

**BEFORE THE WEST VIRGINIA BOARD OF MEDICINE**

**IN RE: R. DAVID ALLARA, M.D.**

**CONSENT ORDER**

The West Virginia Board of Medicine ("Board") and R. David Allara, M.D. ("Dr. Allara") freely and voluntarily enter into the following Consent Order pursuant to W. Va. Code § 30-3-14, et seq.

**FINDINGS OF FACT**

1. Dr. Allara currently holds an active license to practice medicine and surgery in the State of West Virginia, License No. 14971, issued March 9, 1987, by the Board, and his address of record is in Charleston, West Virginia.

2. On May 13, 2007, the Complaint Committee of the Board ("Committee") reviewed and considered an anonymous report regarding Dr. Allara, which essentially alleged certain unprofessional, unethical, and illegal conduct, including, but not limited to, the possible use and abuse of an illegal drug.

3. On May 14, 2007, based upon the allegations contained in the anonymous report, the Committee initiated a Complaint against Dr. Allara, and began an investigation concerning the allegations set forth therein.

4. Dr. Allara responded to the allegations in the Complaint as required by 11 CSR 3 10.9.

5. The Committee initiated an investigation regarding the allegations in the Complaint, which included interviewing witnesses and obtaining documents by subpoena. Based upon the Committee's investigation, potential violations of the West Virginia Medical Practice Act and the Rules of the Board were identified.

6. On July 7, 2007, the Committee reviewed and discussed this matter in detail and determined that Dr. Allara should be required to submit to a complete mental and physical examination, including appropriate drug testing as determined by the Board based upon the Committee's continuing investigation.

7. On July 9, 2007, during the regularly scheduled meeting of the Board, the Committee requested that the Board issue an Order, pursuant to the provisions of W. Va. Code § 30-3-14(f), requiring Dr. Allara to submit to a complete mental and physical examination, including appropriate drug testing to be completed and arranged by Ralph S. Smith, Jr., M.D., who was selected and approved by the Board to undertake and arrange the examination and testing.

8. On July 11, 2007, Dr. Allara appeared for initial testing in connection with the mental and physical examination, and submitted to the drug testing required by the Board. Based upon the results of one of the tests, the Committee is concerned about Dr. Allara's continued ability to practice medicine and surgery with a reasonable degree of skill and safety for his patients absent appropriate care, counseling, and treatment.

9. Further, having received the results of the referenced test, Dr. Allara began a dialogue with the Board designed to address the Board's concerns.

10. As a result of discussions between Dr. Allara and the Board, Dr. Allara is willing to address any potential problems with respect to his capacity to practice medicine and

surgery with a reasonable degree of skill and safety, and is further willing to enter into this Consent Order to resolve any disputes with the Board, as set forth in more detail in the Order below.

11. The Board has a concern regarding the continued practice of medicine by Dr. Allara in the State of West Virginia, and absent compliance with this Consent Order, the Board fears that there could be situations, which could adversely affect the health and welfare of patients.

### CONCLUSIONS OF LAW

1. The Board has a mandate pursuant to the West Virginia Medical Practice Act to protect the public interest. W. Va. Code § 30-3-1.

2. Probable cause exists to substantiate charges of disqualification of Dr. Allara from the practice of medicine and surgery in the State of West Virginia due to violations of the West Virginia Medical Practice Act and Rules of the Board, including the following: W. Va. Code § 30-3-14(c)(17), 11 CSR 1A 12.1(e) and (j), and 11 CSR 1A 12.2(a)(C) and 12.2 (d); W. Va. Code § 30-3-14(c)(17) and (21) and 11 CSR 1A 12.1(h); W. Va. Code § 30-3-14(c)(5) and (17) and 11 CSR 1A 12.1 (o), (x), and (bb); W. Va. Code § 30-3-14(c)(11) and 11 CSR 1A 12.1 (u) and (jj); and W. Va. Code § 30-3-14(c)(13).

3. The Board has determined that it is appropriate to waive the commencement of proceedings against Dr. Allara, including a summary suspension of Dr. Allara's license to practice medicine and surgery, pursuant to the provisions of W. Va. Code § 30-3-14(k), and to proceed without the filing of formal charges in a Complaint and Notice of Hearing, provided Dr. Allara complies with the provisions of this Consent Order, and agrees to

enter an appropriate in-patient treatment program, at his own expense, to address the various problems identified by the Complaint Committee in connection with its investigation of the Complaint.

### CONSENT

R. David Allara, M.D., by affixing his signature hereon, agrees solely and exclusively for purposes of this agreement and the entry of the Order provided for and stated herein, and proceedings conducted in accordance with this Order, to the following:

1. Dr. Allara acknowledges that he is fully aware that, without his consent here given, no permanent legal action may be taken against him except after a public hearing held in accordance with W. Va. Code § 30-3-14(h) and § 29A-5-1, et seq.

2. Dr. Allara further acknowledges that he has the following rights, among others: the right to a formal public hearing before the Board, the right to reasonable notice of said hearing, the right to be represented by counsel at his own expense, and the right to cross-examine witnesses against him.

3. Dr. Allara waives all rights to such a public hearing.

4. Dr. Allara consents to the entry of this Order relative to his practice of medicine and surgery in the State of West Virginia.

5. Dr. Allara understands that this Order is considered public information, and that matters contained herein may be reported, as required by law, to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

## ORDER

**WHEREFORE**, on the basis of the foregoing Findings of Fact and Conclusions of Law of the Board, and on the basis of the Consent of Dr. Allara, the West Virginia Board of Medicine hereby **ORDERS** as follows:

1. Effective upon entry of this Order, Dr. Allara's license to practice medicine and surgery in the State of West Virginia, License No. 14971, is voluntarily **SURRENDERED** to the Board to enable him to receive appropriate care, counseling and treatment.

2. As soon as possible following the entry of this Order, and as a condition precedent to the reinstatement of his license to practice medicine and surgery, Dr. Allara shall submit to care, counseling and treatment at an appropriate in-patient treatment facility, at his own expense, and participate in a program designed to address the various problems identified by the Complaint Committee in connection with its investigation of the Complaint.

3. Prior to entering such in-patient treatment program, Dr. Allara shall obtain approval from the Board with respect to the proposed treatment facility and program.

4. Dr. Allara shall successfully complete the Board-approved in-patient treatment program, and shall thereafter comply with all of the terms of any after-care Contract, which he may sign in connection with the Board-approved treatment program, as well as with the terms of this Order.

5. Following his successful completion of the Board-approved treatment program, Dr. Allara shall petition the Licensure Committee to appear at a meeting to discuss his status and the proposed reinstatement of his medical license, and shall ensure that all of his

treatment records evidencing successful completion of the Board-approved treatment program are provided to the Licensure Committee prior to his appearance.

6. As soon as the Licensure Committee can determine that Dr. Allara is fully prepared to resume the practice of medicine and surgery in the State of West Virginia without harm to either himself or the public, and provided further that he is in compliance with the requirements of any after-care Contract signed in connection with his Board-approved treatment program, and with the terms and conditions of this Order, the Licensure Committee will consider the reinstatement of Dr. Allara's medical license.

7. In connection with the reinstatement of Dr. Allara's license to practice medicine and surgery in the State of West Virginia following Dr. Allara's successful completion of the Board-approved treatment program, the Licensure Committee may impose additional conditions, accommodations, limitations or restrictions, which it deems necessary to ensure that Dr. Allara remains fully capable of practicing medicine and surgery in the State of West Virginia.

8. Dr. Allara's license to practice medicine and surgery shall remain **SURRENDERED** until such time as he has successfully completed the Board-approved in-patient treatment program, he has appeared before the Licensure Committee of this Board and the Board has determined that Dr. Allara is able to practice medicine and surgery in the State of West Virginia without harm to himself or the public, and has reinstated his license to practice medicine and surgery, either in whole or in part.

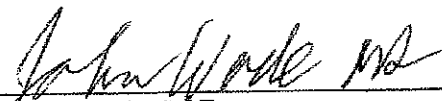
9. Within thirty (30) days of the effective date of this Order, Dr. Allara shall provide a copy of this Order to all employers or entities with which he is under contract to provide physician services or is receiving training, and to the Chief of Staff at each hospital

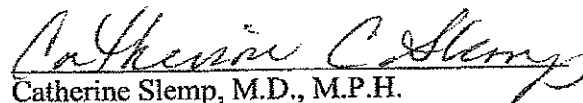
where he has privileges or appointments. Further, Dr. Allara shall provide a copy of this Order to all employers or entities with which he contracts to provide physician services, or applies for or receives training, and to the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

10. Within thirty (30) days of the effective date of this Order, Dr. Allara shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds a license to practice. Dr. Allara further agrees to provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for licensure. Further, Dr. Allara shall provide this Board with a copy of the return receipt as proof of notification within thirty (30) days of receiving that receipt.

Entered this 4<sup>th</sup> day of August, 2007.

WEST VIRGINIA BOARD OF MEDICINE

  
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John A. Wade, Jr., M.D.  
President

  
\_\_\_\_\_  
Catherine Slemp, M.D., M.P.H.  
Secretary

  
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R. DAVID ALLARA, M.D.

Date: '8-2-07

STATE OF West Virginia

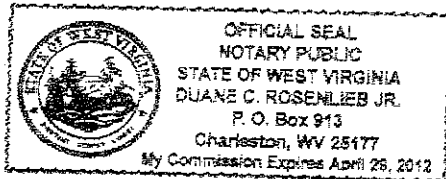
COUNTY OF Kanawha

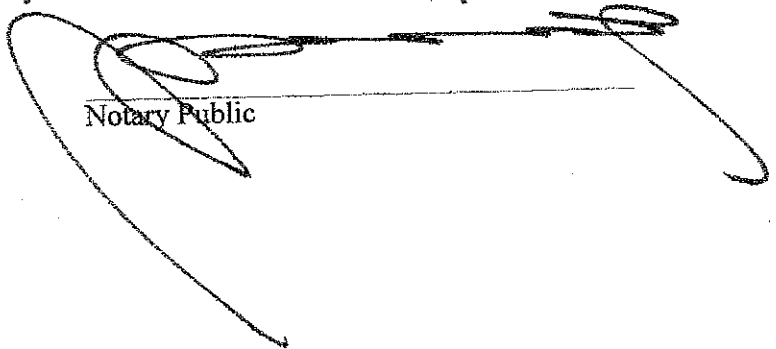
I, Duane C. Rosenlieb, Jr. a Notary Public for said county and state

do hereby certify that R. David Allara, M.D., whose name is signed on the previous page has this  
day acknowledged the same before me.

Given under my hand this 2<sup>nd</sup> day of August, 2007.

My commission expires April 19, 2012.



  
Notary Public