

BEFORE THE BOARD OF OSTEOPATHIC MEDICINE

IN THE MATTER OF:

Patrick O'Hayre D.O.
License No.: A-1932-16

Case No. O16-11-INC

Respondent.

SETTLEMENT AGREEMENT AND ORDER

The New Mexico Board of Osteopathic Medicine ("the Board") and Respondent, Patrick O'Hayre, D.O. each having agreed to dispose of this matter according to the terms set forth below, the Board hereby finds and orders and the Board and Respondent;

AGREE AS FOLLOWS:

1. **Jurisdiction.** Respondent is a Licensed Osteopathic Physician and is subject to the jurisdiction of the Board pursuant to NMSA 1978, the Osteopathic Medicine Act § 61-10-1 through -22 (the "Act")

2. **Violations:** On September 28, 2016, the Board received notice that the Colorado Medical Board ("CMB") had taken action in Colorado Case No. 2016-2732-B, resulting in Respondent entering into a voluntary "Non Disciplinary Interim Cessation of Practice Agreement". The Board referred this matter, Case No.016-11-INC to the Office of the Attorney General for issuance of a Notice of Contemplated Action based on NMSA 16.17.6.8A (5) Habitual of excessive use or abuse of drugs or alcohol. Respondent acknowledges that there is sufficient evidence to prove such allegations.

3. The CMB Action referenced in paragraph 2 above concluded on May 19, 2017 with the entry of a Stipulation and Final Agency Order. ("Stipulation")

4. The Board shall take no further action against Respondent with respect to the matters alleged in Case No. O16-11-INC, provided that Respondent complies completely with the following:

A. As a term of the CMB order referenced in paragraph 3 above, Respondent has entered into a treatment-monitoring program in Colorado, the Colorado Physician's Health Program. ("CPHP") Respondent agreed to comply with the instructions and recommendations of CPHP as a term of the CMB Order.

B. Within thirty (30) days of execution of this agreement, Respondent shall sign any releases necessary for the Board to communicate with the CPHP to monitor Respondent's treatment and compliance with the CMB agreement. Such release shall contain provisions to allow the Board access to records including but not limited to assessments, reports, plans, evaluations, notes, and correspondence, including those generated by CPHC contractors rendering services to Respondent and to communicate with the CPHP regarding information, which would be otherwise confidential under state and or federal law.

C. As a term of this agreement, Respondent shall comply fully with the recommendations, terms and conditions required of Respondent by CPHP. Respondent shall request that CPHP submit regular reports to the Board to provide proof of compliance. The Board shall provide Respondent with written notice of the required frequency and a detailed description of the required content of such reports. The Board's instructions regarding the content of and frequency of submission of monitoring reports shall constitute terms of this agreement.

D. Respondent acknowledges and agrees to abstain from the use of mind-altering substances, alcoholic beverages and controlled substances except as legitimately prescribed by a licensed physician.

E. Respondent acknowledges and agrees that ingestion of any non-prescribed intoxicating substance, while under the terms of the Stipulation with the CMB, shall constitute a violation of this agreement and an independent cause for the Board to contemplate disciplinary action.

F. Respondent acknowledges and agrees that the monitoring and reporting outlined above shall remain in place during the period of his probation with the CMB.

G. Respondent shall keep the board informed of Respondent's business and residence addresses, e-mail address (if available) and telephone number. Any change in contact information shall be immediately communicated in writing to the Board.

5. **Waivers:** Respondent acknowledges, agrees and stipulates to the following waivers:

A. Respondent waives all time limitations set forth in the Uniform Licensing Act (ULA), §§ 61-1-1 through 61-1-33, NMSA 1978, as amended.

B. Respondent waives the right to have these matters heard in the manner described in the ULA, including the right to a full evidentiary hearing on the charges made in the complaint against Respondent, the right to confront and cross-examine witnesses, and the right to appeal any decision of the Board following such hearing.

C. Respondent waives any right to assert a claim of bias or to move to excuse any Board member from the Board member's consideration of this Agreement.

D. Respondent's waiver of these rights is made knowingly, intentionally, and voluntarily.

6. Respondent acknowledges and agrees that the Board has the statutory authority and jurisdiction to investigate and adjudicate allegations of professional misconduct committed by licensed osteopathic physicians. Upon execution of this Agreement, Respondent releases the Board from all claims potentially arising out of the Board's decision to investigate the complaint and take the actions described herein.

7. This Agreement is subject to approval by the Board. If the Board rejects this Agreement, the Board may proceed to issuance of a Notice of Contemplated Action. If the Board rejects this Agreement, the terms of this Agreement or statements made by the Respondent in support of this Agreement shall not be used against Respondent in a subsequent proceeding concerning the matter resolved by this Settlement Agreement.

8. This Agreement is binding upon the Board and the Respondent when the Board Chairperson or Board member designee signs it.

9. Upon the Board Chairperson or Board member designee signing and indicating the Board's approval of this agreement, a copy shall be mailed to Respondent's counsel by Certified Mail. Such mailing shall fulfill the Board's obligation to notify Respondent of the Board's acceptance of this Agreement. The time limitations for Respondent's compliance with the requirements of this Agreement shall commence five days after said mailing by the Board.

10. Upon fulfillment of the above requirements, the Board shall consider Case No. O16-11-INC resolved and will contemplate no further action against Respondent for the conduct made the subject matter of this Agreement as long as Respondent completes all provisions of this agreement in full. However, the Board may consider this matter as evidence of a pattern of conduct in the event that similar or other misconduct is proven against Respondent in the future.

11. This Agreement is a non-disciplinary negotiated settlement of New Mexico Board of Osteopathic Medicine Case No. O16-11-INC and only for the specific allegations contained

therein. The Board reserves the right to initiate proceedings for any other violations of the Act, and the regulations adopted by the Board pursuant to the Act.

12. Respondent acknowledges that this Agreement is a final action and not subject to reconsideration, judicial review or appeal.

13. Respondent acknowledges that any violation of this Agreement or failure to strictly comply with the terms and conditions of this Agreement shall be separate and independent grounds for disciplinary action by the Board against Respondent.

14. This Settlement Agreement is a public record within the meaning of the Inspection of Public Records Act, § 14-2-6(E) NMSA 1978, as amended and is open to inspection by the public.

16. Respondent affirmatively states that Respondent has read this entire document and understands Respondent's responsibilities and duties. Respondent knowingly, intentionally and voluntarily enters into and executes this Agreement and affirms that no promises or representations have been made other than the terms and conditions expressly stated herein.

Agreed and accepted by Respondent:

Patrick B. O'Hayre, D. O.

Date

Victoria Lovato Attorney for Respondent.

Date


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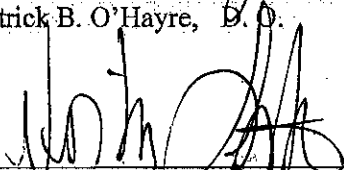
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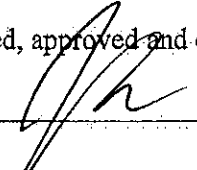
8/3/17
Date



Victoria Lovato Attorney for Respondent.

9 Aug 17
Date

Reviewed, approved and ordered by the Board:



9/8/17
Date