

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF MEDICINE**

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Department of State

**Commonwealth of Pennsylvania  
Bureau of Professional and  
Occupational Affairs**

**File No.:**

**19-49-017415**

**vs.**

**Olin Mackay Fox, M.D.,  
Respondent**

**CONSENT AGREEMENT AND ORDER**

**PARTIES**

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and **Olin Mackay Fox, M.D.** ("Respondent") stipulate as follows in settlement of the above-captioned case.

**APPLICABLE LAW**

1. This matter is before the State Board of Medicine ("Board") pursuant to the Medical Practice Act of 1985, act of December 20, 1985, P.L. 457, No. 112, ("Act"), *as amended*, 63 P.S. §§ 422.1-422.53; the Medical Care Availability and Reduction of Error ("Mcare") Act, Act of March 20, 2002, P.L. 154, No. 13, *as amended*, 40 P.S. §§ 1303.101-1303.910; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), *as amended*, 63 P.S. §§ 2201-2207.

**LICENSURE STATUS**

2. At all relevant and material times, Respondent held the following license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania: license no. MD029944E, which was originally issued on September 2, 1983, and expired as of December 31, 2010.

### **STIPULATED FACTS**

3. The Respondent admits that the following allegations are true:
  - a. Absent additional Board action, Respondent's license may be continually reactivated, renewed, or reinstated upon the filing of the appropriate documentation and payment of the necessary fees.
  - b. Respondent's current address is: 110 Westchester Circle, Pinehurst, NC 28374-9525.
  - c. At all relevant and material times, Respondent was authorized to practice as a physician in the State of North Carolina.
  - d. On or about November 22, 2019, the North Carolina Medical Board ("North Carolina Board") approved a Consent Order In Re: Olin Mackay Fox, M.D., Respondent.
  - e. A true and correct copy of the North Carolina Board's Consent Order is attached as **Exhibit A** and is incorporated by reference.
  - f. Pursuant to the Consent Order, the North Carolina Board suspended Respondent's license to practice medicine for thirty (30) days and prohibited Respondent from prescribing any schedule controlled substances, along with other terms and conditions.

### **ALLEGED VIOLATIONS**

4. The Commonwealth alleges that the Board is authorized to suspend or revoke, or otherwise restrict Respondent's license under sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; or impose a civil penalty under Section 908 of the Mcare Act, 40 P.S. §§ 1303.908, and/or Section 5(b)(4) of ACT 48, 63 P.S. §2205(b)(4) and/or impose the costs of investigation under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at

section 41(4), 63 P.S. § 422.41(4), in that Respondent had a license or other authorization to practice the profession disciplined by the proper licensing authority of another state.

**PROPOSED ORDER**

5. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:

a. The Board finds that it is authorized to suspend or revoke, or otherwise restrict Respondent's license under sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; or impose a civil penalty under Section 908 of the Mcare Act, 40 P.S. §§ 1303.908, and/or Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b)(4) and/or impose the costs of investigation under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at section 41(4), 63 P.S. § 422.41(4), in that Respondent had a license or other authorization to practice the profession disciplined by the proper licensing authority of another state.

b. Respondent is hereby prohibited from prescribing any schedule controlled substances to patients in the Commonwealth of Pennsylvania.

c. This Order constitutes disciplinary action by the Board and shall be reported to other licensing authorities and any applicable national licensing databank as a disciplinary action by the Board.

d. This case shall be deemed settled and discontinued upon the Board issuing an Order adopting this Consent Agreement.

**REINSTATEMENT**

e. Respondent may apply for the reinstatement of Respondent's license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania to unrestricted status under the following terms and conditions:

(1) As a condition precedent to reinstatement of Respondent's license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania to unrestricted status, Respondent shall have the burden of showing that the Respondent's license to practice as a physician in the State of North Carolina has been reinstated to unrestricted status.

**ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS**

6. Respondent agrees that if Respondent is charged with a violation of an Act enforced by this Board in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

**ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING**

7. Respondent acknowledges receipt of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and knowingly and voluntarily waives the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

**ACKNOWLEDGMENT OF RIGHT TO ATTORNEY**

8. Respondent acknowledges that he is aware that he has the right to consult with, and/or be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement. Respondent had an opportunity to consult with Attorney James Van Camp regarding this Consent Agreement.



## **WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS**

9. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Board or its counsel, which may arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement. Respondent specifically agrees that if the Board rejects this agreement, it may assume that the facts and averments as alleged in this Consent Agreement are true and correct for the limited purpose of recommending a sanction, based on those assumed facts, that would be acceptable to the Board before hearing the case. In the event that the Board does assume the facts and averments as alleged in this Consent Agreement are true for purposes of making a recommendation as to an acceptable sanction, such action shall not constitute commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Respondent expressly waives any constitutional rights and issues related to alleged commingling, bias, or violation of due process rights to have an unbiased and impartial adjudicator in any subsequent hearing. If a hearing is subsequently held, neither this Consent Agreement nor the proposed terms of settlement may be admitted into evidence and any facts, averments, and allegations contained in the Consent Agreement must be proven at hearing unless otherwise separately stipulated. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

## **NO MODIFICATION OF ORDER**

10. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

#### **AGREEMENT NOT BINDING ON OTHER PARTIES**

11. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Board issues an Order approving and adopting this Consent Agreement.

#### **EFFECT OF BOARD'S REJECTION OF CONSENT AGREEMENT**

12. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

#### **AGREEMENT DOES NOT PREVENT ADDITIONAL DISCIPLINE BASED ON OTHER COMPLAINTS**

13. Nothing in this Order shall preclude the Prosecution Division for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Consent Agreement;

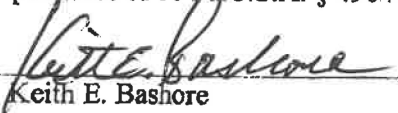
#### **ENTIRE AGREEMENT**

14. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

#### **VERIFICATION OF FACTS AND STATEMENTS**

15. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Consent Agreement are made subject to the criminal

penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.



Keith E. Bashore  
Prosecuting Attorney

DATED: 3/20/20



Olin Mackay Fox, M.D.  
Respondent

DATED: 3/18/20

BEFORE THE  
NORTH CAROLINA MEDICAL BOARD

In re:

Olin Mackay Fox, M.D.,

Respondent.

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CONSENT ORDER

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.

EXHIBIT  
A

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  
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

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF MEDICINE**

**Commonwealth of Pennsylvania  
Bureau of Professional and  
Occupational Affairs**

**File No.: 19-49-017415**

**vs.**

**Olin Mackay Fox, M.D.,  
Respondent**

**ORDER**

*AND NOW*, this <sup>th</sup>*14* day of *April*, 2020, the STATE BOARD OF MEDICINE ("Board") approves and adopts the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

**BUREAU OF PROFESSIONAL AND  
OCCUPATIONAL AFFAIRS**



K. Kalonji Johnson  
Acting Commissioner

For the Commonwealth:

For the Respondent:

Date of mailing:

**BY ORDER:  
STATE BOARD OF MEDICINE**



Keith E. Loiselle  
Chair

Keith E. Bashore, Prosecuting Attorney  
Pennsylvania Department of State  
P.O. Box 69521  
Harrisburg, PA 17106-9521

James R. Van Camp, Esquire  
P.O. Box 6  
Pinehurst, NC 28370

*April 16, 2020*