BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE:

ROBERT A. CAVENEMY, M.D.

CONSENT ORDER

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

1. Dr. Caveney holds a West Virginia medical license, No. 12546, which was first issued in 1981.

2. Dr. Caveney last submitted a renewal application for his medical license on May 13, 2016, for the renewal period of July 1, 2016 through June 30, 2018. His license will expire June 30, 2018, unless renewed on or before that date.

3. On his 2016 renewal application, Dr. Caveney certified to the Board that he had complied with all Continuing Medical Education ("CME") requirements for the renewal of his license.

4. To accurately certify compliance with the CME requirements for the July 2016 through June 2018 renewal cycle, a licensee was required to have completed a minimum of three (3) hours in a Board approved course on drug diversion training and best practice prescribing of controlled substances (or received a waiver from the Board for this CME because the licensee did not prescribe,
administer or dispense any controlled substances whatsoever between July 1, 2014 and June 30, 2016).

Additionally, the licensee must have:

a. Completed a total of fifty (50) hours of CME credits, as described in W. Va. Code R. §11-6-3.2.1, between July 1, 2014 and June 30, 2016; or

b. Be ABMS board certified and possess documentation of successful involvement in maintenance of certification from the ABMS member board for the period of July 1, 2014 through June 30, 2016;

5. A licensee may also receive up to twenty (20) hours of CME credit for teaching medical education courses to medical students, residents or licensed physicians, or by serving as a preceptor to medical students or residents as described in W. Va. Code R. §11-6-3.2.2.

6. On or about December 28, 2016, the Board notified Dr. Caveney that he had been randomly selected for the Board’s annual CME audit.

7. Dr. Caveney was unable to produce documentation corroborating his certification that he successfully completed his CME requirements for the period of July 1, 2014 and June 30, 2016 within the requisite time frame.

8. The documentation provided by Dr. Caveney supports his completion of all CME requirements during the requisite time frame except a minimum of three (3) hours in a Board approved course on drug diversion training and best practice prescribing of controlled substances.

9. Dr. Caveney avers that in May and June of 2016, he attended two (2) CME seminars that each included 1.5 credit hours on the topic of pain management, which he believed satisfied the CME requirement to complete three (3) hours in drug diversion training and best practice prescribing of controlled substances for the period of July 1, 2014 through June 30, 2016.
10. However, the two (2) courses referenced by Dr. Caveney were not Board approved courses on drug diversion training and best practice prescribing of controlled substances. As such, Dr. Caveney’s representation in his 2016 reinstatement application that he had completed a board approved course on drug diversion training and best practice prescribing of controlled substances for the period of July 1, 2014, through June 30, 2016, was inadvertent.

11. On May 4, 2017, Dr. Caveney completed a three (3) hour Board approved course on drug diversion training and best practice prescribing of controlled substances.

12. The Board and Dr. Caveney voluntarily enter into this Consent Order to resolve the complaint initiated against Dr. Caveney and to protect the public interest.

CONCLUSIONS OF LAW

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

1. Dr. Caveney’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
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an individual unqualified or unfit for licensure, registration or other authorization to practice.” See W. Va. Code R. §11-1A-12.


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

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

7. The discipline imposed by this Consent Order does not relate to the delivery of health care services by Dr. Caveney.

CONSENT

By signing his name to this Consent Order, Robert A. Caveney, M.D., acknowledges that he understands and agrees with the following:

1. Dr. Caveney has read and understands this entire Consent Order;

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

3. Dr. Caveney 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;
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4. Dr. Caveney 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. Caveney 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. Caveney 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. Caveney 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. Caveney 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. Caveney 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 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. Caveney, the West Virginia Board of Medicine hereby ORDERS as follows:

1. To satisfy his CME deficiency for the reporting period of July 1, 2014 through June 30, 2016, on May 4, 2017, Dr. Caveney completed a Board approved course on drug diversion training and best practice prescribing of controlled substances. The Board accepts this course in satisfaction of Dr. Caveney's CME requirements for the July 1, 2014 through June 30, 2016 reporting period.

2. Dr. Caveney may not utilize the May 4, 2017, CME course on drug diversion training and best practice prescribing of controlled substances in satisfaction of any of his CME requirements for any other reporting period, including the current period of July 1, 2016 through June 30, 2018.

3. Dr. Caveney is hereby assessed a CIVIL FINE in the amount of five hundred dollars ($500.00) for his CME delinquency and deficiencies. Dr. Caveney's payment of the fine must be received by the Board on or before Friday, October 13, 2017.

4. No later than twenty (20) days after the entry of this Consent Order, Dr. Caveney shall review the Board's Legislative Rule, Continuing Education for Physicians and Podiatrists, W. Va. Code R. §11-6-1 et seq., to ensure that he is familiar with his CME obligations for the current reporting cycle. Within thirty (30) days of the entry of this Order, Dr. Caveney shall provide written certification, with his original and dated signature, to the Board indicating that he has read and fully understands his CME obligations for the July 1, 2016, through June 30, 2018, reporting period.
5. Dr. Caveney 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, and further agrees to comply with the terms of this Consent Order. In the event that Dr. Caveney fails to comply with the terms of this Order by the established deadlines, the Board may elect to take any other action with regard to Dr. Caveney’s license which is authorized by law.

6. 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: September 25, 2017

WEST VIRGINIA BOARD OF MEDICINE

Ahmed D. Faheem, M.D.
President

Date: 9-21-17

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

Date: 9-18-17
ACCESSION

I, ROBERT A. CAVENY, 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.

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

Robert A. Caveney, M.D.

Date: 9/5/17

STATE OF WV
COUNTY OF Marshall, to-wit:

I, REBECCA JO JONES, a Notary Public for said county and state do hereby certify that Robert A. Caveney, M.D., whose name is signed herein above has this day acknowledged the same before me.

Given under my hand this 5th day of Sept., 2017.

My Commission expires April 8, 2022.

Rebecca Jo Jones
Notary Public