

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE: YASAR AKSOY, M.D.

**ORDER OF SUMMARY SUSPENSION OF LICENSE TO PRACTICE
MEDICINE AND SURGERY AND NOTICE OF HEARING**

The West Virginia Board of Medicine is the duly constituted body responsible for licensure and professional discipline of allopathic physicians in West Virginia. W. Va. Code §30-3-1 *et seq.* In circumstances where the Board “determines the evidence in its possession indicates that a physician's or podiatrist's continuation in practice or unrestricted practice constitutes an immediate danger to the public,” the Board is empowered to take summary disciplinary action, on a temporary basis. Temporary summary action may be taken without first holding a disciplinary hearing “if institution of proceedings for a hearing before the Board are initiated simultaneously with the temporary action and [the hearing] begin[s] within fifteen days of the [summary] action.” W. Va. Code §30-3-14(k).

The West Virginia Board of Medicine [“the Board”] hereby **SUMMARILY SUSPENDS** the license of Yasar Aksoy, M.D. (“Dr. Aksoy”), License No. 14953, to practice medicine and surgery in the State of West Virginia, effective immediately. The Board simultaneously provides this notice to Dr. Aksoy that proceedings for a hearing upon the underlying charges are hereby instituted, and a hearing will commence on **June 7-8, 2017**, as set forth in the Notice of Hearing hereinbelow, and within fifteen days of the summary action.

FINDINGS OF FACT

Evidence considered by the Board in rendering this Order supports the following preliminary findings of fact.¹

Current Licensure Status with the Board

1. Dr. Aksoy holds an unrestricted, active status license to practice medicine in the State of West Virginia, License No. 14953.
2. Dr. Aksoy's West Virginia medical license was originally issued by the Board on or about January 12, 1987.
3. Dr. Aksoy's self-identified medical specialty is family practice.
4. Dr. Aksoy currently practices medicine in Raleigh County at 103 Beckley Plaza Mall, Beckley, West Virginia.
5. Dr. Aksoy is an independent medical practitioner.
6. Dr. Aksoy does not practice medicine through a medical corporation or professional limited liability corporation.

Background and Matters Currently Pending Before the Board

7. On or about February 23, 2016, the West Virginia Board of Medicine received a patient complaint, Complaint No. 16-25-H, submitted on behalf of one of Dr. Aksoy's former patients.
8. On July 15, 2016, the Board received a written report from the West Virginia Department of Health and Human Resources' Office of Health Facility Licensure and Certification

¹ Inasmuch as this is a summary action for temporary discipline, no hearing has yet occurred. In recognition of the fact that a public hearing must occur before permanent action can be taken against the licensee, the findings of fact reported herein are characterized as preliminary in nature and are made in support of this summary action.

Chronic Pain Clinic Program, [OHFLAC] identifying alleged professional misconduct committed by Dr. Aksoy. At its meeting on Tuesday, August 2, 2016, the Complaint Committee elected to initiate its own complaint, Initiated Complaint No. 16-113-W, to investigate the professional misconduct allegations reported to the Board by OHFLAC.

9. Ultimately, the Board determined that probable cause exists to institute disciplinary proceedings against Yasar Aksoy, M.D. upon both complaints, for violations of the professional conduct standards set forth in the West Virginia Medical Practice Act, West Virginia Code § 30-3-1 *et seq.*

10. Thereafter, the Board issued a Complaint and Notice of Hearing instituting disciplinary charges against Dr. Aksoy, and setting forth twenty counts of alleged professional misconduct.

11. A hearing is scheduled upon the Complaint and Notice of Hearing for June 7-8, 2017 before Hearing Examiner Jack C. McClung, Esquire. A copy of the Complaint and Notice of Hearing is attached hereto as Exhibit A.

12. Throughout the pendency of Complaint Nos. 16-25-H and 16-113-W, and during the pre-hearing contested case proceedings, Dr. Aksoy has repeatedly, upon his own initiative and without prompting, notified the Board that he intends to close his medical practice. *See* Exhibit B.²

13. Despite repeated notices indicating that he would be closing his office, Dr. Aksoy has not closed his medical practice, and he remains in practice in Beckley, West Virginia. *See* Exhibit C.³

² An unredacted copy of Exhibit B is on file with the West Virginia Board of Medicine under seal of confidentiality.

³ An unredacted copy of Exhibit C is on file with the West Virginia Board of Medicine under seal of confidentiality.

Conduct Constituting Immediate Danger to the Public

14. On March 14, 2017, the West Virginia Department of Health and Human Resources filed a Verified Petition for Injunctive Relief and a Proposed Temporary Restraining Order in the Circuit Court of Raleigh County seeking to enjoin Dr. Aksoy from operating his medical practice as a chronic pain management clinic in violation of West Virginia Code §§ 16-5H-1 *et seq.* Exhibit D.

15. On May 12, 2017, a hearing was convened before the Honorable Andrew Dimlich of the Tenth Judicial Circuit upon WVDHHR's Petition. The Court advised the parties from the bench that WVDHHR's request for a restraining order was granted, and that Dr. Aksoy was prohibited from continuing to prescribe opioid medications to alleviate pain.

16. On May 15, 2017, Judge Dimlich issued a written Temporary Restraining Order against Dr. Aksoy. Exhibit E.

17. In the May 15, 2017 Order, the Court Ordered Dr. Aksoy to "immediately cease operation of his medical practice to the extent that he issues prescriptions for opioid drug products or other Schedule II or III controlled substances whose purpose is to alleviate pain." Exhibit E, p. 5.

18. An opioid drug product, or opiate, is any substance having an addiction-forming or addiction-sustaining liability, similar to morphine, or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. W. Va. Code §60A-1-101(s).

19. As a basis for its ruling, the Court made the following conclusions of law:

- a. Dr. Aksoy despite his denials continued to operate a pain clinic as the term is defined in West Virginia law.

- b. Dr. Aksoy has insufficient training to operate a pain clinic.
- c. Dr. Aksoy is not properly licensed to operate a pain clinic.
- d. Dr. Aksoy has refused to voluntarily cease his operations as a pain clinic.
- e. Petitioner, acting to protect the public and specifically the citizens of West Virginia will suffer irreparable harm if the petition for a temporary restraining Order is not granted.

Exhibit E, pp. 4-5.

20. On May 23, 2017, Dr. Aksoy issued a prescription to D.C., a long-time patient, for one hundred tablets of Percocet 10/325.⁴ A copy of the prescription is attached hereto as Exhibit F.⁵

21. Percocet is the brand name for an opioid drug product which is a combination of oxycodone and acetaminophen.

22. Percocet is a Schedule II Controlled Substance, and its medicinal purpose is to alleviate pain.

23. On May 24, 2017, D.C. presented the May 23, 2017 Percocet prescription written by Dr. Aksoy to Adkins Pharmacy for dispensing.

24. The Adkins Pharmacy is located in Gilbert, West Virginia in Mingo County.

25. Adkins Pharmacy is sixty-seven miles from Dr. Aksoy's Beckley, West Virginia medical practice. *See* Exhibit G.

26. Adkins Pharmacy refused to fill Dr. Aksoy's May 23, 2017 prescription for Percocet, and conveyed the prescription to the Raleigh County Sheriff's Department. *See* Exhibit F.

⁴ D.C.'s full name is on file with the Board.

⁵ An unredacted copy of Exhibit F is on file with the Board, under seal of confidentiality.

27. On May 25, 2017, the Board received a copy of the May 23, 2017 prescription, and an investigator for the West Virginia Board of Medicine (“Board Investigator”) conducted a verbal interview with the Adkins Pharmacy pharmacist about the incident.

28. Prior to declining to fill the May 23, 2017 prescription, the pharmacist reviewed the prescription appearing as part of Exhibit F and recognized Dr. Aksoy’s signature. The pharmacist made a copy of the prescription, and advised the patient that she would not fill the prescription.

29. The pharmacists also notified the Board Investigator that earlier in the day on May 25, 2017, she had received a call from Dr. Aksoy’s medical practice asking whether the pharmacy would fill a prescription for an opioid product written by Dr. Aksoy for a different patient.

30. The pharmacist notified Dr. Aksoy and his staff that she would not fill any opioid prescriptions issued by Dr. Aksoy.

31. Since May 15, 2017, Dr. Aksoy has issued one or more prescriptions for opioid drug products, including at least one prescription for a Schedule II controlled substance.

32. Dr. Aksoy’s issuance of one or more prescriptions for opioid drug products, including at least one prescription for a Schedule II controlled substance, violates the Temporary Restraining Order issued by the Raleigh County Circuit Court on May 15, 2017.

33. Dr. Aksoy’s violation of the Temporary Restraining Order does not form the basis of any of the charges currently pending and scheduled for Hearing on June 7-8, 2017.

34. Based upon the conclusions of law made by the Circuit Court in support of its Temporary Restraining Order, and Dr. Aksoy’s flagrant violation of the Temporary Restraining Order, his continued practice of medicine constitutes an immediate danger to the public.

CONCLUSIONS OF LAW

1. The West Virginia Board of Medicine is 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). Accordingly, Dr. Aksoy’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. W.Va. Code § 30-3-5 and § 30-3-7(a).

2. The Board has jurisdiction over the subject matter and over the Respondent. W. Va. Code § 30-3-5.

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.

4. The general provisions applicable to state licensing and examination Boards, authorize the Board to promulgate 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.” W.Va. Code § 30-1-8(c).

5. The Board’s Legislative Rule Series 1A, *Licensing and Disciplinary Procedures: Physicians; Podiatrists*, enumerates additional conduct for which discipline may be imposed, including conduct which constitutes dishonorable, unethical and/or unprofessional conduct. W. Va. Code R. § 11-1A-12 (2007).

6. The Board is authorized to impose one or more of the following disciplinary measures, as appropriate:

- a. Denial of an application for a license or other authorization to practice medicine and surgery or podiatry;
- b. Administer a public reprimand;
- c. Issue a suspension, limitation or other restriction upon a license for a period of up to five years;
- d. Suspend, limit or restrict his or her license or other authorization to practice medicine and surgery or podiatry for up to five years;
- e. Revoke a license or other authorization to practice medicine and surgery or podiatry or to prescribe or dispense controlled substances for up to ten years;
- f. Require a licensee “to submit to care, counseling or treatment designated by the Board as a condition for initial or continued licensure or renewal of licensure or other authorization to practice medicine and surgery or podiatry”;
- g. Require participation in a program of education;
- h. Require supervised practice for a specified period of time; and
- i. Assess a fine.

W. Va. Code § 30-3-14(j); *See also* W. Va. Code R. § 11-1A-12.3 (2007).

7. West Virginia Code § 30-3-14(k) further provides that “if the board determines the evidence in its possession indicates that a physician’s continuation in practice or unrestricted practice constitutes an immediate danger to the public, the board may take any of the actions provided for in subsection (j) of this section on a temporary basis and without a hearing, if institution of procedures for a hearing before the board are initiated simultaneously with the temporary action and begin within fifteen days of the action. The board shall render its decision within five days of the conclusion of a hearing under this subsection.” *Id.*

8. An emergency meeting of the West Virginia Board of Medicine was convened at 5:00 p.m. on Thursday, May 25, 2017 to consider whether Dr. Aksoy’s continuation in practice constitutes an immediate danger to the public.

9. A quorum of the Board was present for this emergency meeting. The Board was provided with and had the opportunity to review Exhibits A through G, which are attached hereto and incorporated herein by reference.

10. At the May 25, 2017 emergency meeting, with a quorum of the Board present and voting, the Board determined that Dr. Aksoy's continued prescribing of opioid drug products in violation of the Temporary Restraining Order issued by the Raleigh County Circuit Court, as evidenced by the May 23, 2017 prescription issued by Dr. Aksoy to D.C. for Percocet, constitutes an immediate danger to the public.

11. At the May 25, 2017 emergency meeting, with a quorum of the Board present and voting, the Board determined that evidence in its possession indicates Dr. Aksoy's continuation in practice or unrestricted practice constitutes an immediate danger to the health, welfare and safety of the public.

12. In addition to constituting an immediate danger to the health, welfare and safety of the public, Dr. Aksoy's continued prescribing of opioid drug products in violation of the Temporary Restraining Order issued by the Raleigh County Circuit Court violates the professional conduct standards set forth in the West Virginia Medical Practice Act and the Board's legislative rules, including but not limited to:

- a. W. Va. Code §30-3-14(c)(17) and W. Va. Code R. §11-1A-12.1.o, related to failing to perform any statutory or legal obligation placed upon a physician; and/or
- b. W. Va. Code §30-3-14(c)(17) and W. Va. Code R. §11-1A-12.1.bb, relating to the violation of any law or lawfully promulgated rule or regulation of this State which relates to or regulates the practice of medicine when the licensee knew or should have known his or her actions violated the law. and/or

- c. W. Va. Code §30-3-14(c)(17) and W. Va. Code R. §11-1A-12.1.e, related to engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof; and/or
- d. W. Va. Code §30-3-14(c)(17) and W. Va. Code R. §11-1A-12.1.j, related to engaging in unprofessional conduct, including, but not limited to, any departure from or failure to conform to, the standards of acceptable and prevailing medical practice or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby; and/or
- e. W. Va. Code §30-3-14(c)(17) and W. Va. Code R. §11-1A-12.2.d, related to conduct which is calculated to bring or has the effect of bringing the medical profession into disrepute, including, but not limited to, any departure from or failure to conform to the standards of acceptable and prevailing medical or podiatric practice within the state, and any departure or failure to conform to the current principles of medical ethics of the AMA; and/or
- f. W. Va. Code §30-3-14(c)(17) and W. Va. Code R. §11-1A-12.2.a.B, related to prescribing a controlled substance with the intent to evade any law with respect to the sale, use or disposition of the controlled substances.

13. The Board concluded, as a matter of law, that such a danger to the public demands extraordinary measures, and the Board, with a quorum of the Board present and voting, therefore found, with no dissenting votes, that in accordance with its statutory mandate to protect the public interest, the license to practice medicine of Dr. Aksoy, license number 14953, must be summarily **SUSPENDED**, in accordance with the provisions of W. Va. Code §30-3-14(k) and W. Va. Code R. §11-3-10.16 (2010).

ORDER

WHEREFORE, the Board hereby **ORDERS** that the license to practice medicine and surgery of Yasar Aksoy, M.D. (“Dr. Aksoy”), License No. 14953, is **SUSPENDED**, effective at 11:59p.m. on the date that this Order is lawfully served upon Dr. Aksoy. A return of service evidencing the date of service shall be affixed to the original of this Order, and shall serve as evidence of the effective date of this Order.

NOTICE OF HEARING

Under the provisions of W.Va. Code §30-3-14(k) and W. Va. Code R. §11-3-10.16, if summary disciplinary action is taken by the Board pursuant to these sections, proceedings for a hearing before the Board must be initiated simultaneously with the temporary action, and must commence within fifteen days of such action.

A public hearing upon the Complaint and Notice of Hearing issued in association with Complaint Nos. 16-25-H and 16-113-W is currently scheduled for June 7-8, 2017 before Hearing Examiner Jack McClung, Esquire. Dr. Aksoy received notice of this hearing via personal service on March 9, 2017 and on March 28, 2017.

Dr. Aksoy is hereby notified that the hearing upon his summary suspension will occur before Hearing Examiner McClung on **June 7-8, 2017, immediately following the conclusion of his currently scheduled public hearing upon Complaint Nos. 16-25-H and 16-113-W.** The purpose of the hearing is to receive evidence regarding the contents of this Order. Such hearing, if not concluded on the scheduled date, shall continue thereafter upon mutually agreeable dates, and as expeditiously as possible. At this hearing, Dr. Aksoy must be present in person, and may be accompanied by counsel if he so desires. He may present any witnesses and/or evidence that he desires to present on his behalf to show cause as to why his license to practice medicine and surgery

not concluded on the scheduled date, shall continue thereafter upon mutually agreeable dates, and as expeditiously as possible. At this hearing, Dr. Aksoy must be present in person, and may be accompanied by counsel if he so desires. He may present any witnesses and/or evidence that he desires to present on his behalf to show cause as to why his license to practice medicine and surgery in West Virginia should not be subject to continued suspension and/or additional or further restriction. The Hearing Examiner is hereby delegated the authority to receive and rule upon any non-dispositive pre-trial motions filed by the parties.

So **ORDERED** and hereby **NOTICED FOR HEARING** by the Board.

WEST VIRGINIA BOARD OF MEDICINE



Ahmed D. Faheem, M.D.
President

5/30/17

Date



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

May 26, 2017

Date

Original Order Summary Suspended in the
MATTER OF NASAR AKSOY, MD
was hand delivered to NASAR AKSOY
MD AT 10:00 AM - 2017

this 30th day of May, 2017


Leslie A. Inghram
WEST VIRGINIA BOARD OF MEDICINE

**Exhibits on File with
the West Virginia
Board of Medicine**