

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

WEST VIRGINIA BOARD OF MEDICINE,

Petitioner,

V.

Complaint No. 19-114-W

ZOUHAIR MOHAMAD WADIH KABBARA, MD,

Respondent.

**ORDER OF SUMMARY SUSPENSION OF LICENSE TO PRACTICE
MEDICINE AND SURGERY AND NOTICE OF HEARING**

The West Virginia Board of Medicine is the duly constituted body responsible for licensure and professional discipline of allopathic physicians in West Virginia. W. Va. Code § 30-3-1 *et seq.* In circumstances where the Board “determines the evidence in its possession indicates that a physician's or podiatrist's continuation in practice or unrestricted practice constitutes an immediate danger to the public,” the Board is empowered to take summary disciplinary action, on a temporary basis. Temporary summary action may be taken without first holding a disciplinary hearing “if institution of proceedings for a hearing before the Board are initiated simultaneously with the temporary action and [the hearing] begin[s] within fifteen days of the [summary] action.” W. Va. Code § 30-3-14(k).

The West Virginia Board of Medicine [“the Board”] hereby **SUMMARILY SUSPENDS** the license of **Zouhair Mohamad Wadih Kabbara, MD** (“Dr. Kabbara”), **License No. 26464**, to practice medicine and surgery in the State of West Virginia, effective immediately. The Board simultaneously provides this notice to Dr. Kabbara that proceedings for a hearing upon the

underlying charges are hereby instituted, and a hearing will commence on **Wednesday, September 30, 2020**, as set forth in the Notice of Hearing hereinbelow, and within fifteen days of the summary action.

FINDINGS OF FACT IN SUPPORT OF SUMMARY ACTION

Evidence considered by the Board in rendering this Order supports the following preliminary findings of fact.¹ Exhibits referenced herein that contain personally identifiable information regarding the licensee and/or third parties are hereby placed under seal by the Board to protect confidential medical and personal information of Dr. Kabbara and/or third parties.²

Current Licensure Status with the Board

1. The Board originally issued a license to practice medicine and surgery to Dr. Kabbara, License Number 26464, on July 13, 2015. Exhibit A.
2. At all time after July 13, 2015 and prior to the entry of this Order, Dr. Kabbara held an unrestricted, active status West Virginia medical license. Exhibit A.

¹ Inasmuch as this is a summary action for temporary discipline, no hearing has yet occurred. In recognition of the fact that a public hearing must occur before permanent action can be taken against the licensee, the findings of fact reported herein are characterized as preliminary in nature and are made in support of this summary action.

² With the exception of Exhibits C and E, which are public records, all exhibits hereto are hereby placed under seal of confidentiality. All Exhibits have been provided to Dr. Kabbara and his counsel along with this Order. All exhibits are on file under seal with the West Virginia Board of Medicine. While the Board understands that the identities of the individuals who allege improper conduct by Dr. Kabbara are known to him, the Board will contemporaneously provide a Confidential Key verifying the identities of all such persons known to the Board. This key, and any other documents exchanged between the parties prior to hearing and which contain confidential information shall be exchanged under seal of confidentiality and the Protective Order of this Board.

3. Dr. Kabbara last completed the Board's licensure renewal process in June 2018.³ His West Virginia medical license will expire on September 30, 2020⁴ unless renewed prior to that date. Exhibit A.

4. Dr. Kabbara's self-identified area of specialty is family practice medicine. Exhibit A.

5. On March 8, 2017, the Board issued a Certificate of Authorization to Dr. Kabbara for his registered medical corporation, Zouhair Kabbara MD Inc. Dr. Kabbara is the sole shareholder of Zouhair Kabbara MD Inc. Exhibit B.

6. Dr. Kabbara most recently renewed his medical corporation registration with this Board in or around March 2019. Zouhair Kabbara MD Inc is registered for the practice of medicine and surgery in West Virginia through March 1, 2021, and the corporation is in good standing with the West Virginia Secretary of State's Office. Exhibits B and C.

7. Dr. Kabbara's current home address, preferred mailing address and work address on file with the Board are all located in Beckley, West Virginia. Exhibit A. The primary practice location for Zouhair Kabbara MD Inc is also in Beckley, West Virginia. Exhibit B.

8. Upon information and belief, Dr. Kabbara is currently in Lebanon.

9. Prior to his travel out of the country, Dr. Kabbara also maintained clinical privileges at two Beckley hospitals: Beckley ARH Hospital and Raleigh General Hospital.

³ A licensure renewal application was submitted to the Board with respect to Dr. Kabbara on or about Sunday, September 13, 2020. As of the Board's September 14, 2020 meeting, Dr. Kabbara had not completed the renewal process and the application was pending.

⁴ Dr. Kabbara's West Virginia medical license was originally scheduled to expire on June 30, 2020. However, pursuant to Executive Order 7-20 and due to the COVID-19 State of Emergency, the West Virginia Board of Medicine extended the 2020 renewal period for of all licenses and registrations from June 30, 2020 to September 30, 2020.

10. Dr. Kabbara has affirmatively declined to provide the Board with a mailing address for his current location. He has not updated his addresses of record on file with the Board, all of which remain addresses in Beckley, West Virginia.

11. Dr. Kabbara may return to West Virginia at any time.

Background and Matters Currently Pending Before the Board

12. On August 27, 2019, the Complaint Committee of the Board authorized Initiated Complaint No. 19-114-W to investigate allegations of professional misconduct by Dr. Kabbara. Exhibit D.

13. Complaint No. 19-114-W was initiated after the Complaint Committee received reports that three separate civil lawsuits had been filed against Dr. Kabbara in August 2019, each of which involved separate allegations of sexual misconduct by Dr. Kabbara. Exhibits D and E.

14. In November 2019, Dr. Kabbara submitted a response to Complaint No. 19-114-W wherein he denied the allegations of sexual misconduct asserted against him in the three civil lawsuits referenced in Complaint No. 19-114-W. Exhibit F.

15. The Complaint Committee sought to meet with Dr. Kabbara in November 2019 to discuss the allegations of Complaint No. 19-114-W. Through counsel, Dr. Kabbara indicated that he was unavailable to meet with the Committee as he was out of the country related to a family matter.

16. Dr. Kabbara remained out of the country and unavailable to appear before the Complaint Committee at its scheduled meeting in January 2020.

17. The Committee sought Dr. Kabbara's appearance at its March 8, 2020 meeting.

18. On February 26, 2020, while the Complaint Committee's investigation of Complaint No. 19-114-W was ongoing, the Board received a report that set forth a variety of

allegations of misconduct by Dr. Kabbara against multiple individuals. The report identified multiple victims spanning several years. Some of the identified victims were involved in the civil actions that precipitated the initiation of Complaint No. 19-114-W, others were not. Exhibit G.

19. On or about February 27, 2020, through counsel, Dr. Kabbara notified the Board that his stay in Lebanon had been extended. He also informed the Board that two of the three civil actions that formed the basis of the Board's complaint had been dismissed and that the remaining case was denied class action certification. Exhibit H.

20. On March 8, 2020, and based upon the February 26, 2020 report, the Complaint Committee authorized Amended Initiated Complaint No. 19-114-W. Exhibit I.

21. On May 12, 2020, the Board received Dr. Kabbara's response, through counsel, denying the allegations of the Amended Initiated Complaint. Exhibit J.

22. On June 23, 2020, the Board received a second report alleging professional and sexual misconduct by Dr. Kabbara. This report provided information about two hospital employees and alleged that they were raped by Dr. Kabbara. Exhibit K.

23. At its next regular meeting on July 12, 2020, the Complaint Committee authorized a second amendment to Complaint No. 19-114-W, to address the allegations of professional and sexual misconduct provided to the Board in the June 23, 2020 report. Collectively, the Second Amended Initiated Complaint contains allegations of unprofessional and/or sexual misconduct against Dr. Kabbara by nine individuals. Exhibit L.

24. The Complaint Committee conducted an investigation into the allegations of the Second Amended Initiated Complaint, and requested that Dr. Kabbara appear before the Committee at its September 13, 2020 regular meeting to discuss these serious charges.

25. On September 4, 2020, Dr. Kabbara submitted a response to the Second Amended Initiated Complaint wherein he denied the allegations of professional and sexual misconduct. Exhibit M.

26. Dr. Kabbara appeared before the Complaint Committee on September 13, 2020, via the virtual meeting platform GoToMeeting to discuss the allegations of Second Amended Initiated Complaint No. 19-114-W.

27. Dr. Kabbara has engaged in professional and sexual misconduct with respect to multiple females in and around his places of practice in Beckley, West Virginia, including with respect to:

- a. At least two female patients;
- b. At least two minor female hospital volunteers; and
- c. At least five female hospital employees.

28. Dr. Kabbara's professional and sexual misconduct includes, but is not limited to:

- a. Sexually harassing two or more minor female hospital volunteers;
- b. Sexually assaulting a female patient in her hospital room in or around June 2019;
- c. Forcibly kissing a female hospital employee while she was on-duty and in a patient room;
- d. Transporting a female hospital employee off hospital property and sexually assaulting her in his vehicle in or around June 2017;
- e. Transporting a second female hospital employee off hospital property and sexually assaulting her in his vehicle on or about November 12, 2017.

29. Dr. Kabbara's ability to continue in the unrestricted practice of medicine at this time constitutes an immediate danger to the public.

CONCLUSIONS OF LAW

1. The West Virginia Board of Medicine is 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). Accordingly, Dr. Kabbara'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. 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 Board has jurisdiction over the subject matter and over the Respondent. W. Va. Code § 30-3-5.

4. 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 licensure. W. Va. Code § 30-3-14.

5. The general provisions applicable to state licensing and examination Boards, authorize the Board to promulgate 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." W. Va. Code § 30-1-8(c).

6. The Board's Legislative Rule Series 1A, *Licensing and Disciplinary Procedures: Physicians; Podiatrists*, enumerates additional conduct for which discipline may be imposed,

including conduct which constitutes dishonorable, unethical and/or unprofessional conduct. W. Va. Code R. § 11-1A-12 (2018).

7. The Board is authorized to impose one or more of the following disciplinary measures, as appropriate:

- a. Denial of an application for a license or other authorization to practice medicine and surgery or podiatry;
- b. Administer a public reprimand;
- c. Issue a suspension, limitation or other restriction upon a license for a period of up to five years;
- d. Suspend, limit or restrict his or her license or other authorization to practice medicine and surgery or podiatry for up to five years;
- e. Revoke a license or other authorization to practice medicine and surgery or podiatry or to prescribe or dispense controlled substances;
- f. Require a licensee “to submit to care, counseling or treatment designated by the Board as a condition for initial or continued licensure or renewal of licensure or other authorization to practice medicine and surgery or podiatry”;
- g. Require participation in a program of education;
- h. Require supervised practice for a specified period of time; and
- i. Assess a civil fine.

W. Va. Code § 30-3-14(j); *See also* W. Va. Code R. § 11-1A-12.3 (2018).

8. West Virginia Code § 30-3-14(k) further provides that “if the board determines the evidence in its possession indicates that a physician’s continuation in practice or unrestricted practice constitutes an immediate danger to the public, the board may take any of the actions provided for in subsection (j) of this section on a temporary basis and without a hearing, if institution of procedures for a hearing before the board are initiated simultaneously with the temporary action and begin within fifteen days of the action. The board shall render its decision within five days of the conclusion of a hearing under this subsection.” *Id.*

9. The Complaint Committee met on Sunday, September 13, 2020. A quorum of the Committee was present at this meeting.

10. Based upon its review of all of the information developed by the investigation, the Complaint Committee determined that probable cause exists to substantiate charges to disqualify Dr. Kabbara from the practice of medicine in West Virginia due to apparent violations of:

- a. W. Va. Code § 30-3-14(c)(8) and W. Va. Code R. § 11-1A-12.1.r, relating to exercising influence within a patient-physician relationship for the purpose of engaging a patient in sexual activity;
- b. W. Va. Code § 30-3-14(c)(17) and W. Va. Code R. § 11-1A-12.1.e, relating to dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof;
- c. W. Va. Code § 30-3-14(c)(17) and W. Va. Code R. § 11-1A-12.1.j, relating to unprofessional conduct including, but not limited to, any departure from, or failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the profession, irrespective of whether or not a patient is injured thereby,

and/or the commission of any act contrary to honesty, justice or good morals, whether the same is committed in the course of his practice or otherwise;

- d. W. Va. Code § 30-3-14(c)(17) and W. Va. Code R. § 11-1A-12.2.d, relating to conduct which is calculated to bring or has the effect of bringing the profession into disrepute, including, but not limited to, any departure from or failure to conform to the standards of acceptable and prevailing practice within the state, and any departure from or failure to conform to the current principles of medical ethics;
- e. W. Va. Code § 30-3-14(c)(17) and W. Va. Code R. § 11-1A-12.1.bb, relating to the violation of any law, rule or regulation of this State, any other state, the Board, the United States or any other lawful authority which relates to the practice of medicine; and/or
- f. W. Va. Code § 30-3-14(c)(17) and W. Va. Code R. § 11-1A-12.1.x, relating to engaging in malpractice or a failure to practice medicine with that level of care, skill and treatment which is recognized by a reasonable, prudent physician engaged in the same or similar specialty as being acceptable under similar conditions and circumstances.

11. The Committee further determined that the evidence in its possession indicated that Dr. Kabbara's continuation in practice or unrestricted practice constitutes an immediate danger to the public.

12. Thereafter, the Committee determined, based upon the evidence in its possession, to recommend that the full Board impose summary discipline in this matter, pursuant to W. Va. Code § 30-3-14(k), because Dr. Kabbara's continuation in practice constitutes an immediate danger to the public.

13. A meeting of the West Virginia Board of Medicine was convened at 9:00 am on Monday, September 14, 2020. At the meeting, the Board considered whether Dr. Kabbara's continuation in practice constitutes an immediate danger to the public. A quorum of the Board was present for this meeting.

14. At the September 14, 2020 meeting of the full Board, the Complaint Committee reported that evidence in its possession indicates that Dr. Kabbara's continuation in practice or unrestricted practice, and the continuation of his license in an unrestricted active status, constitutes an immediate danger to the public.

15. The Board was also provided with the opportunity to review Exhibits A through M, which are attached hereto and incorporated herein by reference.

16. With a quorum of the Board present and voting, the Board ratified the Complaint Committee's determination of probable cause.

17. The Board further determined, with no dissenting votes, that under all of the circumstances, for Dr. Kabbara to continue to hold an unrestricted license to practice medicine in the State of West Virginia, constitutes an immediate danger to the health, welfare and safety of the public.

18. The Board concluded, as a matter of law, that such a danger to the public demands extraordinary measures, and the Board, with a quorum of the Board present and voting, therefore found, with no dissenting votes, that in accordance with its statutory mandate to protect the public interest, the license to practice medicine of Dr. Kabbara, license number 26464, must be summarily **SUSPENDED**, in accordance with the provisions of W. Va. Code § 30-3-14(k) and W. Va. Code R. § 11-3-10.16 (2010).

ORDER

WHEREFORE, the Board hereby **ORDERS** that the license to practice medicine and surgery of Zouhair Mohamad Wadih Kabbara, MD, License No. 26464, is hereby **SUSPENDED**, **effective immediately upon the entry of this Order.**

NOTICE OF HEARING

Under the provisions of W. Va. Code § 30-3-14(k) and W. Va. Code R. § 11-3-10.16, if summary disciplinary action is taken by the Board pursuant to these sections, proceedings for a hearing before the Board must be initiated simultaneously with the temporary action and must commence within fifteen days of such action.

Dr. Kabbara is hereby notified that at **9:00 am EDT on Wednesday, September 30, 2020**, the West Virginia Board of Medicine will convene in its offices located at 101 Dee Drive, Charleston, West Virginia, with a duly qualified Hearing Examiner, Lewis G. Brewer, Esquire, for the purpose of hearing evidence regarding the contents of this Order, the charges of professional misconduct set forth in Second Amended Initiated Complaint No. 19-114-W and as set forth herein. The hearing shall utilize the videoconferencing platform GoToMeeting. Board members, the hearing examiner, legal counsel, witnesses and parties, may participate via videoconferencing only upon written notice to the executive director and after demonstrating necessary technological resources and capacity to the satisfaction of the Board.

Such hearing, if not concluded on that date, shall continue thereafter upon mutually agreeable dates, and as expeditiously as possible. At this hearing, Dr. Kabbara must be present, and may be accompanied by counsel if he so desires. He may present any witnesses and/or evidence that he desires to present on his behalf to show cause as to why his license to practice

medicine and surgery in West Virginia should not be subject to continued suspension and/or additional or further restriction. The Hearing Examiner is hereby delegated the authority to receive and rule upon any non-dispositive pre-trial motions filed by the parties. **Provided, that if Dr. Kabbara seeks to continue the scheduled hearing date, he must file for continuance on or before 4:30 pm EDT on Wednesday, September 23, 2020.**

PROTECTIVE ORDER

Inasmuch as the timeframes of W. Va. Code § 30-3-14(i) are incompatible with the summary hearing process, the Hearing Examiner shall establish a reasonable, expedited schedule for the parties' disclosure of witnesses and potential exhibits in this matter. All patient medical records, prescription records, peer review material, and records which contain personally identifiable information of the Respondent or third parties and which are produced or exchanged by the parties in advance of the hearing in this matter are deemed to be confidential and shall be exchanged under seal and pursuant to the Protective Order of this Board. The producing party shall identify and designate all confidential material which is produced under seal. Petitioner and Respondent shall maintain all such material in a confidential manner. Notwithstanding this Protective Order, the parties may disclose these records to legal counsel, expert witnesses and other individuals who are participating or assisting in the litigation of this matter so long as such persons are advised that the documents are subject to protective order and must be maintained in a confidential manner and agree to maintain the confidentiality of the protected material. Nothing in this Order shall prohibit disclosure of the protected material in response to an Order from a court of competent jurisdiction or as otherwise required by law.


In compliance with W. Va. Code § 30-3-8, the Secretary of the Board shall "together with the president of the board sign all licenses, reports, orders and other documents that may be

required by the board in the performance of its duties,” the ministerial signatures of the current Board President and Secretary appear hereupon.

So **ORDERED** and hereby **NOTICED FOR HEARING**.

ENTERED this 16th day of **September 2020**.

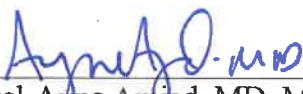
WEST VIRGINIA BOARD OF MEDICINE



President
Kishore K. Challa, MD, FACC

9/15/20

Date



Quartel-Ayne Amjad, MD, MPH
Secretary

9/16/2020

Date

EXHIBITS ON FILE WITH
THE
WEST VIRGINIA BOARD OF
MEDICINE