances which form the basis of Complaint No. 17-122-W.

ENTERED ON:

August 30, 2017

WEST VIRGINIA BOARD OF MEDICINE



Ahmed D. Faheem, M.D.  
President

Date:

8-24-17





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Rahul Gupta, M.D., M.P.H.  
Secretary

Date: 8/30/17

#### ACCEPTANCE


**I, MARC JONATHAN SPELAR, 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 MY ATTORNEY.**

**I UNDERSTAND THAT THIS CONSENT ORDER DOES NOT RESOLVE COMPLAINT NUMBER 17-122-W OR IMPOSE DISCIPLINE UPON ME FOR THE CONDUCT ALLEGED THEREIN. I UNDERSTAND THAT THE BOARD'S INVESTIGATION INTO THAT COMPLAINT REMAINS ONGOING, AND THAT IF PROBABLE CAUSE IS FOUND TO INSTITUTE DISCIPLINARY CHARGES, MY LICENSE MAY BE SUBJECT TO DISCIPLINE RELATED THERETO.**

I AM SIGNING THIS CONSENT ORDER VOLUNTARILY, AND I UNDERSTAND THAT IF I PRACTICE MEDICINE IN CONTRAVENTION OF THE TERMS SET FORTH HEREIN, MY ACTIONS SHALL CONSTITUTE CLEAR AND CONVINCING EVIDENCE THAT MY CONTINUED LICENSURE IS AN IMMEDIATE THREAT TO PUBLIC SAFETY.

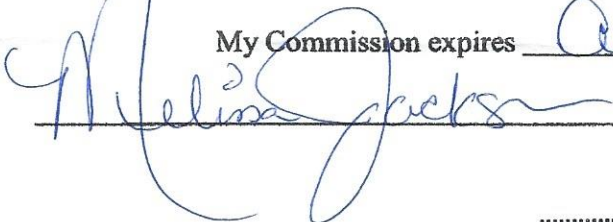
  
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Marc Jonathan Spelar, M.D.  
Date: 8-23-17

STATE OF West Virginia

COUNTY OF Kanawha, to-wit:

I, Melissa Jackson, a Notary Public for said county and state do hereby certify that Marc Jonathan Spelar, M.D., whose name is signed herein above has this day acknowledged the same before me.

Given under my hand this 23<sup>rd</sup> day of August, 2017.

My Commission expires August 12, 2020  
  
\_\_\_\_\_  
Notary Public

