

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE:

JOHN WOODRUFF KESSEL, M.D.

CONSENT ORDER

The West Virginia Board of Medicine ("Board") and John Woodruff Kessel, M.D. ("Dr. Kessel") 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. Kessel stipulate to the truthfulness and accuracy of the facts, as set forth herein below:

1. John Woodruff Kessel, M.D. [Dr. Kessel], holds an inactive status license (#16526) to practice medicine and surgery in the state of West Virginia. His address of record with the Board is in Hickory, North Carolina.

2. Dr. Kessel was first granted active status licensure by the Board in July 1991. Dr. Kessel's West Virginia medical license has been in inactive status since July 2004. Board records indicate that Dr. Kessel was also licensed to practice Medicine in North Carolina.

3. On October 27, 2014, Dr. Kessel was arrested in Catawba County North Carolina. He was charged with one count of felony trafficking of opiates, a Class

E felony. As of the entry of this Consent Order, the criminal charges against Dr. Kessel remain unresolved.

4. On or about November 1, 2014, Dr. Kessel surrendered his North Carolina medical license.

5. On January 11, 2015, the Complaint Committee of the West Virginia Board of Medicine initiated a complaint against Dr. Kessel related to the pending criminal charges.

6. In response to the Complaint, Dr. Kessel indicated an interest effectuating a voluntarily surrender of his West Virginia medical license.

7. The Board and Dr. Kessel voluntary enter into this Consent Order to resolve the complaint initiated against Dr. Kessel and to protect the public interest.

CONCLUSIONS OF LAW

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

1. Dr. Kessel'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 cause may exist to substantiate disciplinary charges against Dr. Kessel and disqualify him from licensure pursuant to W. Va. Code §30-3-14(c)(17), W. Va. Code R. §§ 11-1A-12.1.e, 12.1.j, 12.1.o, and 12.1.bb, and W. Va. Code R. § 11-1A-12.2.d., relating to: dishonorable, unethical or 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; failing to perform any statutory or legal obligation placed upon a licensed physician and/or violating any law or lawfully promulgated rule or regulation of this State, any other state, the Board, the United States or any other lawful authority (without regard to whether the violation is criminally punishable), which law or rule or regulation relates to or in part regulates the practice of medicine, when the licensee or applicant knows or should know that such action is violative of the law, rule or regulation; and/or conduct which is calculated to bring or has the effect of bringing the medical or podiatric profession into disrepute.

5. It is appropriate and in the public interest to permit Dr. Kessel to surrender his West Virginia medical license.

CONSENT

By signing his name to this Consent Order, John Woodruff Kessel, M.D., acknowledges that he understands and agrees with the following:

1. Dr. Kessel has read and understands this entire Consent Order;
2. Dr. Kessel agrees that he has been given adequate time and opportunity to review and consider the terms set forth in this Consent Order;
3. Dr. Kessel 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. Kessel 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. Kessel 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. Kessel 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. Kessel knowingly and voluntarily waives all such rights, and agrees to the entry of this Consent Order relative to his practice of medicine in the State of West Virginia;

8. Dr. Kessel acknowledges that by signing this Consent Order, he is relinquishing his license to practice medicine and surgery in West Virginia, and may not be eligible for reinstatement or reactivation in the future; and

9. Dr. Kessel 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 may be reported to other jurisdictions, the National Practitioner Data Bank and 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. Kessel, the West Virginia Board of Medicine hereby **ORDERS** as follows:

1. Effective upon the entry of this Order, Dr. Kessel's license to practice medicine and surgery in West Virginia, license number 16526, is hereby **SURRENDERED** to the Board;

2. 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: April 1, 2015

WEST VIRGINIA BOARD OF MEDICINE



Ahmed D. Faheem, M.D.
President

Date: 3.26.15



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

Date: 3/30/15

ACCEPTANCE

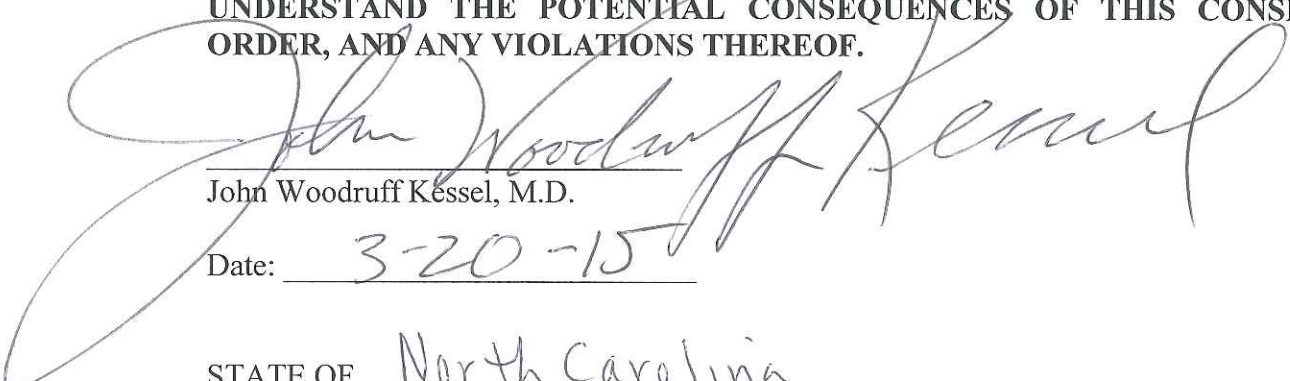
I, JOHN WOODRUFF KESSEL, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT ORDER. I HAVE BEEN GIVEN SUFFICIENT TIME AND OPPORTUNITY TO CONSIDER THIS CONSENT ORDER, AND I

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 CONSULT WITH AN ATTORNEY AND OBTAIN LEGAL ADVICE REGARDING MY ACCEPTANCE OF THIS CONSENT ORDER.

I AM SIGNING THIS CONSENT ORDER VOLUNTARILY, AND I UNDERSTAND THE POTENTIAL CONSEQUENCES OF THIS CONSENT ORDER, AND ANY VIOLATIONS THEREOF.


John Woodruff Kessel, M.D.

Date: 3-20-15

STATE OF North Carolina

COUNTY OF Catawba, to-wit:

I, Betty Winstead, a Notary Public for said

county and state do hereby certify that John Woodruff Kessel, M.D., whose name is signed herein above has this day acknowledged the same before me.

Given under my hand this 20 day of March, 2015.

My Commission expires 8-13-2019

Betty Winstead

Notary Public

