

BEFORE THE WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE,

Complainant,

v.

Complaint No. 2012-24

BRUCE GORBY, D.O.,  
Respondent.

CONSENT AGREEMENT AND ORDER

The West Virginia Board of Osteopathic Medicine (hereinafter referenced as the "Board") has initiated a complaint against the Respondent, Bruce Gorby D.O., alleging that he has engaged in conduct, practices and acts that do not meet professional standards and that 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 Bruce Gorby, D.O. therefore, agree to entry of the following Order:

**FINDINGS OF FACT**

The West Virginia Board of Osteopathic Medicine makes the following findings:

1. The Respondent, BRUCE GORBY, D.O., is a licensee of the Board, holding Board-issued license #1218 to practice osteopathic medicine and surgery in the State of West Virginia.
2. On June 21, 2012 the Board was notified by the West Virginia Medical Professionals Health Program (hereinafter referenced as "WMPHP") that the Respondent suffered a level 3 relapse, and fell out of compliance with his Continuing Recovery Care Agreement. Respondent self-reported the relapse to WMPHP. Respondent attended the Kansas Professional Renewal Center following the relapse and subsequently has been in compliance with his Continuing Recovery Care Agreement.
3. The West Virginia Board of Osteopathic Medicine finds that the Respondent's continued practice of osteopathic medicine requires a detailed program of recovery, treatment

and monitoring under strict terms of probation 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.

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, Bruce Gorby, D.O., have 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 places Bruce Gorby, D.O. on probation for a period of FIVE years, subject to the terms and conditions listed below for the duration of that period:

a. The Respondent will undergo a program of counseling or therapy for addiction and substance abuse with an appropriately-certified and -credentialed professional, who must also be approved by the Board and who shall submit regular, written reports to the Board at least quarterly, describing and detailing the Respondent's progress in the program, with recommendations for additional treatment requirements or changes as they become necessary;

b. The Respondent will submit a detailed treatment plan to the Board, prepared with guidance and assistance from the professional described in subparagraph "a" above, listing his treatment goals, methods and milestones for measuring progress or recovery, and shall provide the Board with an updated plan at any time that the plan requirements, objectives or methods are amended or adjusted;

c. The Respondent shall find a person, experienced with addiction or substance abuse, to serve as a sponsor and assistant in a program of recovery;

d. The Respondent shall also find a home group or local chapter, such as Narcotics Anonymous, for assistance and support in his program of recovery and he shall

attend at least two meetings per week with his home group or, when traveling or away from home, with a local group or chapter nearest his location;

e. The Respondent will also participate in and comply with a program of substance abuse monitoring with a provider to be approved by the Board to ensure compliance with his treatment plan and the terms of this order. The monitoring provider shall submit regular, written reports to the Board at least quarterly detailing the Respondent's progress and compliance.

f. The Respondent will submit to chemical screenings, including urinalysis or other analysis of bodily substances or excretions, on a random basis at any time under the request of the substance abuse monitor or the Board to detect the use or abuse of any or all addictive substances or habit-forming drugs

g. The Respondent is financially responsible for payment of all expenses for treatment, counseling, monitoring, lab tests and the other terms and conditions of this probation;

h. The Respondent will give his written authorization that all records relating to this care, treatment and monitoring may be disclosed to the Board for their review, consideration and use in any subsequent proceedings before the Board and he will specifically arrange for the treating professional or counselor described in subparagraph "a" to provide written reports on the progress of counseling and treatment to the Board of Osteopathic Medicine during the period of probation and the delivery of a final report at least fourteen (14) days prior to the end of the probationary period;

i. 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;

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

k. 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, throughout the duration of the period of probation, 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 revocation of the Respondent's license, which is authorized by law.

4. The term of probation shall commence immediately upon the filing of this Consent Agreement and Order.

5. This probationary period does not expire automatically at the end of the period stated above. The Respondent must apply to the West Virginia Board of Osteopathic Medicine to lift the probationary restrictions and he must demonstrate to the Board that he has satisfactorily completed and complied with all of its terms.

**ACKNOWLEDGMENT 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:

Bruce Gorby D.O.  
Bruce Gorby, D.O.

Date:

3-4-13

**ORDERED BY THE BOARD OF OSTEOPATHIC MEDICINE**

By agreement of the West Virginia Board of Osteopathic Medicine, it is so ORDERED and entered this 8 day of March, 2013.

WEST VIRGINIA BOARD OF OSTEOPATHIC MEDICINE

by:

Ernest Miller D.O.  
ERNEST MILLER, D.O.

President

West Virginia Board of Osteopathic Medicine