

BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

In re:	)	
	)	
Olin Mackay Fox, M.D.,	)	CONSENT ORDER
	)	
Respondent.	)	

This matter is before the North Carolina Medical Board ("Board") regarding information provided to the Board concerning Olin Mackay Fox, M.D. ("Dr. Fox"). Dr. Fox makes the following admissions and the Board makes the following findings and conclusions:

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 to it in Article 1 of Chapter 90 of the North Carolina General Statutes and the rules and regulations promulgated thereto.

FINDINGS OF FACT

Dr. Fox was first issued a license to practice medicine by the Board on or about July 17, 2009, license number 2009-01367.

At all times relevant hereto, Dr. Fox practiced psychiatry in Pinehurst, North Carolina.

Dr. Fox treated Patients A through C with benzodiazepines or opioids or both. With all three patients, Dr. Fox ignored significant red flags for diversion or misuse of medication.

Patient A is a 64-year-old female with multiple psychiatric morbidities. Patient A struggled with suicidal ideations, criminal behavior, and periods of misuse of alcohol. She had difficulty sleeping, sustaining attention, and experienced confusion. There were multiple instances where Patient A reported lost or stolen medication. She was involved in three separate motor vehicle accidents.

Dr. Fox treated Patient A primarily through medication management with multiple drugs, including Seroquel® (quetiapine fumarate), Restoril® (temazepam), Xanax® (alprazolam), Symbyax® (fluoxetine/olanzapine), Requip® (ropinirole), Soma® (carisoprodol), and Adderall® (amphetamine/dextroamphetamine). Outside medical records indicate Patient A received Namenda® (memantine hydrochloride), Aricept® (donepezil), and oxycodone from other physicians. From 2011 to 2018, Patient A was taking significant amounts of medication prescribed by Dr. Fox to deal with mood and anxiety issues. As the course of her treatment progressed, Dr. Fox continuously placed Patient A on additional medications with little attention to identifying opportunities or strategies to reduce Patient A's medication burden, which

left her vulnerable to a range of side effects, including drug dependency.

During this seven-year period, Dr. Fox failed to discuss the safe use of medications and did not develop a strategy to maximize benefits of Patient A's medications while reducing their risks.

Dr. Fox failed to address additional diagnoses made by other physicians. Patient A received medication from another physician to treat dementia, yet Dr. Fox did not address this diagnosis in his care of Patient A.

Dr. Fox failed to recognize or address the possibility Patient A may have been misusing her medications when another physician reported to him Patient A had filled three Xanax® prescriptions within just a few days. The behavior suggested Patient A may have had a benzodiazepine use disorder; however, Dr. Fox did not address it.

Dr. Fox maintained Patient A on atypical antipsychotics continuously without adequate screening for metabolic syndrome or metabolic derangement. Dr. Fox did not check for hyperlipidemia despite warnings from the drug manufacturer that olanzapine (a drug prescribed to Patient A by Dr. Fox) may cause a substance use disorder and despite numerous signs Patient A may have been misusing her benzodiazepines. He did not address the risks of a potential unintentional overdose even though

Patient A had been taking benzodiazepines concomitantly with opioids.

In 2016, Dr. Fox attested on a DMV form Patient A was fit to drive. Dr. Fox did not disclose Patient A was being treated for dementia. He further stated Patient A had recovered from Bipolar Disorder, and indicated she was compliant with her medication despite obvious signs of misuse. He stated Patient A posed no risk to herself or others by driving.

Patient B is a 57-year-old male suffering from depression, panic disorder, chronic lumbosacral pain, and hypertension. Prior to and during the course of Dr. Fox's treatment, Patient B received and took opioids and benzodiazepines on a daily basis. Patient B had a history of intentional and unintentional drug overdoses with his prescribed medications (opioids and benzodiazepines). Patient B also had a history of requesting early refills. Despite this history, Dr. Fox never assessed nor diagnosed Patient B with a substance use disorder.

From 2015 to 2018, Patient B was seen by Dr. Fox on a regular basis, either monthly or every other month. The visits primarily involved medication management, whereby Patient B's prescriptions for opioid pain medications and benzodiazepines were renewed on a routine basis. Dr. Fox's records charted a history of fluctuating levels of depression, anxiety, and ongoing struggles with back pain. As for pain, Dr. Fox

documented little in regard to any physical exam relevant to back pain and he made no attempt to refer Patient B to a back or pain specialist. During the course of his treatment, Dr. Fox prescribed opioids in excess of 200 milligrams of morphine equivalent ("MME") per day without justifying the high dosing.

In addition to little attention being given to the ongoing etiology or reassessment of Patient B's back pain, Dr. Fox paid little attention to significant warning signs suggesting Patient B may have suffered from an opioid use disorder. Those signs included a history of intentional and unintentional overdoses and requests for early refills. As to the requests for early refills, Dr. Fox honored those requests without any discussion or consideration of a possible underlying substance use disorder.

In summary, Dr. Fox maintained Patient B on high doses of opioids for back pain with little to no continued workup to assess the etiology of Patient B's pain. He prescribed benzodiazepines concomitantly with opioids creating a significant risk of harm to Patient B without any discussion of the risks and benefits of such therapy, and he ignored significant red flags signifying a possible opioid use disorder.

Patient C is a 68-year-old male with anxiety, chronic low back pain, obesity, diabetes, and nephrectomy.

Patient C came to Dr. Fox after being treated by the Veteran's Administration (VA) for chronic back pain and anxiety. Beginning in 2015, Dr. Fox became the primary manager and prescriber of opioids for Patient C's back pain. Dr. Fox documented little in regard to any physical exam relevant to back pain and made no attempt to refer Patient C to a back or pain specialist. In addition, Dr. Fox maintained Patient C on significantly high doses of opioids. From 2015 to 2018, Patient C was taking 285 to 420 MME of opioids on a daily basis. There was little to no documented justification for such extremely high dosing. Furthermore, the dosing far exceeded recommended guidelines by the Center for Disease Control, and when combined with the benzodiazepines being prescribed concomitantly with the opioids, these medications created a significant risk of an accidental overdose death.

During his visits with Patient C, Dr. Fox took few vital signs; however, when vital signs were taken, significant abnormalities went unaddressed. For instance, on one visit, Patient C had a blood pressure of 216/104 and a pulse of 104. This went unaddressed by Dr. Fox. On another visit, Patient C's blood pressure was 166/84. This reading also went unaddressed.

Patient C had a history of requesting early refills throughout his course of treatment with Dr. Fox. At one visit, Patient C's urine drug sample tested positive for a high level

of fentanyl. However, fentanyl was not prescribed to Patient C by Dr. Fox nor was it prescribed to Patient C by any other provider. Despite his history of early refills and testing positive for a non-prescribed opioid, Dr. Fox never assessed nor diagnosed Patient C with a substance use disorder.

In summary, Dr. Fox maintained Patient C on high doses of opioids for back pain with little to no justification for such high dosing. Furthermore, Dr. Fox ignored significant warning signs Patient C may have had an underlying opioid use disorder.

#### CONCLUSIONS OF LAW

Dr. Fox's care of Patients A through C, as described above, constitutes unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and grounds exist under this section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition, or limit Dr. Fox's license to practice medicine or to deny any application he might make in the future.

#### PROCEDURAL STIPULATIONS

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

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

Dr. Fox, with advice of counsel, acknowledges that he has read and understands this Consent Order and enters into it voluntarily.

Dr. Fox desires to resolve this matter without the need for more formal proceedings.

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

ORDER

NOW, THEREFORE, with Dr. Fox's consent, it is ORDERED that:

1. Dr. Fox's North Carolina license to practice medicine is hereby SUSPENDED INDEFINITELY. This SUSPENSION is hereby STAYED, except for a period of thirty (30) days, in which Dr. Fox shall serve an active suspension, beginning on November 26, 2019. Dr. Fox shall not prescribe any schedule controlled substances. Furthermore, Dr. Fox shall surrender his Drug Enforcement Agency ("DEA") certificate effective November 26, 2019.

2. Within six (6) months of the date of this Consent Order, Dr. Fox shall undergo a comprehensive competency examination by a center approved in advance by the Board's Office of the Medical Director. Dr. Fox shall submit the name of the examination center he chooses for prior approval to the Board's Compliance Coordinator, at North Carolina Medical Board, P.O. Box 20007, Raleigh, NC 27619-0007 or

compliance@ncmedboard.org. Dr. Fox shall provide the Board with the results of the examination and follow recommendations made by the approved examination center to the Board's Compliance Coordinator.

3. Dr. Fox shall provide the Board with the results of the assessment and follow recommendations made by the approved assessment center.

4. After the successful completion of the comprehensive competency examination by Dr. Fox and the service of his thirty (30) day active suspension, Dr. Fox will be eligible for reinstatement of his DEA certificate. However, the Board is under no obligation to grant a request for reinstatement of Dr. Fox's DEA certificate and the Board will evaluate all facts and circumstances at the time of the request.

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

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

7. Upon request, Dr. Fox shall provide the Board with any information the Board deems necessary to verify compliance with the terms and conditions of this Consent Order.

8. If Dr. Fox 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, or revoke his license to practice medicine and to deny any application he might make in the future or then have pending for a license to practice medicine.

9. This Consent Order shall take effect immediately upon its execution by both Dr. Fox and the Board, and it shall continue in effect until specifically ordered otherwise by the Board.

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

11. Upon execution by Dr. Fox 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 Federation of State Medical Boards and the National Practitioner Data Bank.

By Order of the North Carolina Medical Board this the 22nd day of November, 2019.

NORTH CAROLINA MEDICAL BOARD

By:



Bryant A. Murphy, M.D.  
President

Consented to this the 18<sup>th</sup> day of October, 2019.

Olin Mackay Fox M.D.  
Olin Mackay Fox, M.D.

State of North Carolina  
County of Richmond

I, Cynthia Coleman Terry, do hereby certify that  
Olin Mackay Fox, 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 18<sup>th</sup> day of  
October, 2019.

Cynthia Coleman Terry  
Notary Public

(Official Seal)

My Commission Expires: 08/30/2023