

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)
)
Robert Andre Fleury, M.D.) CONSENT ORDER
)
Respondent.)

This matter is before the North Carolina Medical Board ("Board") on information regarding Robert Andre Fleury, M.D. ("Dr. Fleury"). Dr. Fleury admits and the Board finds and concludes that:

STATUTORY AUTHORITY

The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes and the rules and regulations promulgated thereto.

FINDINGS OF FACT

On May 8, 1982, the Board issued Dr. Fleury a license to practice medicine, license number 25998.

During the times relevant herein, Dr. Fleury practiced medicine in Pinehurst, North Carolina.

In 2012, Dr. Fleury, a psychiatrist, began treating Patient A, a professional colleague and friend whom Dr. Fleury had known for approximately 20 years.

Patient A presented to Dr. Fleury for help with her medications which had been prescribed to her by another physician and which Patient A believed were not effective. Patient A saw Dr. Fleury on five separate occasions in 2012, between February 17 and September 13. At this time, Dr. Fleury took a psychiatric history from Patient A and diagnosed her with moderate depression and managed her prescription medications.

Dr. Fleury would describe his treatment of Patient A as "psycho-pharmacology." Dr. Fleury denies providing Patient A with any, as he characterizes it, "insight-psychotherapy."

Prior to the beginning of treatment by Dr. Fleury, Patient A had divorced her husband, but during the entire time that Dr. Fleury was treating Patient A, she was experiencing significant discord with her ex-spouse over custody and support issues involving her two children. Dr. Fleury knew of this discord and documented it as Patient A's "chief complaint." Dr. Fleury also documented that the stress Patient A was experiencing and her inability to see her children as often as she liked was causing her increased anxiety and dysphoria.

On September 13, 2012, Patient A had her last visit with Dr. Fleury. At the conclusion of that visit, Dr. Fleury authorized prescriptions for various medications. Dr. Fleury also scheduled a three month follow-up visit.

Subsequent to that visit, Dr. Fleury reports that Patient A advised him that she was improved and was no longer taking the medications he had prescribed for her. She also told him she did not intend to return to his office for further treatment. These conversations were not documented in the medical record, and Patient A was never formally discharged as a patient from Dr. Fleury's care.

In or about October 2012, Dr. Fleury began a social relationship with Patient A. By his own admission, Dr. Fleury initiated a relationship with Patient A by asking her out to dinner. Over the next few months, this relationship evolved into a dating relationship.

Presently, Dr. Fleury is still involved in a relationship with Patient A. Patient A has made no complaint to the Board concerning Dr. Fleury and their professional or social relationship.

It is the Board's position that it is unethical for a psychiatrist to have a sexual relationship with a patient or former patient. See Annotation to Section 2 of the *Principles*

of Medical Ethics with Annotations Especially Applicable to Psychiatry, American Psychiatric Association ("Sexual activity with a current or former patient is unethical."). It is the Board's position that this ethical prohibition applies regardless of whether the psychiatrist is providing psychotherapy or psycho-pharmacology.

Dr. Fleury's conduct in this matter is mitigated for the following reasons: Patient A was a longtime colleague of Dr. Fleury's whom he had known for twenty years; Dr. Fleury did not provide psychotherapy to the patient; and the Board's evidence is that the physician/patient relationship ended prior to the relationship commencing, albeit in close temporal proximity to one another.

CONCLUSIONS OF LAW

Dr. Fleury's conduct with regard to Patient A, as described above, in the opinion of the Board constitutes unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, or the committing of any act contrary to honesty, justice, or good morals, within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and grounds exist under that section of the North

Carolina General Statutes for the Board to annul, suspend, revoke, condition or limit Dr. Fleury's license or to deny any application he might make in the future.

PROCEDURAL STIPULATIONS

Dr. Fleury acknowledges and agrees that the Board has jurisdiction over him and over the subject matter of this case.

Dr. Fleury knowingly waives his right to any hearing and to any judicial review or appeal in this case.

Dr. Fleury acknowledges that he has read and understands this Consent Order and enters into it voluntarily.

Dr. Fleury acknowledges the Board's position as one interpretation of the ethics principle although he personally disagrees; however he would like to resolve this matter without the need for more formal proceedings and therefore agrees to accept the Board's conclusion and abide with the resolution as set forth below.

The Board has determined that it is in the public interest to resolve this case as set forth below.

ORDER

Now, therefore, with Dr. Fleury's consent, it is ORDERED that:

1. Dr. Fleury's license to practice medicine is hereby INDEFINITELY SUSPENDED. This Suspension is hereby immediately STAYED, except for a period of Three (3) MONTHS. The date of suspension shall begin on December 1, 2014 and shall end on March 1, 2015. At the end of the active suspension period, Dr. Fleury's license will be automatically reinstated and Dr. Fleury may practice without restrictions or limitation and without the need for reapplying or further hearing or any other action by Dr. Fleury.

2. Dr. Fleury will pay to the Board a fine of Ten Thousand dollars (\$10,000.00) by December 1, 2014.

3. During the period of suspension as set forth above in Paragraph 1, Dr. Fleury may maintain his ownership interest in his practice, and he may continue to receive income generated by the practice.

4. Within thirty (30) days of the date of this Consent Order, Dr. Fleury shall arrange to attend a Category 1 Continuing Medical Education ("CME") course in maintaining proper boundaries. The CME course must be approved by the Board's Office of Medical Director and be completed within six (6) months. Dr. Fleury shall notify the Board's Compliance Coordinator of his completion of the approved course.

5. Dr. Fleury shall obey all laws. Likewise, he shall obey all rules and regulations involving the practice of medicine.

6. Dr. Fleury shall notify the Board in writing of any change in his residence and practice addresses within ten (10) days of the change.

7. Dr. Fleury shall meet with the Board or members of the Board for an investigative interview at such times as requested by the Board.

8. If Dr. Fleury fails to comply with any of the terms of this Consent Order, that failure shall constitute unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and shall be grounds, after any required notice and hearing, for the Board to annul, suspend, revoke, condition or limit Dr. Fleury's license to practice medicine and surgery and to deny any application he might make in the future or then have pending for a license.

9. It is expressly agreed that Dr. Fleury's continuing future relationship with Patient A shall not constitute grounds for any further disciplinary action by the Board against Dr. Fleury.

10. This Consent Order shall take effect immediately upon its execution by both Dr. Fleury and the Board and it shall

continue in effect until specifically ordered otherwise by the Board.

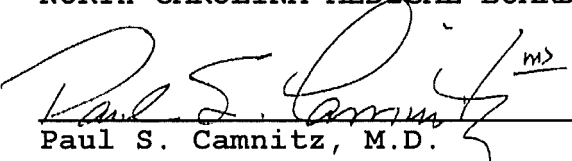
7. Dr. Fleury hereby waives any requirement under any law or rule that this Consent Order be served on him.

8. Upon execution by Dr. Fleury and the Board, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof. Additionally, it will be reported to persons, entities, agencies and clearinghouses as required and permitted by law including, but not limited to, the National Practitioners Data Bank and the Health Integrity and Protection Data Bank.

By Order of the North Carolina Medical Board this the 23rd day of September, 2014.

NORTH CAROLINA MEDICAL BOARD

By:


Paul S. Camnitz, M.D.
President

Consented to this the 3 day of September, 2014.

Robert Andre Fleury, M.D.
Robert Andre Fleury, M.D.

State of North Carolina
County of Moore

I, Kristine Marks, a Notary Public for the above named County and State, do hereby certify that Robert Andre Fleury, M.D. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal

this the 3 day of September, 2014.

Kristine Marks
Notary Public

(SEAL) **Kristine Marks
Notary Public
Moore County, NC**
My Commission Expires 5/19/19

My Commission expires: 5/19/19