

BEFORE THE STATE BOARD OF MEDICAL EXAMINERS

STATE OF COLORADO

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF LYNNE L. FENTON, LICENSE NO. 32723,

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel B ("Panel") of the Colorado State Board of Medical Examiners ("Board") and Lynne Fenton, M.D. ("Respondent") as follows:

JURISDICTION AND CASE HISTORY

1. Respondent was licensed to practice medicine in the state of Colorado on July 15, 1993, and was issued License No. 32723, which Respondent has held continuously since that date.
2. The Panel and the Board have jurisdiction over Respondent and over the subject matter of this proceeding.
3. The Panel has reviewed case no. 5101021920. The Panel thereupon referred the matter to the Attorney General pursuant to § 12-36-118(4)(c)(IV), C.R.S.
4. It is the intent of the parties and the purpose of this Stipulation and Final Agency Order ("Order") to provide for a settlement of all matters set forth in case no. 5101021920, without the necessity of holding a formal disciplinary hearing. This Order constitutes the entire agreement between the parties, there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Order.
5. Respondent understands that:
 - a. Respondent has the right to be represented by an attorney of the Respondent's choice and is so represented;
 - b. Respondent has the right to a formal disciplinary hearing pursuant to § 12-36-118(5), C.R.S.
 - c. By entering into this Order, Respondent is knowingly and voluntarily giving up the right to a hearing, admits the facts contained in this Order, and relieves the Panel of its burden of proving such facts; and
 - d. Respondent is knowingly and voluntarily giving up the right to present a defense by oral and documentary evidence, and to cross-examine witnesses who would testify on behalf of the Panel.

6. Respondent specifically admits and agrees with the following:
- a. That she was advised by her staff that a pharmacist had called requesting an authorization for a prescription for Vicodin in the name of Michelle Lynne Moore, who was not a patient at the office. Respondent was able to determine that a member of her staff had written the fraudulent prescription. That staff person was then terminated and Respondent states she then notified the DEA.
 - b. Subsequently, she received a telephone call from the Rite Aid pharmacy asking for authorization for a refill of 500 Vicodin for the former employee. Respondent immediately contacted Agent Paul Jaster of the DEA office and notified him of this latest attempt by the former employee to fill a prescription. With Respondent's assistance, the former employee was arrested when she attempted to pick up this prescription.
 - c. Through her cooperation with the DEA, Respondent learned that the former employee had fraudulently obtained numerous illegal prescriptions.
 - d. Based upon this investigation, Respondent cooperated with the DEA in a complete investigation of her office.
 - e. During that investigation, Respondent volunteered that she had prescribed Claritin (now an over the counter medication) for both herself and her husband for seasonal allergies. While Claritin is not a controlled substance, at the time of the prescription it required a physician's order.
 - f. That on April 9, 1997, Respondent prescribed Lorazepam and Vicodin for an employee who was suffering from chronic headaches and anxiety. The employee returned the Lorazepam as not being effective.
 - g. That in 1998, Respondent provided an employee with 4 Xanax tablets that Respondent had received from a wholesaler. The purpose of the prescription was anxiety over an airline flight.
 - h. That Respondent ingested 3 Xanax tablets in April of 1997 during a period of time when her mother was suffering from a long and protracted terminal illness and was near death at that specific time.
 - i. Respondent admits that she prescribed Ambien to her husband for insomnia on at least three occasions in 1999. After those prescriptions, she directed her husband to obtain the medication from his regular treating physician.
 - j. That relating to all of the above prescriptions and dispensing of medications, Respondent admits that she did not maintain a medical chart or enter appropriate and essential entries for her chart relating to herself, her husband, or the employee.
-

k. Respondent voluntarily completed 50.25 hours of CME with the Dannemiller Memorial Education Foundation in pain management and COPIC's Level I Risk Management Seminar.

7. Respondent admits that the conduct set forth above constitutes unprofessional conduct as defined in § 12-36-117(1)(cc), C.R.S.

8. Based upon the above, the Panel is authorized by § 12-36-118(5)(g)(III), C.R.S. to order conditions upon Respondent's practice that it deems appropriate.

ACKNOWLEDGEMENT

9. The Panel acknowledges that the Respondent is no longer prescribing medications for family members and employees and will not do so in the future except in life-threatening emergencies. The Panel also acknowledges that Respondent will not prescribe or dispense narcotic medications for family members and employees under any circumstances. Respondent only prescribes medications to bona fide patients.

LETTER OF ADMONITION

10. This Order shall constitute a letter of admonition as set forth in § 12-36-118(5)(g)(III), C.R.S. Respondent is hereby admonished for the conduct referenced in paragraph 6 above.

OTHER TERMS

11. Respondent will successfully complete the Center for Personalized Education for Physicians Patient Care Documentation course that commences on December 3, 2004. She will also successfully complete the individualized follow-up assessments that occur one, three and six month after completion of the documentation course. Respondent will provide confirmation to the Panel of meeting these requirements within 30 days of completion of each requirement.

12. The terms of this Order were mutually negotiated and determined.

13. Both parties acknowledge that they understand the legal consequences of this Order; both parties enter into this Order voluntarily; and both parties agree that no term or condition of this Order is unconscionable.

14. All costs and expenses incurred by Respondent to comply with this Order shall be the sole responsibility of Respondent, and shall in no way be the obligation of the Board or Panel.

15. So that the Board may notify hospitals of this agreement pursuant to § 12-36-118(13), C.R.S., Respondent presently holds privileges at the following hospitals:

HealthOne Rose Medical Center; HealthOne Spaulding Rehabilitation Hospital Aurora;

HealthOne Presbyterian St. Lukes Medical Center

16. This Order and all its terms shall have the same force and effect as an order entered after a formal hearing pursuant to § 12-36-118(5)(g)(III), C.R.S. except that it may not be appealed. Failure to comply with the terms of this Order may be sanctioned by the Inquiry Panel as set forth in § 12-36-118(5)(g)(IV), C.R.S. This Order and all its terms also constitute a valid board order for purposes of § 12-36-117(1)(u), C.R.S. In addition to any other sanction that may be imposed, failure to comply with the terms of this Order shall toll the probationary period.

17. This Order shall be admissible as evidence at any future hearing before the Board.

18. During the pendency of any action arising out of this Order, the obligations of the parties shall be deemed to be in full force and effect and shall not be tolled.

19. This Order shall be effective upon approval by the Panel and signature by a Panel member. Respondent acknowledges that the Panel may choose not to accept the terms of this Order and that if the Order is not approved by the Panel and signed by a Panel member, it is void.

20. Upon becoming effective, this Order shall be open to public inspection and shall be reported as required by law.


LYNNE L. FENTON, M.D.

The foregoing was acknowledged before me this 17th day of September, 2004

by Lynne L. Fenton, M.D.

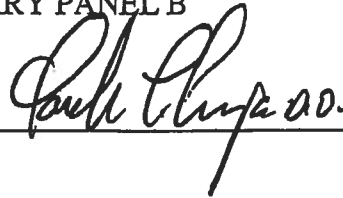



NOTARY PUBLIC

7/22/06
My commission expires

THE FOREGOING Stipulation and Final Agency Order is approved and effective this
23 day of September, 2004.

FOR THE COLORADO STATE BOARD OF
MEDICAL EXAMINERS
INQUIRY PANEL B



APPROVED AS TO FORM:

JAUDON & AVERY LLP



S. JANE MITCHELL, 24444
1660 Wynkoop Street
Suite 1010
Denver, Colorado 80202

Telephone: (303) 832-1122
Facsimile: (303) 832-1348

KENNETH SALAZAR
Attorney General



CHERYL K. HARA, 16017*
Assistant Attorney General
Business and Licensing Section

Attorneys for Colorado Board of Medical
Examiners, Inquiry Panel B

1525 Sherman Street, 5th Floor
Denver, Colorado 80203
Telephone: (303) 866-5453
FAX: (303) 866-5395
*Counsel of Record