

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)	
)	NOTICE OF CHARGES
James Bayard Payton, M.D.,)	AND ALLEGATIONS
)	NOTICE OF HEARING
Respondent.)	

The North Carolina Medical Board ("Board") has preferred and does hereby prefer the following charges and allegations:

1. 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.

2. Respondent, James Bayard Payton, M.D. ("Dr. Payton"), is a physician licensed by the Board on or about May 17, 2001, license number 38406.

3. During the times relevant herein, Dr. Payton practiced medicine in Asheville, North Carolina.

4. Between June 2003 and May 2005, Dr. Payton wrote several prescriptions to himself for non-controlled substances, including multiple prescriptions for Viagra and Clobetasol.

5. Dr. Payton also, on a regular basis, kept a pre-signed prescription pad in his office. Dr. Payton would then have his

secretary fill out prescriptions for his patients following a patient visit.

5. Dr. Payton's prescribing medications for himself and maintaining a prescription pad with his pre-signed signature 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 within the meaning of N.C. Gen. Stat. § 90-14(a)(6), which is grounds for the Board to annul, suspend, revoke, condition, or limit Dr. Payton's license to practice medicine and surgery issued by the Board.

NOTICE TO DR. PAYTON

Pursuant to N.C. Gen. Stat. § 90-14.2, it is hereby ordered that a hearing on the foregoing Notice of Charges and Allegations will be held before the Board, or a panel thereof, at 8:00 a.m., Wednesday, June 20, 2007, or as soon thereafter as the Board may hear it, at the offices of the Board at 1203 Front Street, Raleigh, North Carolina, to continue until completed. The hearing will be held pursuant to N.C. Gen. Stat. § 150B-40, 41, and 42, and N.C. Gen. Stat. § 90-14.2, 14.4, 14.5, and 14.6. You may appear personally and through counsel, may cross-examine witnesses and present evidence in your own behalf.


You may, if you desire, file written answers to the charges and complaints preferred against you within 30 days after the service of this notice.

Pursuant to N.C. Gen. Stat. § 150B-40(c)(5), it is further ordered that the parties shall arrange a pre-hearing conference at which they shall prepare and sign a stipulation on pre-hearing conference. The pre-hearing stipulation shall be submitted to the undersigned no later than seven days prior to the hearing date.

The right to be present during the hearing of this case, including any such right conferred or implied by N.C. Gen. Stat. § 150B-40(d), shall be deemed waived by a party or his counsel by voluntary absence from the Board's office at a time when it is known that proceedings, including deliberations, are being conducted, or are about to be conducted. In such event, the proceedings, including additional proceedings after the Board has retired to deliberate, may go forward without waiting for the arrival or return of counsel or a party.

This the 2nd day of February, 2007.

NORTH CAROLINA MEDICAL BOARD

By: 
H. Arthur McCulloch, M.D.
President


BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)	
)	
James Bayard Payton, M.D.,)	AFFIDAVIT OF SERVICE
)	
Respondent.)	


D. Todd Brosius first being duly sworn, deposes and says as follows:

1. That a copy of the Notice of Charges and Allegations; Notice of Hearing in the above-captioned contested case was deposited in the post office for mailing to Respondent by certified mail.

2. That it was in fact received as evidenced by the attached copy of the Delivery Notice/Reminder/Receipt (PS Form 3811).


D. Todd Brosius

Sworn to and subscribed before me,
this the 13th day of March, 2007.



Notary Public

(Seal)

My Commission expires: 11-19-09

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: *Legal-noc-noc**TB-LE**2404-1827*

JAMES B PAYTON MD
64 MERRIMON AVE
ASHEVILLE NC 28801

COMPLETE THIS SECTION ON DELIVERY

A. Signature

** [Signature]*☒ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

7006 2150 0005 2196 5933

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)	
)	
James B. Payton, M.D.,)	CONSENT ORDER
)	
Respondent.)	

This matter is before the North Carolina Medical Board ("Board") on information that James B. Payton, M.D. ("Dr. Payton"), committed unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6) by prescribing medications to himself and maintaining in his office a pre-signed prescription pad. Dr. Payton admits, and the Board finds and concludes that:

Whereas 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; and

Whereas Dr. Payton is a physician licensed by the Board on or about May 17, 2001, license number 38406; and

Whereas, between June 2003 and May 2005, Dr. Payton wrote several prescriptions to himself for non-controlled substances; and

Whereas Dr. Payton kept a pre-signed prescription pad in his office to be filled out by his secretary at his instruction; and

Whereas Dr. Payton's prescribing for himself and maintaining a pre-signed prescription pad in his office 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, within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and grounds exist for the Board to suspend, revoke, or limit Dr. Payton's license or to deny any application he might make in the future; and

Whereas Dr. Payton would like to resolve this matter without the need for more formal proceedings; and

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

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

1. Dr. Payton is hereby REPRIMANDED for the above-described conduct.

2. Dr. Payton agrees to attend an in-person prescribing course within six (6) months of the date of this Consent Order and furnish proof of his attendance to the Board.

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

4. Dr. Payton shall obey all laws, and he shall obey all regulations related to the practice of medicine.

5. Dr. Payton shall notify the Board in writing of any change in his residence or practice addresses within ten (10) days of the change.

6. If Dr. Payton 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. Payton's license to practice medicine or to deny any application he might make in the future or then have pending for a license.

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


8. Upon execution by Dr. Payton 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 Healthcare Integrity and Protection Data Bank.

The admissions and findings contained herein are intended solely for the purpose of resolving the case at hand or in connection with other matters before the Board involving Respondent.

By Order of the North Carolina Medical Board this the 14th day of March, 2007.

NORTH CAROLINA MEDICAL BOARD

By: 
H. Arthur McCulloch, M.D.
President

Consented to this the 6th day of March, 2007.

James B. Payton
James B. Payton, M.D.

State of North Carolina

Suncombe County

I, Nelda J. Senguer, a Notary Public for the above named County and State, do hereby certify that James B. Payton, 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 6th day of March, 2007.

Nelda J. Senguer
Notary Public

(SEAL)

My Commission expires: Sept 21, 2010

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)	
)	
James B. Payton, M.D.,)	ORDER
)	
Respondent.)	

This matter is before the North Carolina Medical Board ("Board") regarding James B. Payton, M.D. ("Dr. Payton"), holder of medical license number 38406.

Whereas, Dr. Payton and the Board previously entered into a Consent Order, effective March 14, 2007 ("Consent Order"), and

Whereas, the Board believes that the Consent Order is no longer necessary to ensure it and the people of North Carolina that Dr. Payton can safely practice medicine.

Now, therefore, the Board hereby Orders that the terms and conditions in the numbered paragraphs of the Consent Order previously entered into by the Board and Dr. Payton shall no longer remain in effect, and Dr. Payton is hereby relieved of any continuing obligations thereunder, except those regarding the public nature of such Consent Order.

By Order of the North Carolina Medical Board this the 24th day of April, 2008.

NORTH CAROLINA MEDICAL BOARD

By: Janelle A. Rhyne, MD, FACP
Janelle A. Rhyne, M.D.
President