

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE:

DEVIN MARK CILIBERTI, M.D.

CONSENT ORDER

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

1. Dr. Ciliberti holds a license (#19661) to practice medicine and surgery in the state of West Virginia. His practice address of record with the Board is in Scott Depot, West Virginia.

2. On May 4, 2016, Dr. Ciliberti submitted his electronic application for medical licensure renewal to the Board for the licensure period of July 1, 2016, through June 30, 2018.

3. In association with his license renewal application, Dr. Ciliberti made the following attestation:

I have carefully read the questions in this application and have answered them completely. All of my answers and statements made herein are true and correct. I understand that any license renewed on the basis of this application is based upon the truthfulness and

completeness of the statements I have made herein. I understand that furnishing false information in connection with this application constitutes good cause for the revocation of my license to practice medicine in West Virginia. I understand and agree that if any of my answers or other information provided in this application changes prior to July 1, 2015, I have a duty to notify the Board and to amend and/or supplement my application immediately.

4. On his application, Dr. Ciliberti answered “no” to Professional Practice Question number twelve, which asks whether he has “had any judgments or settlements arising from medical professional liability rendered or made against” him at any time from July 1, 2014, through June 30, 2016.

5. Upon information and belief, on or about November 4, 2014, a settlement was reached resolving a medical malpractice claim filed against Dr. Ciliberti in the Circuit Court of Kanawha County. A settlement payment was made on behalf of Dr. Ciliberti in the amount of \$175,000.00.

6. Dr. Ciliberti’s response to Professional Practice Question number twelve was incorrect.

7. Dr. Ciliberti failed to disclose the above-referenced medical malpractice settlement on his most recent license renewal application. Moreover, he did not act to supplement or correct his original response at any time prior to July 1, 2016.

8. On January 8, 2017, the Complaint Committee of the West Virginia Board of Medicine initiated a complaint against Dr. Ciliberti based upon his answer to question twelve on his renewal application.

9. In response to the complaint, Dr. Ciliberti avers that his failure to answer Professional Practice Question number twelve accurately was an unintentional oversight. He

contends that there was no purposeful misrepresentation, and that he had reported the malpractice to another licensing board as well as a hospital where he is credentialed.

10. Dr. Ciliberti further advised the Board that he thought he had disclosed the malpractice settlement in association with his 2014 renewal application. However, the referenced settlement occurred in November 2014, and was not reported on Dr. Ciliberti's June 11, 2014 licensure renewal application.

11. The Board and Dr. Ciliberti voluntarily enter into this Consent Order to resolve the complaint initiated against Dr. Ciliberti.

CONCLUSIONS OF LAW

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

1. Dr. Ciliberti'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. Ciliberti pursuant to W. Va. Code §30-3-14 (c)(1) and (17), and W. Va. Code R. §§11-1A-12.1.a, 12.1.e and 12.1.j, relating to his inaccurate response to a licensure renewal application question.

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

6. This Consent Order sets forth reasonable and appropriate discipline upon Dr. Ciliberti in the form of an administrative fine.

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

CONSENT

By signing his name to this Consent Order, Devin Mark Ciliberti, M.D., acknowledges that he understands and agrees with the following:

1. Dr. Ciliberti has read and understands this entire Consent Order;
2. Dr. Ciliberti agrees that he has been given adequate time and opportunity to review and consider the terms set forth in this Consent Order;

3. Dr. Ciliberti 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. Ciliberti 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. Ciliberti 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. Ciliberti 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. Ciliberti 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. Ciliberti 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. Ciliberti 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. Ciliberti, the West Virginia Board of Medicine hereby ORDERS as follows:

1. Dr. Ciliberti is hereby assessed a **CIVIL FINE** in the amount of eight hundred dollars (\$800.00), for providing an inaccurate response to Professional Practice Question Number Twelve on his renewal application. Dr. Ciliberti's payment of the fine must be received by the Board on or before Friday, April 28, 2017.

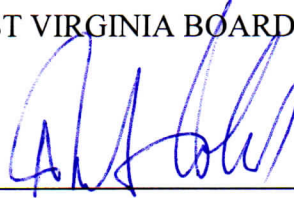
2. Dr. Ciliberti agrees to comply fully with the requirements of the West Virginia Medical Practice Act and the legislative rules of the Board at all times while he is licensed to practice medicine in West Virginia. Dr. Ciliberti further agrees to comply with all terms of this Consent Order.

3. 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.

Consent Order
Devin Mark Ciliberti, M.D.

ENTERED ON: April 13, 2017

WEST VIRGINIA BOARD OF MEDICINE



Ahmed D. Faheem, M.D.
President

Date: 4.10.17



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

Date: 4/12/17

ACCEPTANCE

I, DEVIN MARK CILIBERTI, 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.

Consent Order
Devin Mark Ciliberti, M.D.

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.

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

Devin M Ciliberti
Devin Mark Ciliberti, M.D.
Date: 4-4-17

STATE OF WEST VIRGINIA

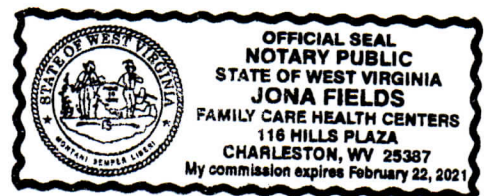
COUNTY OF KANAWHA, to-wit:

I, JONA FIELDS, a Notary Public for said county and state do hereby certify that Devin Mark Ciliberti, M.D., whose name is signed herein above has this day acknowledged the same before me.

Given under my hand this 4 day of April, 2017.

My Commission expires 2-22-2021

Notary Public





State of West Virginia *Board of Medicine*

AHMED DAVER FAHEEM, MD
PRESIDENT

RAHUL GUPTA, MD, MPH
SECRETARY

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KISHORE K. CHALLA, MD, FACC
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MARK A. SPANGLER, MA
EXECUTIVE DIRECTOR

April 13, 2017

Devin Mark Ciliberti, M.D.
8014 Southridge Way
Hurricane, WV 25526

RE: Consent Order

Dear Dr. Ciliberti:

This letter will confirm that the Board of Medicine considers you to have fulfilled all obligations set forth in the Consent Order which you entered into with the West Virginia Board of Medicine on April 13, 2017. As of the date of this letter, the West Virginia Board of Medicine considers the above-referenced matter to be closed.

In accordance with the statute, the Consent Order, with a copy of this letter attached, remains a permanent part of your historical record maintained by the Board.

Should you have any questions or concerns please feel free to contact me at 304-558-2921, ext. 70005.

Sincerely,

Mark A. Spangler

MAS/fab