BEFORE THE WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

Jeri Lin Campbell,
Complainant,

v. Complaint No. 2017-24

Robert J. Fanning, JR., D.O.,
Respondent.

AGREED ORDER

Jeri Lin Campbell (hereinafter referenced as the "Complainant") has initiated a complaint against the Respondent, Robert J. Fanning, Jr., D.O., alleging that he engaged in unprofessional conduct, practices, and acts that fail to conform to the standards of acceptable and prevailing medical practice and may pose a risk to members of the public. After the Board has investigated the facts relating to this complaint and undertaken a discussion with the Respondent, the Board and the Respondent have reached an agreement as to an appropriate disposition of the complaint.

The West Virginia Board of osteopathic Medicine and Robert J. Fanning Jr., D.O. therefore agree to entry of the following Order:

FINDINGS OF FACT

1. The Respondent, ROBERT J. FANNING, JR., D.O. is a licensee of the Board holding Board-issued license #1431 to practice osteopathic medicine and surgery in the State of West Virginia.

2. On June 26, 2017 the Board received a complaint alleging that Respondent engaged in unprofessional conduct toward Complainant during a procedure on a patient. These allegations are expressly denied by Respondent.
3. The West Virginia Board of Osteopathic Medicine finds that the Respondent's continued practice of osteopathic medicine requires a program of recovery, treatment and monitoring under terms that may be revoked or modified at any time that there is probable cause to believe that such program should be modified.

CONCLUSIONS OF LAW

1. The West Virginia Board of Osteopathic Medicine is a board of examination and registration created for the purpose of regulating the practice of osteopathic medicine and surgery and the practice of osteopathic physician assistants in the State of West Virginia. W.Va. Code §§ 30-14-1 and 30-14A-1.

2. The West Virginia Board of Osteopathic Medicine is authorized to deny, suspend or revoke the license of an osteopathic physician when such physician is habitually addicted to the use of habit-forming drugs or alcohol.

3. The West Virginia Board of Osteopathic Medicine is authorized to enter into consent decrees and probation orders where such instruments may afford reasonable supervision and oversight of any person, subject to the licensing requirements of the Board, for the benefit of the practice of osteopathic medicine and protection of the public interest. W.Va. Code § 30-1-8(e).

RESPONDENT'S ACKNOWLEDGMENT OF RIGHTS

I, Robert J. Fanning, Jr., D.O., having read this document and, by signing my name to it, I understand and acknowledge the following:

1. This is a legally binding document that affects my rights and privileges.

2. I have the right to consult a lawyer concerning the terms of this agreement and the legal rights and remedies that may otherwise be available to me.

3. I understand that I have a right to a hearing regarding any charges against me or any action taken against my license. The West Virginia Board of Osteopathic Medicine may not
suspend, revoke or take any other disciplinary action regarding my license unless one of three conditions occur: 1) I give my consent to entry of an order restricting, suspending or revoking my license, or 2) the West Virginia Board of Osteopathic Medicine conducts a hearing before imposing any restriction, suspension or revocation, or 3: the Board finds that my continuation in practice constitutes an immediate danger to the public.

4. I understand that, instead of accepting this agreement, I may demand that the Board of Osteopathic Medicine prove the charges against me by presenting evidence in a hearing conducted under law. If I chose to have a hearing, I would not have the burden of proof. I could, however, present evidence in my own behalf and I would have the right to cross-examine any witnesses who might testify against me. I also understand that I have the right to subpoena witnesses and records in order to compel their production at the hearing.

5. I acknowledge that this agreement is also a legally-binding order. If I accept this agreement, I admit to violation of standards of professional conduct. I also acknowledge and admit that, if I violate any terms and conditions of this order, my violations would constitute an immediate danger to the public and that, for such reasons, the Board may suspend or revoke my license without a prior hearing.

6. I understand that this is a public document and that the Board is legally obligated to allow any person to review this Consent Order. I also understand that this action and order may be reported to other jurisdictions and to the National Practitioner Data Bank and to the Federation of State Medical Boards

TERMS OF ORDER

1. The West Virginia Board of Osteopathic Medicine hereby REPRIMANDS Robert J. Fanning, Jr., D.O., for engaging in unprofessional conduct and hereby orders the following:

   a. The Respondent shall pay a fine of twenty-five hundred dollars for violation of the rules of the Board.
b. The Respondent shall continue as a participant with the West Virginia Medical Professionals Health Program (WVMPHP);

c. The Respondent shall comply with all treatment recommendations and requirements established by his WVMPHP agreement.

d. The Respondent's agreement with the WVMPHP shall include comprehensive monitoring with documentation of compliance.

e. The WVMPHP will provide written documentation on a quarterly basis verifying the Respondent's compliance with all aspects of his agreement with the WVMPHP.

f. The Respondent will conduct himself in a professional manner in all aspects of his work and practice and will remain free of any charges of unprofessional conduct or disciplinary action before this Board, any corresponding board in any other jurisdiction, any other state or federal agency, or before any hospital, peer review committee, or medical corporation or partnership;

g. The Respondent will be truthful and forthright in all communications with the Board; and

h. The Respondent shall not violate, or be charged with, any criminal laws of the State of West Virginia, the United States, or of its States, possessions or territories.

2. The preceding terms and conditions apply, and shall remain in effect, unless modified by order of the West Virginia Board of Osteopathic Medicine.

3. If the Respondent fails to comply with, or complete any of the terms stated herein, the West Virginia Board of Osteopathic Medicine may rescind or modify this order and take any other action, including discipline of the Respondent's license, which is authorized by law.

ACKNOWLEDGEMENT OF LICENSEE:
I have reviewed the provisions of this Consent Decree and Order. I agree to abide by the terms set out herein and to be bound by them.

Signed: [Signature]

Date: A-17-18

ORDERED BY THE BOARD OF OSTEOPATHIC MEDICINE:

By agreement of the West Virginia Board of Osteopathic Medicine, it is so ORDERED and entered this 25 day of April, 2018.

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

By: [Signature]

ERNEST MILLER, D.O.
President
West Virginia Board of Osteopathic Medicine