

CERTIFIED MAIL - RETURN RECEIPT REQUESTED NO. \_\_\_\_\_

STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES  
BUREAU OF HEALTH SYSTEM REGULATION  
DIVISION OF MEDICAL QUALITY ASSURANCE

In re: Robert Fox, M.D.

Petition No. 921103-01-124

CONSENT ORDER

Robert Fox, M.D., of Branford, Connecticut (hereinafter "respondent") has been issued license number 027281 to practice medicine and surgery by the Department of Public Health and Addiction Services (hereinafter "the Department") pursuant to Chapter 370 of the General Statutes of Connecticut, as amended;

The Department has conducted an investigation based upon information that respondent is not able to practice medicine with reasonable skill and safety due to mental illness, emotional disorder and/or substance abuse. As the result of such investigation, the Department makes the following allegations against respondent:

1. Respondent was placed on probation for three (3) years under various terms and conditions by the Connecticut Medical Examining Board (hereinafter "the Board") pursuant to a "FINAL DECISION" issued in Petition No. 920310-01-029 on August 20, 1992 (a true and correct copy of which is attached hereto marked Attachment "A");
2. On or about August 24, 1992, respondent drank vodka and took Elavil and Chlordiazepoid in violation of the terms of his probation;

3. Respondent suffers from Panic Disorder, Major Depression, and/or other emotional disorder or mental illness, and from chemical dependency, all of which does or may affect his ability to practice medicine with reasonable skill and safety;
4. The foregoing conduct and conditions constitute violations of General Statutes of Connecticut §20-13c;
5. Respondent has not practiced medicine in Connecticut since August 24, 1992.

Respondent admits the allegations contained in paragraphs 1 and 5 above.

Respondent does not admit the allegations of paragraphs 2, 3 and 4 above, but wishes to resolve this pending matter without the need for a formal hearing before the Board.

NOW THEREFORE, pursuant to §20-13c of the General Statutes of Connecticut, Robert Fox, M.D., hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter.
2. While not admitting the truth of the Department's allegations against him, respondent stipulates and agrees that:
  - A. He will not contest the Department's allegations for the purposes of this proceeding;
  - B. The Department's allegations as contained in this CONSENT ORDER shall be deemed true in any subsequent proceeding before the Board in which (1) his compliance with the terms of this CONSENT ORDER, or (2) his compliance with §20-13 of the General Statutes of Connecticut, is at issue.

C. This CONSENT ORDER shall be considered conclusive proof of the truth of the Department's allegations in any such subsequent proceeding as described above.

3. Respondent shall comply with all federal and state statutes and regulations pertaining to his license.
4. Respondent shall not at any time prescribe or self-medicate with controlled substances for himself or his immediate family under any circumstances;
5. Respondent is hereby placed on probation for a period of five (5) years, under the following terms and conditions:
  - A. He shall engage in therapy at his own expense with a psychiatrist approved by the Department on such basis as his therapist deems therapeutically necessary, but in no event less frequently than once per week;
  - B. He shall take all medications prescribed by his psychiatrist and/or his personal physician;
  - C. He shall notify all of his treating physicians of all medications which have been prescribed for him;
  - D. He shall follow all recommendations made by his psychiatrist regarding follow-up, aftercare or further professional treatment for chemical dependency;
  - E. He shall attend a minimum of two (2) AA or NA meetings per week, and furnish verification of such attendance to his psychiatrist;
  - F. He shall not ingest, inhale, inject or otherwise use alcohol or any controlled substance which has not been prescribed for him for a

legitimate therapeutic purpose under the direct care of a licensed physician;

- G. He shall be responsible for the provision of monthly written reports from his psychiatrist directly to the Department. Such reports shall include, but not be limited to, documentation of dates of therapy; an evaluation of respondent's progress in therapy; a statement as to whether he regularly participates in all treatment programs recommended by the psychiatrist and attends twice weekly AA or NA meetings; verification as to whether he remains free of non-prescribed controlled substances and alcohol; and an evaluation of his ability to practice medicine safely and competently. Copies of all verifications of AA or NA attendance and copies of all laboratory reports of random urine screens for alcohol and controlled substances required below shall also be made a part of the monthly psychiatrist reports.
- H. Notwithstanding the requirement that respondent's psychiatrist submit monthly reports to the Department during the term of respondent's probation, the psychiatrist shall immediately notify the Department of any of the following:
- (1) Any conduct or condition on respondent's part which does or may constitute a deviation from appropriate standards of care and conduct for his profession;
  - (2) Any conduct or condition which does or may indicate that respondent is unable to practice medicine with reasonable skill and safety;

- (3) Any urine screen as required below which is confirmed positive for alcohol or non-prescribed controlled substances;
  - (4) Respondent's discontinuation of therapy without prior written approval of the Department.
- I. If respondent's therapist determines that therapy is no longer necessary, he or she shall advise the Department, and the Department shall pre-approve respondent's termination from therapy. However, that therapist or another licensed or certified therapist approved by the Department shall continue to monitor respondent's compliance with the terms of this Order by doing the following:
- (1) Monitoring respondent's intake of all prescribed medications to treat his condition;
  - (2) Monitoring respondent's twice weekly attendance at AA or NA meetings;
  - (3) Ordering, monitoring and reviewing respondent's random urine screens for non-prescribed controlled substances and alcohol as required below; and
  - (4) Providing the reports described in sub-paragraphs 5G and 5H above.
- J. He shall submit to observed, random urine screens at a facility or by a physician approved by the Department for non-prescribed controlled substances and alcohol as ordered by his therapist, and for all drugs prescribed by his therapist and/or personal physician. He shall also be responsible for providing laboratory reports reporting the results of such screens directly to his therapist.

- (1) All such screens shall be negative for non-prescribed controlled substances and alcohol;
- (2) All such screens shall be legally defensible in that the specimen donor and chain of custody can be identified throughout the testing process;
- (3) Respondent shall notify the laboratory, his therapist and the Department of all prescribed controlled substances he is taking;
- (4) All positive screen results shall be confirmed by gas chromatograph/mass spectrometer testing;
- (5) Respondent is hereby advised that the ingestion of poppy seeds has, from time to time, been raised as a defense to a positive screen result for Morphine and/or opiates. For that reason, he agrees to refrain from ingesting poppy seeds in any food substances during the term of this CONSENT ORDER. In the event respondent has a positive screen for Morphine and/or opiates, he agrees that the ingestion of poppy seeds shall not constitute a defense to such a screen;
- (6) All such screens shall be required at the discretion of respondent's therapist, but there shall be not less than one (1) screen per week during the first three years of his probation, not less than one (1) screen every two weeks during the fourth year, and not less than one (1) screen per month during the fifth year.

K. During the term of probation, respondent shall submit to complete psychiatric evaluations, including psychological testing, every six months. Such evaluations shall be performed and/or supervised by Dr. Duncan McMasters. If Dr. McMasters is unavailable, such evaluations may be performed by another evaluator licensed in Connecticut and approved by the Department and the Board.

- (1) Respondent shall provide the evaluator with a copy of this CONSENT ORDER and shall fully cooperate with such evaluations;
- (2) Respondent shall take all steps reasonably necessary to authorize and direct the evaluator to release the results of such evaluations to the Department and the Board;
- (3) The evaluator shall submit a report of each such evaluation to the Department and the Board;
- (4) The first evaluation report shall be due on 6/30/94, and subsequent reports shall be due every six months thereafter;
- (5) Respondent shall take all steps reasonably necessary to complete each evaluation within a reasonable time prior to the due date of each evaluation report.
- (6) All such reports shall conclude that respondent is able to practice medicine with reasonable skill and safety, as required by the terms of this CONSENT ORDER.

L. If respondent accepts employment during the term of probation, he shall furnish all current and future employers with a copy of this CONSENT ORDER.

- M. If employed, respondent shall be supervised at all times by a psychiatrist licensed in Connecticut and approved by the Department.
- N. Respondent shall be responsible for the provision of written reports directly to the Department from his supervisor monthly for the term of his probation. Such employer reports shall include documentation of respondent's ability to safely and competently practice medicine.
- O. If respondent engages in private practice, he shall obtain at his own expense a Board certified psychiatrist to monitor his practice by reviewing patient records, case histories, and by any other form of monitoring deemed reasonably necessary by the monitor.
  - (1) Respondent's monitor must be licensed in Connecticut and approved by the Department;
  - (2) His monitor shall confirm his or her engagement to the Department in writing before respondent resumes practice;
  - (3) His monitor shall review at least ten percent (10%) of respondent's patient population on a quarterly basis;
  - (4) His monitor shall submit written quarterly reports to the Department, which shall include but not be limited to the following:
    - (a) Date of the review;
    - (b) Number of records selected;
    - (c) A description of all monitoring techniques utilized;
    - (d) A description of how patient records were selected for review;

- (e) An assessment of the completeness and accuracy of respondent's records, including comparisons with respondent's appointment book and billing records;
  - (f) An assessment of whether or not respondent's records meet the standard of care;
  - (g) An assessment as to how many hours per week respondent is working;
  - (h) An assessment of respondent's ability to practice with reasonable skill and safety, and in conformity with the standards of care and conduct for his profession.
- (5) Notwithstanding the foregoing, respondent's monitor shall immediately report to the Department any conduct or condition on respondent's part which does or may constitute a deviation from appropriate standards of care and/or conduct for his profession, or which does or may prevent respondent from practicing with reasonable skill and safety.
- P. Regardless of whether respondent is employed or maintains a private practice, he shall not work more than 15 hours per week providing actual patient care during the term of probation.
- Q. He shall not reapply for a state or federal controlled substance registration for Schedule II and Schedule III drugs during the term of probation.
- R. He shall not prescribe, administer or dispense Schedule II or Schedule III drugs during the term of probation.

- S. He shall at his own expense attend and complete at least 50 hours of continuing education programs that include topics in pain management and record keeping during each year of his probation, to the extent they are available in any of the northeastern states, New York or New Jersey. All programs shall be accredited by the American Psychiatric Association or other nationally recognized accrediting body. He shall provide written proof of successful completion of the foregoing continuing education programs on or by each anniversary date of this CONSENT ORDER to the Department.
- T. If he continues his private practice, he shall at his own expense obtain an independent "billing" service for his practice during the term of his probation. He shall forward a copy of a fully executed contract for such services to the Department before he resumes any private practice.
- U. Respondent shall notify the Department in writing of any change of employment within fifteen (15) days of such change.
- V. Respondent shall notify the Department in writing of any change in his home or business address within fifteen (15) days of such change.
- W. All reports required in paragraphs 5G, 5N, and 5O are due according to the following schedule:
- 1) Monthly reports are due on the tenth business day of every month commencing with the report due 2/1/94.
  - 2) Quarterly reports are due on the tenth business day of January, April, July and October. Quarterly reports shall commence with the report due 4/14/94.

- X. Respondent shall furnish a copy of this FIRST SUPPLEMENTAL CONSENT ORDER to all physicians, psychiatrists and therapists from whom he receives any care, treatment, prescriptions or services. He shall further furnish written verification from such persons directly to the Department stating that respondent has done so.
6. Following the term of respondent's probation, respondent may apply for reinstatement of his controlled substance registration for Schedules II and III drugs. If respondent's controlled substance registration for those schedules is reinstated, respondent agrees that he shall retain the services of a Board certified psychiatrist monitor at his own expense to provide the services and reports required by the terms of paragraph 50 above, for a period of one year from the effective date of such reinstatement.
7. All correspondence and reports shall be addressed to:
- Lynne A. Hurley, Investigator  
Public Health Hearing Office  
Department of Public Health and Addiction Services  
150 Washington Street  
Hartford, CT 06106
8. Any deviation from the terms of this CONSENT ORDER without prior written consent of the Department shall constitute a violation of this ORDER. Any report received from respondent's therapist, employer, evaluator or monitor which indicates that respondent is or may be unable to practice medicine with reasonable skill and safety shall also constitute a violation of this CONSENT ORDER. Respondent is hereby advised that he shall be responsible for the submission of all reports in timely fashion,

and to provide witnessed, random urine samples for screening as directed by his therapist. Respondent agrees that periods of vacation, trips, seminars and the like shall not relieve or excuse him from these obligations.

9. Any violation of the terms of this CONSENT ORDER without prior written approval by the Department and the Board shall constitute grounds for the Board to revoke respondent's medical license following notice and an opportunity to be heard.
10. Any violation of the terms of this CONSENT ORDER shall also constitute grounds for the Department to seek a summary suspension of respondent's license. Respondent specifically waives the provisions of Connecticut General Statutes §4-182(c) and §19a-17(c), which require a finding of an emergency and a clear and immediate danger to the public health and safety, respectively, before summary action can be taken.
11. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
12. Legal notice of any action shall be deemed sufficient if sent to respondent's last known address of record reported to the Licensure and Renewal Section of the Division of Medical Quality Assurance, Department of Public Health and Addiction Services.
13. This CONSENT ORDER is effective on the day it is approved and accepted by the Board, and supercedes all prior Orders entered by the Board.

14. This Consent Order is a matter of public record.
15. Respondent has consulted with an attorney prior to signing this CONSENT ORDER.
16. This CONSENT ORDER and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this ORDER is not subject to appeal or review under the provisions of Chapters 54 and 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any other rights that he may have under the laws of the State of Connecticut or of the United States.
17. Respondent permits a representative of the Public Health Hearing Office of the Division of Medical Quality Assurance of the Department to present this CONSENT ORDER and the factual basis for the same to the Board. Respondent understands that the Board has complete and final discretion as to whether an executed CONSENT ORDER is approved or accepted.

I, Robert Fox, M.D. have read the above CONSENT ORDER, and I agree and admit to the terms and allegations set forth therein. I further declare the execution of this CONSENT ORDER to be my free act and deed.

Robert Fox, M.D.  
Robert Fox, M.D.

Subscribed and sworn to before me this 7<sup>th</sup> day of December 1993.

Teru Green  
Notary Public or person authorized  
by law to administer an oath or  
affirmation  
My Commission Expires March 31, 1995

The above CONSENT ORDER having been presented to the duly appointed agent of the Commissioner of the Department of Public Health and Addiction Services on the 10<sup>th</sup> day of December 1993, it is hereby accepted.

By: Stanley K. Peck  
Stanley K. Peck, Director  
Division of Medical Quality Assurance  
Authorized representative

The above CONSENT ORDER having been presented to the Connecticut Medical Examining Board on the 21<sup>st</sup> day of December 1993, it is hereby ordered and accepted.

By: Neil Ratgan MD  
Connecticut Medical Examining Board  
Chairman

STATE OF CONNECTICUT  
DEPARTMENT OF HEALTH SERVICES

In re: Robert A. Fox, Jr., M.D.  
920310-01-029  
2 Summit Place, Suite 2C  
Branford, CT 06405

Petition No.

A

FINAL DECISION

PROCEDURAL BACKGROUND

On or about March 17, 1992, the Department of Health Services (hereinafter referred to as Department) moved that the license of Robert A. Fox, Jr., M.D. (hereinafter referred to as Respondent) be summarily suspended. The motion was granted and the Respondent's medical license was suspended on March 17, 1992, pending a hearing set for March 31, 1992. (Dept. Ex. A)

The hearing originally scheduled for March 31, 1992, was continued by election of the Respondent to have the entire case heard by newly appointed panel members. (Tr. 3/31/92)

The case was rescheduled to May 1, 1992, when a panel of the Connecticut Medical Examining Board, (hereinafter referred to as Board) convened to hear the case of Robert A. Fox, Jr., M.D. The Respondent appeared with counsel Earl I. Williams. The Department was represented by Stephen J. Varga. During the hearing testimony, documentary evidence and legal argument was offered by both parties. A post hearing submission was accepted by the panel on June 26, 1992, and "marked" as Respondent's exhibit "4".

The Statement of Charges was amended on April 23, 1992. The Amended Statement of Charges alleged in nine counts conduct rendering the Respondent subject to disciplinary action by the Connecticut Medical Examining Board.

The Department and the Respondent stipulated that the Respondent admitted certain counts and/or paragraphs of the charges. They also stipulated that the Department withdraw certain counts and/or paragraphs. (Tr. 5/1/92 p. 5-9) These will be addressed below.

During the hearing several exhibits were admitted under seal. (Dept. Ex. F, G, H, I, J, K and Resp. Ex. 3). Some testimony was taken in executive session.

The decision is based entirely on the record presented and the specialized professional knowledge of the participating members of the Board in evaluating the evidence.

FINDINGS OF FACT:

After consideration of the entire record the findings of fact are the following:

1. The Respondent Robert A. Fox, Jr., M.D., was the holder of medical license 027281 at all times relevant to the charges and up to the date of the summary suspension. (Ans.)

2. The Respondent's medical license was summarily suspended by order of the Board dated March 17, 1992. (Dept. Ex. A)

3. REGARDING THE FIRST COUNT

The Respondent admits the entire FIRST COUNT. (Tr. 5/1/92 p. 6) This count alleges that between approximately January, 1991, and February, 1992, Dr. Fox inappropriately prescribed for himself one or more of the following drugs:

- a. Morphine sulfate, injectable,
- b. Dilaudid injectable,
- c. Dilaudid tablets,
- d. Methadone, and/or
- e. Percocet.

He admits violating Connecticut General Statutes §§20-13c(4) and (5).

4. REGARDING THE SECOND COUNT

The Respondent admits the entire SECOND COUNT. (Tr. 5/1/92 p. 6) This count alleges that between approximately January, 1991, and February, 1992, he abused or misused one or more of the following drugs:

- a. Morphine sulfate, injectable
- b. Dilaudid injectable,
- c. Dilaudid tablets
- d. Methadone, and/or
- e. Percocet.

Dr. Fox admits that the conduct violates Connecticut General Statutes §20-13c (3), (4) and/or (5).

5. REGARDING THE THIRD COUNT

The Department withdrew the THIRD COUNT against Dr. Fox.

6. REGARDING THE FOURTH COUNT

The Department withdrew the FOURTH COUNT. However the second paragraph of the FOURTH COUNT was reserved and moved to the SEVENTH COUNT thereby replacing paragraph 2 of the SEVENTH COUNT.

7. REGARDING THE FIFTH COUNT

The Department alleges acts or omissions below acceptable standards of care by Dr. Fox in his care and treatment of Bobbie Steward. Dr. Fox denies the alleged misconduct.

(Tr. 5/1/92 p. 8) He admits treating Bobbie Stewart between approximately June, 1990, to December, 1991. (Tr. 5/1/92 p. 8)

The Department admitted this patient's medical record prepared by Dr. Fox. The patient also testified regarding these charges.

- a. The Board finds there was insufficient evidence to establish that Dr. Fox had the patient obtain

injectable morphine and/or syringes for a purpose other than her treatment as alleged in subparagraph 3a. (Tr. 5/1/92 p. 152)

- b. This subparagraph incorporates the allegations of the previous subparagraph (Fifth Count, paragraph 3.a.) but adds that the Respondent also charged her insurance company. The Board did not find that any misconduct was proven with regard to paragraph 3.a. While Dr. Fox may have charged the patient's insurance company there was insufficient proof to establish that such charge was inappropriate.
- c. The Board finds that the patient's records (Dept. Ex. K - sealed) demonstrates that Dr. Fox inappropriately treated the patient with an excessive quantity of Percocet or other controlled substance as alleged in subparagraph 3c.
- d. The Board finds the Department produced insufficient evidence to establish that Dr. Fox failed to timely or properly counsel the patient on alternative methods to cope with her pain.
- e. The Department failed to establish that the patient was injected intravenously with Morphine and Haldol as alleged in this subparagraph, 3e.

- f. The Department failed to establish that the patient was injected intravenously with Demerol and Vistaril as alleged in this subparagraph 3f.
  
- g. This subparagraph alleges that Dr. Fox intravenously injected Ms. Steward with controlled substances in his office even though he knew or should have known that she would be driving a car after the injections were given. As stated above, the Department did not establish that any medications cited in the charges were given intravenously. The Department has failed to establish this allegation.
  
- h. This subparagraph almost exactly mimics the previous subparagraph except that it does not allege that the controlled substance was given intravenously.

The medical record of the patient demonstrates several injections of controlled substances. (Dept. Ex. K)  
There was no evidence to indicate that Dr. Fox knew or should have known the patient would be driving after any of the injections.

8. REGARDING THE SIXTH COUNT

The Department alleges acts or omissions below acceptable

standards of care by Dr. Fox in his care and treatment of Claudette Levatino. Dr. Fox denies the alleged misconduct. (Tr. 5/1/92 p. 7) He admits treating Claudette Levatino between January, 1988, to September, 1991. (Tr. 5/1/92 p. 8)

- a. This subparagraph alleges that Dr. Fox failed to timely or properly counsel Ms. Levatino on alternative methods to cope with her pain. The Board finds insufficient evidence to establish misconduct by Dr. Fox as alleged. (Tr. 5/1/92 p. 115-116)
- b. The Board finds that the patient's records, the testimony from Dr. Fox and the testimony of the patient demonstrate that the Respondent treated Ms. Levatino with an excessive quantity of Percocet or other controlled substances. (Dept. Ex. J., Testimony Claudette Levatino, Testimony Fox).
- c. The Board finds insufficient evidence to establish Dr. Fox failed to timely or properly counsel the patient on her marriage problems.
- d. The Board finds insufficient evidence to establish the Respondent offered to purchase the patient's television set using money received from her insurance company.

- e. The Board finds insufficient evidence to establish the Respondent inappropriately altered or falsified her medical record. (Tr. 5/1/92 p. 109, 117-118)

9. REGARDING THE SEVENTH COUNT

Paragraph 2 of this SEVENTH COUNT of the Amended Statement of Charges was withdrawn by the Department and replaced with paragraph 2 of the FOURTH COUNT of the Amended Statement of Charges. (Tr. 5/1/92 p. 7) Respondent acknowledges that between approximately January, 1991, and February, 1992, he failed to properly document the storing or maintaining of one or more of the following:

- a. Morphine Sulfate Injectable,
- b. Dilaudid injectable,
- c. Dilaudid tablets,
- d. Methadone, and/or
- e. Percocet.

He also admits that he violated Connecticut General Statutes §21a-254 in one or more of the following ways:

- a. by not maintaining a record indicating the date of receipt, name and address of the person from whom received and the kind and quantity of controlled substances received; and/or

- b. by not maintaining a record of all controlled substances sold, administered, dispensed or otherwise disposed of.

The Department alleged and he admitted that the conduct violates Connecticut General Statutes §20-13c(4).

10. REGARDING THE EIGHTH COUNT

The Department alleges acts or omissions below acceptable standards of care by Dr. Fox in that he inappropriately made claims to an insurance company for services not provided. He denies misconduct. (Tr. 5/1/92 p. 10)

- a. Subparagraphs a. and b. allege that Dr. Fox billed for one or more sessions between January, 1990, and February, 1991, concerning Aprile Levatino and Chris Levatino that did not occur. Dr. Fox claims that he didn't "have anything to do with the billing that goes on in my office...". (Tr. 5/1/92 p. 260) Ms. Fox admitted that she had billed the insurance company simply to help establish a case or record for a pending legal matter in which the Levatinos were involved and in doing so she exercised extremely poor judgement. (Tr. 5/1/92 p. 338, 340-341. Dept. Ex. F, G, H; and Resp. Ex. 3). Despite his claim of no knowledge of the

billing, all aspects of the billing practices in his office were his responsibility. The Board finds the Department sufficiently established this allegation.

- c. The Respondent admits this subparagraph and acknowledges that he billed for services not provided to Nancy Davison between December 16, 1991, and December 23, 1991. He claims this was an error that was rectified. The Board finds the evidence was insufficient to establish misconduct by the Respondent on this charge.

11. REGARDING THE NINTH COUNT

The Department withdrew paragraphs 2.a., 2.b., 2.c., 2.e., 2.f. and 2.g. It also withdrew the portion of paragraph 3 that alleges a violation of Connecticut General Statutes §20-13c(4). (Tr. 5/1/92 p. 9)

After the amendment as described the Respondent admitted the conduct. Specifically Dr. Fox admits inappropriately medicating himself between January, 1991, to February, 1992. He admits that the conduct violates Connecticut General Statutes §20-13c(2). To the extent this charge duplicates that of the SECOND COUNT, no addition adverse finding is made against the Respondent.

DISCUSSION AND CONCLUSIONS OF LAW:

In consideration of the above Findings of Fact, the following conclusions are rendered:

1. Robert A. Fox, Jr. held a valid medical license at all times referenced in the Amended Statement of Charges and at the time of the commencement of the proceedings (summary suspension).
2. Notice of the summary suspension, the charges and hearing sufficiently provided information as mandated by Connecticut General Statutes §4-177, §4-182 and §19a-17.
3. The hearing was held in accordance with Chapters 54 and 368a of the Connecticut General Statutes as well as 19-2a-1 through 19-2a-30 of the Regulations of Connecticut State Agencies. The notice of hearing, statement of charges and the hearing process provided Dr. Fox with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by Connecticut General Statutes 4-182(c).
4. Connecticut General Statutes §20-13c provides in pertinent part that:

The board is authorized to restrict, suspend or revoke the license or limit the right to practice of a physician or take any other action, in accordance with section 19a-17, for any of the following reasons:...(2) emotional disorder or mental illness; (3) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; (4) illegal, incompetent or negligent conduct in the practice of medicine; (5) possession, use, prescription for use, or distribution of controlled substances or legend drugs, except for therapeutic or other medically proper purposes:...

5. The Respondent admits that his inappropriate prescription of narcotics for personal use as cited in the Findings of Fact regarding the FIRST COUNT violates Connecticut General Statutes §20-13c(4) and §20-13c(5).
6. The Respondent admits that his misuse or abuse of narcotics as cited in the Findings of Fact regarding the SECOND COUNT violates Connecticut General Statutes §20-13c(3), §20-13c(4) and §20-13c(5).
7. The Department withdrew the THIRD and FOURTH COUNTS.
8. The Board found the Respondent inappropriately treated Bobbie Steward with an excessive quantity of Percocet or other controlled substances. (FIFTH COUNT) The Board concludes this conduct violates Connecticut General Statutes §20-13c(4).

9. The Board found the Respondent inappropriately treated Claudette Levatino with an excessive quantity of Percocet or other controlled substances. (SIXTH COUNT) The Board concludes this conduct violates Connecticut General Statutes 20-13c(4).

10. The Respondent admits that he failed to properly document the storing or maintaining of narcotics as cited in the Findings of Fact regarding the SEVENTH COUNT. The Respondent also admits that such conduct violated Connecticut General Statutes §21a-254 which states in pertinent part:

(c) Practitioners obtaining and dispensing controlled substances shall keep a record of all such controlled substances, received and dispensed by them in accordance with the provisions of subsection (f) and (h) of this section.

The Respondent admits that these acts violate Connecticut General Statutes §20-13c(4).

11. The Board found that the Respondent inappropriately billed for services not provided to Aprile and Chris Levatino as cited in the Finding of Facts regarding the Eighth Count. The Board concludes this conduct violates Connecticut General Statutes §20-13c(4).

12. The Department withdrew a significant portion of the NINTH COUNT. The Respondent admitted the remainder of that count as cited in the Findings of Fact regarding the NINTH COUNT. In this count he admits that he inappropriately medicated himself in violation of Connecticut General Statutes §20-13c(4).

13. Pursuant to Connecticut General Statutes §20-13c, the Board does not consider Dr. Fox to pose a threat in his practice of medicine to the health and safety of any person.

ORDER:

Pursuant to its authority under Connecticut General Statutes §§19a-17 and 20-13c, the Board hereby orders the following:

1. The Respondent shall be placed on probation for three (3) years from the effective date of this order. The conditions of his probation follow:
  - a. He shall not use or obtain for personal use alcohol. He shall not use or obtain for personal use any controlled substance except as prescribed by a physician.

- b. He shall continue in psychiatric treatment at his own expense with Dr. Richard Belitsky a minimum of two sessions per week. Dr. Belitsky shall issue a written report stating the Respondent's drug and alcohol free status and compliance with this order on a quarterly basis. Any change in therapist shall be preapproved by the Department of Health Services.
  
- c. Every six months the Respondent shall obtain at his own expense an independent psychiatric evaluation with Dr. Duncan McMaster of Woodbury, Connecticut. Dr. McMaster shall issue a report within one month thereafter stating the Respondent's compliance with this order and his findings. Any change in therapist shall be preapproved by the Department of Health Services.
  
- d. He shall have urine screening at his own expense for alcohol and all controlled substances at least once per week. These screens shall be random, witnessed and legally defensible in that the integrity of the specimen and chain of custody can be identified throughout the process. Those screens can be facilitated under the auspices of the New Haven County Medical Association Impaired Physician Program (the Association) or other agency approved by the Department.

Urine screening as described above will continue for one year after the reinstatement, if any, of his controlled substance registration for Schedules II and III. (see f. below) This one year period shall also be probationary and shall be in addition to the three year period of probation cited above.

Any and all positive screens shall be reported immediately by the Association or the other agency. Any failure by Dr. Fox to timely report for any ordered screen shall be immediately reported by the Association or the other agency.

- e. He shall attend Alcoholic Anonymous or Narcotics Anonymous at least two times per week.
  
- f. He shall surrender his controlled substance registration for Schedule II and Schedule III drugs. He shall not prescribe, administer or dispense Schedule II or Schedule III drugs. He may not reapply for that license during his three-year probation period, and he shall notify this Board upon any reapplication for that license. A copy of this Memorandum of Decision shall be sent to William Ward, Director, Drug Control Division, Department of Consumer Protection.

- g. He shall at his own expense attend at least 50 hours of continuing education programs preapproved by the Department per year. He should make efforts to attend programs in pain management and record keeping. He shall provide proof of successful completion of the program within each year.
  
- h. He shall at his own expense obtain an independent "billing" service for his practice. A copy of the full executed contract shall be forwarded to the Board.
  
- i. He shall obtain at his own expense a Board certified physician to monitor his practice by reviewing patient records. The Respondent shall provide the name, address, telephone number, and resume of the reviewing physician within one month of effective date of this decision. This physician shall be preapproved by the Board.

The consultant shall review at least ten percent of the Respondent's patient population. The consultant shall randomly select these patient records and review them on a quarterly basis. The consultant shall provide a report of the quarterly review within one month of the evaluation of the records.

The report shall include but is not limited to the following:

1. Date of the review.
2. How the records were selected.
3. The number of records selected.
4. The completeness and accuracy of the records, including comparisons with the appointment book and billing procedures.
5. Whether or not the records meet the standard of care.

Monitoring of his practice by reviewing patient records as described above shall also continue for one year after the reinstatement, if any, of his controlled substance registration for Schedules II and III. (see f. above) This one year period shall be probationary and shall be in addition to the three year period of probation cited above. The consultant's reports during this additional probationary period shall also include a review of the propriety of his prescription practices.

2. All reports and other correspondence related to this Memorandum of Decision shall be issued to:

Lynn A. Hurley  
Public Health Hearings Office  
Division of Medical Quality Assurance  
150 Washington Street  
Hartford, CT 06106

3. This order shall be effective upon signature of the Board chairperson.

8/20/92  
DATE

  
by: Elliott B. Pollack, Esq., Acting Chairperson

7288Q/ha




# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

January 25, 1999

Dr. Robert Fox  
17 Randi Drive  
Madison, Connecticut 06443

Re: Consent Order  
Petition No. 921103-01-124  
License No. 027281  


Dear Dr. Fox:

Please accept this letter as notice that you have completed the terms of your license probation, effective 12/21/98.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Consent Order.

Very truly yours,

A handwritten signature in cursive script that reads "Bonnie Pinkerton".

Bonnie Pinkerton, RNC  
Division of Health Systems Regulation

cc: Debra Tomassone



Phone: (860) 509-7400  
Telephone Device for the Deaf (860) 509-7191  
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