

BEFORE THE WEST VIRGINIA BOARD OF CHIROPRACTIC

WEST VIRGINIA BOARD OF CHIROPRACTIC,

Complainant,

v.

Complaint No. 2019-182

DUSTIN WRIGHT, D.C.,

Respondent.

CONSENT DECREE AND ORDER

After due consideration of the above-referenced complaint initiated by the West Virginia Board of Chiropractic ("Board"), the Board determined at its February 6, 2020, meeting that there was probable cause to believe that Respondent Dustin Wright, D.C. ("Respondent") violated the provisions of West Virginia Code § 30-16-1 *et seq.* and the Legislative Rules promulgated by the Board, West Virginia Code R. § 4-1-1 *et seq.* The Board provided Respondent notice of the complaint against him. Respondent, through counsel, timely responded.

Now, in lieu of a formal hearing, the parties have reached an agreement for the resolution of the above styled matter and agree to entry of the following Findings of Fact, Conclusions of law, and Order in disposition of this matter.

Findings of Fact

1. The Board is a state agency created by West Virginia Code § 30-16-1 *et seq.*, and is empowered to regulate the practice of chiropractic in the State of West Virginia.

2. Respondent holds an active license to practice chiropractic in this State, issued by the Board on August 3, 2006.

3. On December 2, 2019, the Board initiated the above-styled complaint against Respondent based upon Respondent's conduct evidenced by a Settlement Agreement and Release entered between Respondent and the Commonwealth of Kentucky on September 9, 2019. A copy of the Settlement Agreement and Release was attached as Exhibit A and incorporated by reference into the Complaint.

4. According to the Settlement Agreement and Release, while practicing chiropractic full-time in the State of West Virginia from approximately late 2011 through late 2015, Respondent purported to treat patients in the Commonwealth of Kentucky and fraudulently billed Kentucky Medicaid for these services without personally examining, treating, or otherwise providing chiropractic services to these patients. Specifically, from May 2, 2013, until November 13, 2015, Dr. Knipp and Dr. Phares completed medical charts and signed them electronically. At the end of the day, the office manager of the Kentucky clinic completed the fee slips for each patient and faxed or emailed them to Respondent's West Virginia clinic, where Respondent billed these claims to Kentucky Medicaid under his personal NPI number and/or his personal Kentucky Medicaid provider number, with no modifier to reflect that services were provided by other chiropractors. Neither Dr. Knipp nor Dr. Phares were credentialed as Kentucky Medicaid providers.

5. As a result of Respondent's fraudulent conduct, Respondent agreed to pay the Commonwealth of Kentucky the sum of \$211,000 to settle all civil claims of the Commonwealth of Kentucky against him.

6. On November 30, 2015, Respondent requested that his license to practice chiropractic in the Commonwealth of Kentucky be placed on inactive status.

7. Respondent did not report the Settlement Agreement and Release to the Board until November 13, 2019.

8. On December 30, 2019, Respondent submitted a response to the present complaint in which he denied the allegations of fraud, deceit, or intentional misrepresentation by his actions outlined in the Settlement Agreement and Release with Kentucky Medicaid. Respondent stated that his failure to timely report the Settlement and Agreement and Release to the Board was an oversight on his part. Respondent stated that he continues to meet his obligations under the Settlement Agreement and Release.

9. At the Board's February 6, 2020, meeting, the Board determined that there was probable cause to believe that Respondent's alleged conduct violated West Virginia Code § 30-16-1 *et seq.* and the Legislative Rules promulgated by the Board, West Virginia Code R. § 4-1-1 *et seq.*

Conclusions of Law

1. Relevant to the present complaint, the Board is authorized under West Virginia Code § 30-16-11(a) to take disciplinary action against a licensee upon a finding that the licensee engaged any of the following:

- (4) Conduct likely to deceive, defraud, or harm the public;
- (18) Obtaining a fee by fraud, deceit or misrepresentation;
- (20) Directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually rendered: Provided, that this prohibition does not

preclude the legal functioning of lawful professional partnerships, corporations or associations; and/or

(22) Failure to report to the board within thirty days of any adverse action, disciplinary action, sanctions or punishment taken against [a licensee] by another state licensing board or licensing jurisdiction, United States or foreign, by a peer review body, health care institution, professional or chiropractic society or association, governmental agency, law-enforcement agency or court for acts or conduct similar to acts or conduct that constitute grounds for action as defined in this section[.]

2. Respondent's conduct set forth in Finding of Fact #4 violates West Virginia Code §§ 30-16-11(a)(4)(18) and/or (20), and renders his license subject to the discipline by the Board.

3. Respondent's failure to report the Settlement Agreement and Release to the Board until November 13, 2019, violates West Virginia Code § 30-16-11(a)(22), and renders his license subject to the discipline by the Board.

Consent of the Licensee

Respondent acknowledges the following:

1. That he has had the opportunity to consult with counsel of his choice and executes this *Consent Decree and Order* voluntarily, freely, without compulsion or duress and mindful that it has legal consequences.

2. That no person or entity has made any promise or given any inducement whatsoever to encourage him to make this settlement other than as set forth herein.

3. That he may pursue this matter through appropriate administrative proceedings and is aware of his legal rights regarding this matter, but intelligently, knowingly and voluntarily waives such rights.

4. That this *Consent Decree and Order* constitutes the entire agreement between the parties and may not be modified without the written consent of both parties.

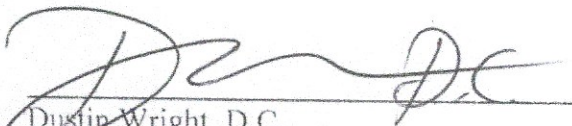
Order

On the basis of the foregoing, the Board does hereby ORDER that:

1. Respondent is hereby reprimanded.
2. Respondent is placed on probation for a period of one (1) year, commencing on the entry of this *Consent Decree and Order*, during which Respondent is required to comply with the following terms and conditions:
 - a. Respondent shall complete a minimum of twelve (12) hours of continuing education on the topic of billing and coding. The hours required by this term shall be in addition to the required continuing education hours necessary for annual renewal of Respondent's license; and
 - b. Respondent shall complete and pass the "Fraud" section of the Ethics & Boundaries Assessment Services ("EBAS") exam through the National Board of Chiropractic Examiners. Information related to this requirement can be found at www.nbce.org. The hours required by this term shall be in addition to the required continuing education hours necessary for annual renewal of Respondent's license.
 - c. Respondent shall submit documentation to the Board evidencing compliance with paragraphs 2(a) and 2(b) prior to the end of the one-year probationary period.

3. Respondent's failure to comply with the provisions of this *Consent Decree and Order* may result in the immediate suspension of Respondent's license until such time as Respondent comes into compliance. In the event that Respondent fails to comply with any term of this *Consent Decree and Order*, the Board shall notify Respondent in writing of the alleged violation of the *Consent Decree and Order* and provide Respondent opportunity to request a hearing to challenge the alleged violation.

By signing below, Respondent consents to the entry of this *Consent Decree and Order*:




Dustin Wright, D.C.

3/10/20

Date

ENTERED this 25th day of March, 2020.



Barry Stowers, D.C.
Chairman
West Virginia Board of Chiropractic