

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE:

Complaint No. 18-09-W

SCOTT ALAN NAEGELE, M.D.

CONSENT ORDER

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

1. Dr. Naegele holds a license, License Number 17050, to practice medicine and surgery in the state of West Virginia.
2. Dr. Naegele was initially licensed by the Board on September 14, 1992. His practice address of record with the Board is in Charleston, West Virginia.
3. On May 30, 2017, Dr. Naegele submitted his electronic application for medical licensure renewal to the Board for the licensure period of July 1, 2017, through June 30, 2019.
4. In association with his license renewal application, Dr. Naegele made the following attestation:

I understand that as a licensee, I am required to personally complete this application, and I am solely responsible for the accuracy and

completeness of the information provided, including all information regarding my practice in the last two years and my certification of successful completion of all required continuing medical education.

I have carefully read and understood all the questions included on each page of this renewal and have answered all the questions completely, without reservations of any kind. I declare that my answers and all statements made by me herein are true and correct.

I understand that any license issued based upon this renewal application is based on the truth of the statements contained herein. Should I furnish false or misleading information in this renewal application, I hereby agree and understand that any such act shall constitute good cause for disciplinary action and/or the subsequent revocation of my license.

I understand that regardless of the date of my electronic signature, all statements in the online renewal application related to the entire period of July 1, 2015 to June 30, 2017. If, after I provide my electronic signature and prior to June 30, 2017, any answer should change for any reason, I have a duty to notify the Board and amend my renewal application.

5. On his application, Dr. Naegele answered "no" to Professional Practice Question number twelve, which asks whether he has "had any judgments or settlements arising from medical professional liability rendered or made against" him at any time from July 1, 2015, through June 30, 2017.

6. Upon information and belief, on or about July 15, 2015, a settlement was reached resolving a medical malpractice claim filed against Dr. Naegele in the Circuit Court of Kanawha County, docket number 13-C-493. A settlement payment was made on behalf of Dr. Naegele in the amount of \$125,000.00.

7. Dr. Naegele's negative response to Professional Practice Question number twelve was incorrect.

8. Dr. Naegele failed to disclose the above-referenced medical malpractice settlement on his most recent license renewal application. Moreover, he did not act to supplement or correct his original response at any time prior to July 1, 2017.

9. On January 7, 2018, the Complaint Committee of the West Virginia Board of Medicine initiated a complaint against Dr. Naegele based upon his answer to question twelve on his renewal application.

10. In response to the complaint, Dr. Naegele avers that his failure to answer Professional Practice Question number twelve accurately was an unintentional mistake caused by his failure to adequately review his answers.

11. The Board and Dr. Naegele voluntarily enter into this Consent Order to resolve the complaint initiated against Dr. Naegele.

CONCLUSIONS OF LAW

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

1. Dr. Naegele'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

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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.” See W. Va. Code R. § 11-1A-12.

4. Probable cause may exist to substantiate disciplinary charges against Dr. Naegele pursuant to W. Va. Code § 30-3-14 (c)(1) and (17), and W. Va. Code R. §§ 11-1A-12.1.a, 12.1.e and 12.1.j, relating to his inaccurate response to a licensure renewal application question.

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

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

7. This Consent Order does not impose any discipline which is connected to the delivery of healthcare services by Dr. Naegele.

CONSENT

By signing his name to this Consent Order, Scott Alan Naegele, M.D., acknowledges that he understands and agrees with the following:

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

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

3. Dr. Naegele 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. Naegele 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. Naegele 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. Naegele 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. Naegele 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. Naegele 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. Naegele 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 record 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. Naegele, the West Virginia Board of Medicine hereby ORDERS as follows:

1. Dr. Naegele is hereby assessed a **CIVIL FINE** in the amount of four hundred dollars (\$400.00), for providing an inaccurate response to Professional Practice Question Number Twelve on his renewal application. Dr. Naegele's payment of the fine must be received by the Board on or before Friday, May 4, 2018.

2. Dr. Naegele 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 to complete and personally make all necessary signatures and attestations required for licensure renewal on all future applications. Dr. Naegele further agrees to comply with all terms of this Consent Order.

3. 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

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is hereby authorized to denote the date of entry on behalf of the Board in accordance with this paragraph.

ENTERED ON: April 18, 2018

WEST VIRGINIA BOARD OF MEDICINE

Ahmed D. Faheem, M.D., D.L.F.A.P.A.
President

Date: 4/17/18

Rahul Gupta, M.D., M.P.H., M.B.A., F.A.C.P.
Secretary

Date: 4/12/18

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ACCEPTANCE

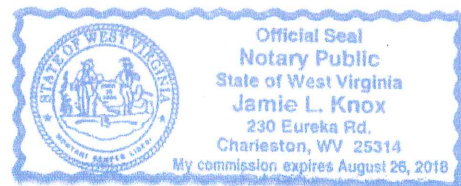
I, SCOTT ALAN NAEGELE, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT ORDER. I HAVE BEEN GIVEN SUFFICIENT TIME AND OPPORTUNITY TO CONSIDER THIS CONSENT ORDER, AND I UNDERSTAND THE EFFECT IT WILL HAVE UPON MY LICENSE TO PRACTICE MEDICINE AND SURGERY IN WEST VIRGINIA.

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 FROM AN ATTORNEY.

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

Scott Alan Naegele, M.D.
Scott Alan Naegele, M.D.
Date: 4/5/2018



STATE OF West Virginia

COUNTY OF Kanawha, to-wit:

I, Jamie L. Knox, a Notary Public for said county and

state do hereby certify that Scott Alan Naegele, M.D., whose name is signed herein above has this day acknowledged the same before me.

Given under my hand this 5th day of April, 2018.

My Commission expires August 26, 2018

Jamie L. Knox
Notary Public



State of West Virginia *Board of Medicine*

AHMED DAVER FAHEEM, MD, DLFAPA
PRESIDENT

RAHUL GUPTA, MD, MPH, MBA, FACP
SECRETARY

101 Dee Drive, Suite 103
Charleston, WV 25311
Telephone 304.558.2921
Fax 304.558.2084
www.wvbom.wv.gov

KISHORE K. CHALLA, MD, FACC
VICE PRESIDENT

MARK A. SPANGLER, MA
EXECUTIVE DIRECTOR

April 18, 2018

VIA US MAIL

Scott Alan Naegele, M.D.
830 Pennsylvania Avenue, Suite 402
Charleston, WV 25302

RE: Consent Order

Dear Dr. Naegele:

This letter will confirm that the Board of Medicine considers you to have fulfilled all obligations set forth in the Consent Order which you entered into with the West Virginia Board of Medicine on April 18, 2018. As of the date of this letter, the West Virginia Board of Medicine considers the above-referenced matter to be closed.

In accordance with the statute, the Consent Order, with a copy of this letter attached, remains a permanent part of your historical record maintained by the Board.

Should you have any questions or concerns please feel free to contact me at 304-558-2921, ext. 70005.

Sincerely,

Mark A. Spangler

MAS/fab