

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE:

WILLIAM DOUGLAS GIVEN, M.D.

CONSENT ORDER

The West Virginia Board of Medicine ["Board"] and William Douglas Given, M.D. ["Dr. Given"] freely and voluntarily enter into the following Consent Order pursuant to West Virginia Code § 30-3-14, *et seq.*:

FINDINGS OF FACT

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

1. Dr. Given holds a West Virginia medical license, No. 13986, which license was first issued in 1984. Dr. Given's address of record with the Board is in Gassaway, West Virginia.
2. On or about January 10, 2016, the Complaint Committee of the West Virginia Board of Medicine initiated a Committee complaint against Dr. Given to investigate allegations of improper prescribing.
3. The Committee complaint, designated Complaint No. 16-02-W, was initiated based upon an anonymous complaint received by the Committee which asserted that Dr. Given improperly prescribed narcotic pain medication and other medication to a female patient.
4. The Complaint Committee conducted an investigation into Complaint No. 16-02-W.

5. In association with its investigation, the Committee sought medical records for ten individuals (Patients 1 through 10) for whom Dr. Given had prescribed controlled substances. Dr. Given produced the requested records in a timely fashion.
6. The Board obtained an expert review of Dr. Given's medical records.
7. Dr. Given's medical records for Patients 2, 4, 5, 6, 7 and 10 were adequate, and did not demonstrate any significant departure from the standard of care.
8. The Board's expert review determined that significant concerns exist regarding Dr. Given's treatment of and medical recordkeeping for Patients 1, 3, 8 and 9. With regard to each of these four patients, the medical record in whole or in part failed to legibly document required elements of a history and physical examination sufficient to support the course of treatment, including Dr. Given's prescribing rationale and protocol for Patients 1, 3, 8 and 9.
9. Dr. Given contends that his treatment of Patients 1 through 10 was appropriate and within the standard of care. However, Dr. Given concedes that his medical recordkeeping could be improved.
10. The Board and Dr. Given voluntarily enter into this Consent Order to resolve Complaint No. 16-02-W, and to establish appropriate terms and conditions upon Dr. Given's practice of medicine in West Virginia.

CONCLUSIONS OF LAW

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

1. Dr. Given'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.” W. Va. Code R. § 11-1A-12.

4. Probable may exist to substantiate disciplinary charges against Dr. Given pursuant to the West Virginia Medical Practice Act and the Board’s legislative rules including, but not limited to, the following provisions:

- a. W. Va. Code § 30-3-14(c)(11), W. Va. Code R. § 11-1A-12.1.u, and W. Va. Code R. § 11-1A-12.1.jj, relating to the failure to keep written records to justify the course of treatment; and/or
- b. W. Va. Code § 30-3-14(c)(13) relating to prescribing a controlled substance other than in good faith and in a therapeutic manner in accordance with accepted medical standards and in the course of the physician's professional practice; and/or

c. W. Va. Code § 30-3-14(c)(17) and W. Va. Code R. § 11-1A-12.1.bb and 12.1.o, relating to the knowing violation of any law or lawfully promulgated rule or regulation of this State, any other state, the Board, the United States or any other lawful authority and/or a failure to perform a statutory and/or legal obligation.

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

6. This Consent Order sets forth reasonable, appropriate and necessary terms, conditions and accommodations upon the practice of medicine and surgery by Dr. Given in West Virginia.

CONSENT

By signing his name to this Consent Order, William Douglas Given, M.D., acknowledges that he understands and agrees with the following:

1. Dr. Given has read and understands this entire Consent Order;
2. Dr. Given agrees that he has been given adequate time and opportunity to review and consider the terms set forth in this Consent Order;
3. Dr. Given understands that he has the right to legal representation in this matter, at his own expense, and agrees that he has exercised this right, and has been afforded adequate time and opportunity to consult with his counsel regarding the legal effect of this Consent Order;

4. Dr. Given 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. Given 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. Given 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 Dr. Given has exercised, Dr. Given 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. Given 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. Given 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 file 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. Given, the West Virginia Board of Medicine hereby ORDERS as follows:

1. With respect to each patient for whom Dr. Given prescribes controlled substances on a regular basis, Dr. Given shall:
 - a. Execute a controlled substance agreement;
 - b. Conduct patient drug screens at reasonable intervals to monitor compliance with the patient's medication regimen;
 - c. Conduct random pill counts to monitor compliance with the patient's medication regimen;
 - d. Utilize the West Virginia Controlled Substance Monitoring Program database as required by W. Va. Code § 60A-9-5(a); and
 - e. Maintain documentation in the patient medical record of:
 1. All controlled substance agreements;
 2. All drug screen results and any discussion thereof with the patient;
 3. All random pill counts; and
 4. All West Virginia Controlled Substance Monitoring Program database reviews conducted.
2. At his own expense, Dr. Given shall enroll in and successfully complete Professional Boundaries, Inc.'s Medical Record Keeping Course, Course Number MR-17,

including all pre-course and post-course requirements. To satisfy this requirement, Dr. Given must complete all pre-course requirements and attend and successfully complete this course:

- a. on June 24-25, 2017 in Irvine, California;
- b. on July 22-23, 2017 in Chicago, Illinois;
- c. on August 5-6, 2017 in Irvine, California; or
- d. on August 19-20, 2017 in Atlanta, Georgia.

3. Dr. Given shall provide the Board with a copy of his enrollment confirmation from the CME provider on or before June 30, 2017, and he shall submit acceptable documentation from the CME provider of his successful completion of the course to the Board within ten days of his completion of the course.

4. Successful completion of the CME course required by Paragraph 2 of this Order shall be determined solely by the CME provider. A determination by the CME provider that Dr. Given has failed to successfully complete any program requirement, including pre or post program requirements, shall provide shall constitute clear and convincing evidence for the Board to take further action with respect to Dr. Given's West Virginia medical license, including the imposition of additional discipline.

5. Dr. Given may not utilize any CME hours he earns pursuant to his participation in the CME courses required by Paragraph 2 of this Order to satisfy his biennial continuing medical education obligation pursuant to W. Va. Code R. § 11-6-3.1 (2013).

6. In each of the next three calendar years (2018, 2019, and 2020), and without prior notice to Dr. Given, the West Virginia Board of Medicine shall conduct a chart review of Dr. Given's medical records. Upon request, Dr. Given shall immediately provide the Board's Investigator with on-site access to all of his medical records/charts for active patients. Upon

request, Dr. Given shall also produce a complete and legible copy of up to ten medical records/charts selected by the Board's Investigator for off-site review by the Board within five business days of such request.

7. In the event that Dr. Given fails to successfully complete the required CME by the deadline set forth in Paragraph 2, or fails to cooperate with a Board of Medicine random chart review as required by Paragraph 6 of this Order, Dr. Given agrees that such conduct would constitute a material breach of the terms and conditions of this Consent Order such that his license to practice medicine and surgery in West Virginia may be suspended, without further process or hearing, pending his successful completion of these requirements. Dr. Given further agrees and understands that he may be subject to additional disciplinary processes, as permitted by law, for any violation of the terms of this Consent Order.

8. Dr. Given shall maintain his patient records in a manner that comports with the requirements of the West Virginia Medical Practice Act and the Board's legislative rules, and he shall, at all times, fully comply with all of the professional practice requirements of the West Virginia Medical Practice Act as set forth in W. Va. Code § 30-3-1 *et seq.*, and in the Board's legislative rules, including but not limited to W. Va. Code R. § 11-1A-1 *et seq.* and W. Va. Code R. § 11-10-1 *et seq.*

9. 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:

June 27, 2017

WEST VIRGINIA BOARD OF MEDICINE



Ahmed Daver Faheem, M.D.
President



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

ACCEPTANCE

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

William Douglas Given M.D.
William Douglas Given, M.D.

Date: 6/9/17

STATE OF West Virginia

COUNTY OF Braxton, to-wit:

I, Cynthia R. Short, a Notary Public for said county and state do hereby certify that William Douglas Given, M.D., whose name is signed herein above has this day acknowledged the same before me.

Given under my hand this 9th day of June, 2017. My
Commission expires September 26, 2019
Cynthia R. Short, Notary Public

