



# COMMONWEALTH of VIRGINIA

*Department of Health Professions*

Perimeter Center  
9960 Mayland Drive, Suite 300  
Richmond, Virginia 23233-1463

www.dhp.virginia.gov  
TEL (804) 367- 4400  
FAX (804) 527- 4475

Sandra Whitley Ryals  
Director

July 30, 2009

John George Phocas, III, M.D.  
5272 Fairfield Blvd.  
Virginia Beach, Virginia 23464

**CERTIFIED MAIL**  
**7160 3901 9845 3426 6907**

RE: License No.: 0101-235090

Dear Dr. Phocas:

This letter is official notification that an informal conference of the Virginia Board of Medicine ("Board") will be held on **Wednesday, September 30, 2009, at the offices of the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Richmond, Virginia.** You will receive written notification at a later date regarding the specific time of your informal conference. The conference will be conducted pursuant to Sections 54.1-2400(10), 2.2-4019 and 2.2-4021 of the Code of Virginia (1950), as amended ("Code").

A Special Conference Committee ("Committee") will inquire into allegations that you may have violated certain laws and regulations governing the practice of medicine in Virginia. Specifically:

1. You may have violated Sections 54.1-2915.A(3), (12), (13), (16), (18) and (19) of the Code, and 18VAC85-20-100.A(2) of the Board of Medicine General Regulations, in that, from approximately October 2006 through January 2009, you engaged in conduct of a personal and romantic nature with Patient A, a patient to whom you had provided psychiatric treatment for approximately two years.

2. You may have violated Sections 54.1-2915.A(16) and (18) of the Code and 18VAC 85-20-26(C) and (D) of the Board of Medicine General Regulations in that you failed to maintain record for Patient A for a minimum period of time following the last patient encounter.

3. You may have violated Section 54.1-2915.A(3), (13) and (16) of the Code in that you treated the following patients with opioids on a continuous basis for complaints

of chronic pain; however, you failed to take adequate histories, failed to perform comprehensive examinations and to record objective findings, failed to document treatment plans and rationale for medication regimens, and failed to monitor patient's medication usage.

- a. from approximately September 2003 to December 2008, in your treatment of Patient B;
- b. from approximately March 2006 to January 2009, in your treatment of Patient C;
- c. from approximately February 2004 to April 2008, in your treatment of Patient D; and
- d. from approximately March 2005 to January 2009, in your treatment of Patient E.

Please see Attachment I for the name of the patients referenced above.

After consideration of all information, the Committee may:

1. Exonerate you;
2. Place you on probation with such terms it deems appropriate;
3. Reprimand you;
4. Modify a previous Board Order; and
5. Impose a monetary penalty pursuant to Section 54.1-2401 of the Code.

Further, the Committee may refer this matter for a formal administrative proceeding when it has failed to dispose of a case by consent pursuant to Section 2.2-4019 of the Code.

You have the right to information that will be relied upon by the Committee in making a decision. Therefore, I enclose a copy of the documents that will be distributed to the Committee for its consideration when discussing the allegations with you and when deliberating upon your case. These documents are enclosed only with the original notice sent by certified mail, and must be claimed at the post office. Further, if you retain counsel, it is your responsibility to provide the enclosed materials to your attorney.

To facilitate this proceeding, you must submit eight (8) copies of any documents you wish for the Committee to consider to Reneé S. Dixon, Discipline Case Manager, Virginia Board of Medicine, Perimeter Center, 9960 Mayland Drive, Suite 300, Richmond, Virginia, 23233, by **September 11, 2009**. Your documents may not be submitted by facsimile or e-mail. Should you or Adjudication Specialist Virginia Scher wish to submit any documents for the Committee's consideration after **September 11, 2009**, such documents shall be considered only upon a ruling by the Chair of the Committee that good cause has been shown for late submission.

July 30, 2009

Page 3

You may be represented by an attorney at the informal conference. If you obtain counsel, you should do so as soon as possible, because absent good cause to support a request for a continuance, the informal conference will be held on September 30, 2009. A request to continue this proceeding must state in detail the reason for the request and must establish good cause. Such request must be made, in writing, to me at the address listed on this letter and must be received by **August 13, 2009**. Only one such motion will be considered. Absent exigent circumstances, such as personal or family illness, a request for a continuance after **August 13, 2009**, will not be considered.

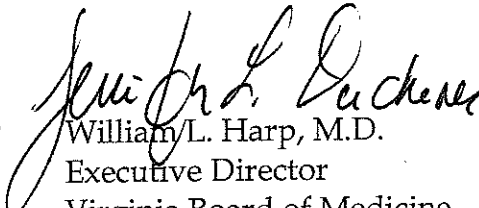
Relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as laws relating to the practice of medicine and other healing arts in Virginia cited in this notice can be found on the Internet at <http://leg1.state.va.us>. To access this information, please click on the *Code of Virginia* for statutes and *Virginia Administrative Code* for regulations.

In its deliberations, the Committee may utilize the Sanction Reference Points System, as contained in the Sanction Reference Manual. The manual, which is a guidance document of the Board, may be accessed at <http://www.dhp.virginia.gov/medicine>. You may request a paper copy from the Board office by calling (804) 367-4513.

Please advise the Board, in writing, of your intention to be present. Should you fail to appear at the informal conference, the Board may proceed to a formal administrative hearing in order to impose sanctions.

If you have any questions regarding this notice, please contact Virginia Scher, Adjudication Specialist, at (804) 367-4669.

Sincerely,

*for*   
William L. Harp, M.D.  
Executive Director  
Virginia Board of Medicine

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Enclosures:

Attachment I

Informal Conference Package (4 volumes & 1 CD)

Map

Notice of Informal Conference - John George Phocas, III, M.D.  
July 30, 2009  
Page 4

cc: Jane E. Piness, M.D., President, Virginia Board of Medicine  
Sandra Whitley Ryals, Director, Department of Health Professions  
Reneé S. Dixon, Discipline Case Manager, Board of Medicine  
Virginia Scher, Adjudication Specialist, APD  
Lorraine McGehee, Deputy Director, APD  
June Morrison, R.N., B.S.N., Senior Investigator (124494)



COMMONWEALTH of VIRGINIA

Department of Health Professions

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Sandra Whitley Ryals  
Director

October 1, 2009

John George Phocas, III, M.D.  
5272 Fairfield Blvd.  
Virginia Beach, Virginia 23464

**CERTIFIED MAIL**  
7160 3901 9848 0162 5871

RE: License No.: 0101-235090

Dear Dr. Phocas:

This letter is official notification of the decision of the Special Conference Committee ("Committee") of the Virginia Board of Medicine ("Board"), which met with you on September 30, 2009, in Richmond, Virginia. Members of the Board serving on the Committee were: Sandra Anderson Bell, M.D., Chairman; Jennifer S. Lee, M.D.; and Claudette Dalton, M.D.

After thorough review of the matters before it, the Committee finds that it cannot resolve this matter within the limits of its authority as set forth in Section 54.1-2400(10) of the Code of Virginia (1950), as amended ("Code"). Therefore, pursuant to Section 2.2-4020 of the Code, a formal hearing will be convened. You will receive written notice indicating the date, time and location of the hearing approximately thirty (30) days in advance of such hearing.

Pursuant to Sections 2.2-4023 and 54.1-2400.2 of the Code, this case decision shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

Should you have any questions regarding the Committee's decision, you may refer them to Jennifer Deschenes, Deputy Executive Director, Discipline, at (804) 367-4462.

Sincerely,

*Jennifer L. Deschenes*  
William L. Harp, M.D.  
Executive Director  
Virginia Board of Medicine

Informal conference decision letter - John George Phocas, III, M.D.

October 1, 2009

Page 2 of 2

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cc: Jane Piness, M.D., President, Virginia Board of Medicine  
Sandra Whitley Ryals, Director, Department of Health Professions  
Renee S. Dixon, Discipline Case Manager  
Virginia Scher, Adjudication Specialist  
Lorraine McGehee, Deputy Director, APD  
Michael L. Goodman, Esquire  
June Morrison, R.N., B.S.N., Senior Investigator (124494)



# COMMONWEALTH of VIRGINIA

Sandra Whitley Ryals  
Director

## Department of Health Professions

Perimeter Center  
9960 Mayland Drive, Suite 300  
Henrico, Virginia 23233-1463

www.dhp.virginia.gov  
TEL (804) 367-4400  
FAX (804) 527-4475

December 14, 2009

John George Phocas, III, M.D.  
5272 Fairfield Blvd.  
Virginia Beach, Virginia 23464

**UPS OVERNIGHT**  
1Z 236 087 22 1013 3025

RE: License No.: 0101-235090

Dear Dr. Phocas:

In accordance with Sections 54.1-105, 54.1-110, 54.1-2400, 2.2-4020 and 2.2-4021 of the Code of Virginia (1950), as amended ("Code"), you are hereby given notice that the Virginia Board of Medicine ("Board") will convene a formal administrative hearing to receive and act upon evidence that you may have violated certain laws and regulations governing the practice of medicine in Virginia, as set forth in the attached Statement of Particulars.

The formal administrative hearing will be held in accordance with the provisions of Sections 54.1-2400(11) and 2.2-4024.F of the Code, before a panel of the Board, with a member of the Board presiding. You have been scheduled to appear before the Board on **February 18 - 20, 2010, in the offices of the Department of Health Professions, 9960 Mayland Drive, 2<sup>nd</sup> floor, Richmond, Virginia. You will receive written notification at a later date regarding the specific date and time of your formal hearing.** A map is enclosed for your convenience. Your presence is required thirty (30) minutes in advance of the appointed time. Please report to the 2<sup>nd</sup> Floor receptionist and be seated in the waiting room. You will be called when the Board is ready to meet with you.

You have the following rights, among others: to be accompanied by and represented by counsel; to submit oral and documentary evidence and rebuttal proofs; to conduct such cross-examination as may elicit a full and fair disclosure of the facts; and to have the proceedings completed and a decision made with dispatch. Should you wish to subpoena witnesses, requests for subpoenas must be made, in writing, in accordance with the enclosed Instructions for Requesting Subpoenas.

*Please carefully read the following paragraphs, which contain date-sensitive and important information regarding this proceeding.*

#### **COMMONWEALTH'S EVIDENCE**

You have the right to the information that will be used by the Board in reaching a decision regarding this matter; therefore, I enclose the Commonwealth's evidence. Please note that these documents are enclosed only with the original notice sent by UPS Overnight. Further, a copy of the enclosed materials have also been provided to your counsel, Michael L. Goodman, Esquire.

Should you wish to file objections to the Commonwealth's evidence, you must send your written objections to me, at the address on this letterhead, no later than **January 5, 2010**. If you have not filed any objections by January 5, 2010, the exhibits will be distributed to the Board members for their review prior to your hearing, and will be considered by the Board as evidence when it deliberates upon your case. If you do file objections, the Commonwealth has until **January 8, 2010**, to file a response to the objections, in writing and addressed to me at the Board office. The chairperson of the proceeding will rule on the motion.

#### **RESPONDENT'S EVIDENCE**

Further, should you wish for the Board to consider additional information relative to this proceeding, you must submit fifteen (15) copies of any such documents to Reneé S. Dixon, Discipline Case Manager, Virginia Board of Medicine, 9960 Mayland Drive, Suite 300, Richmond, Virginia 23233, by **January 11, 2010**. You may not submit your documents by facsimile or e-mail. The Commonwealth must file any objections to your submissions in writing, addressed to me at the Board office, no later than **January 13, 2010**. If no objections have been received by **January 13, 2010**, the evidence will be distributed to the Board members for their review, and will be considered by the Board as evidence when it deliberates upon your case. If the Commonwealth raises objections, you have until **January 20, 2010**, to file your response to the objections, in writing and addressed to me at the Board office. The chairperson of the proceeding will rule on the motion.

#### **OTHER PRE-HEARING MOTIONS**

If you or Assistant Attorney General Wayne T. Halbleib wish to make any pre-hearing motions regarding matters other than the exhibits, including offers of settlement, each of you is directed to file motions, in writing, addressed to me at the Board office by **January 11, 2010**. Responses to motions filed must be submitted by **January 13, 2010**. The chairperson of the proceeding will rule on the motion.

#### **REQUEST FOR A CONTINUANCE**

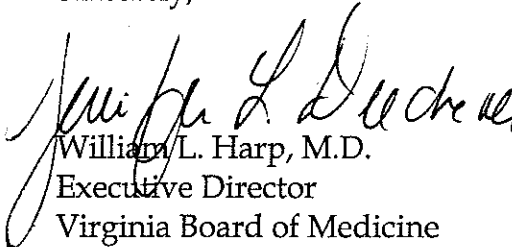
Absent exigent circumstances, such as personal or family illness, a request for a continuance after **December 30, 2009** will not be considered. If you obtain counsel, you should do so as soon as possible, as a motion for a continuance due to the unavailability of counsel will not be considered unless received by **December 30, 2009**.



Relevant sections of the Administrative Process Act, which govern proceedings of this nature, as well as laws relating to the practice of medicine and other healing arts in Virginia cited in this notice can be found at <http://leg1.state.va.us>. To access this information, please click on *Code of Virginia* for laws and *Virginia Administrative Code* for regulations.

Please indicate, by letter to this office, your intention to be present.

Sincerely,

*for*   
William L. Harp, M.D.  
Executive Director  
Virginia Board of Medicine

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Enclosures:

Commonwealth's Exhibits 1-4 (9 volumes & 2 compact discs)  
Statement of Particulars  
Attachment I  
Instructions for Requesting Subpoenas  
Map

cc: Jane E. Piness, M.D., President, Virginia Board of Medicine  
Wayne T. Halbleib, Assistant Attorney General [w/enclosures]  
Renée S. Dixon, Discipline Case Manager, Board of Medicine  
Virginia Scher, Adjudication Specialist, APD  
Lorraine McGehee, Deputy Director, APD  
Michael L. Goodman, Esquire [w/enclosures] [BY UPS]  
June Morrison, R.N., B.S.N., Senior Investigator [124494]

**VIRGINIA:**

**BEFORE THE BOARD OF MEDICINE**

**IN RE: JOHN GEORGE PHOCAS, III, M.D.**  
**License No.: 0101-235090**

**STATEMENT OF PARTICULARS**

The Virginia Board of Medicine ("Board") alleges that:

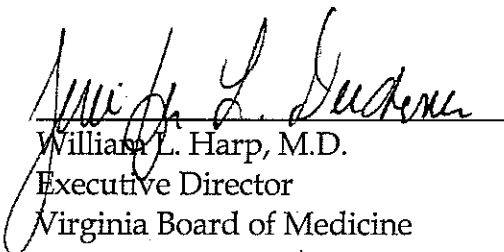
1. Dr. Phocas may have violated Sections 54.1-2915.A(3), (12), (13), (16), (18) and (19) of the Code of Virginia (1950), as amended ("Code"), and 18VAC85-20-100.A(2) of the Board of Medicine General Regulations, in that, from approximately October 2006 through January 2009, he engaged in conduct of a personal and romantic nature with Patient A, a patient to whom he had provided psychiatric treatment for approximately two years.
2. Dr. Phocas may have violated Sections 54.1-2915.A(16) and (18) of the Code and 18VAC 85-20-26(C) and (D) of the Board of Medicine General Regulations in that he failed to maintain a record for Patient A for a minimum period of time following the last patient encounter.
3. Dr. Phocas may have violated Sections 54.1-2915.A(3), (13) and (16) of the Code in that, from approximately September 2003 to December 2008, he treated Patient B with opioids on a continuous basis for complaints of chronic pain; however, he failed to perform comprehensive examinations and to record objective findings, failed to document treatment plans and a rationale for medication regimens, and failed to monitor the patient's medication usage.
4. Dr. Phocas may have violated Sections 54.1-2915.A(3), (13) and (16) of the Code in that he treated the following patients with opioids on a continuous basis for complaints of

chronic pain; however, he failed to take adequate histories, failed to perform comprehensive examinations and to record objective findings, failed to document treatment plans and a rationale for medication regimens, and failed to monitor each patient's medication usage.

- a. from approximately March 2006 to January 2009, in his treatment of Patient C;
- b. from approximately February 2004 to April 2008, in his treatment of Patient D; and
- c. from approximately March 2005 to January 2009, in his treatment of Patient E.

Please see Attachment I for the identity of the patients listed above.

FOR THE BOARD

*for*   
William L. Harp, M.D.  
Executive Director  
Virginia Board of Medicine

DATE: 12/11/09

**VIRGINIA:**

**BEFORE THE BOARD OF MEDICINE**

**IN RE: JOHN GEORGE PHOCAS, III, M.D.  
License No.: 0101-235090**

**CONSENT ORDER**

By letter dated December 14, 2009, the Virginia Board of Medicine ("Board") noticed John George Phocas, III, M.D., for a formal hearing to inquire into allegations that he may have violated certain laws and regulations governing the practice of medicine and surgery in the Commonwealth of Virginia.

In lieu of proceeding to a formal administrative hearing, the Board and Dr. Phocas, as evidenced by their signatures affixed below, agree to enter into this Consent Order affecting the license of Dr. Phocas to practice medicine and surgery in Virginia.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Board adopts the following findings and conclusions in this matter:

1. John George Phocas, III, M.D., was issued license number 0101-235090 by the Board to practice medicine in Virginia on July 2, 2003. Said license is currently active and will expire on November 30, 2010, unless renewed or acted upon.
2. Dr. Phocas violated Sections 54.1-2915.A (3), (12), (13), (16), (18) and (19) of the Code of Virginia (1950), as amended ("Code"), and 18VAC85-20-100.A (2) of the Board's General Regulations, in that, from approximately October 2006 through January 2009, he engaged in conduct of a personal and romantic nature with Patient A, a patient to whom he had provided psychiatric treatment for approximately two years.
3. Dr. Phocas violated Sections 54.1-2915.A (16) and (18) of the Code and 18VAC 85-20-

26 (C) and (D) of the Board's General Regulations in that he failed to maintain a record for Patient A for a minimum period of time following the last patient encounter.

4. Dr. Phocas violated Sections 54.1-2915.A (3), (13) and (16) of the Code in that, from approximately September 2003 to December 2008, he treated Patient B with opioids on a continuous basis for complaints of chronic pain; however, he failed to perform comprehensive examinations and to record objective findings, failed to document treatment plans and a rationale for medication regimens, and failed to monitor the patient's medication usage.

5. Dr. Phocas violated Sections 54.1-2915.A (3), (13) and (16) of the Code in that he treated the following patients with opioids on a continuous basis for complaints of chronic pain; however, he failed to take adequate histories, failed to perform comprehensive examinations and to record objective findings, failed to document treatment plans and a rationale for medication regimens, and failed to monitor each patient's medication usage.

- a. from approximately March 2006 to January 2009, in his treatment of Patient C;
- b. from approximately February 2004 to April 2008, in his treatment of Patient D;  
and
- c. from approximately March 2005 to January 2009, in his treatment of Patient E.

#### CONSENT

I, John George Phocas, III, M.D., by affixing my signature hereto, acknowledge that:

1. I have been advised specifically to seek the advice of counsel prior to signing this document and am represented by Michael L. Goodman, Esquire;

2. I am fully aware that without my consent, no legal action can be taken against my license, except pursuant to the Virginia Administrative Process Act, § 2.2-4000.A et seq. of the Code;
3. I have the following rights, among others:
  - a. the right to a formal hearing before the Board;
  - b. the right to appear in person or by counsel, or other qualified representative before the agency; and
  - c. the right to cross-examine witnesses against me.
4. I waive all rights to a formal hearing;
5. I neither admit nor deny the truth of the above Findings of Fact and Conclusions of Law and agree not to contest such Findings of Fact and Conclusions of Law in any subsequent proceeding before the Board; and
6. I consent to the following Order affecting my license to practice medicine in the Commonwealth of Virginia.

**ORDER**

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, and with the consent of the licensee, it is hereby ORDERED that the license of John George Phocas, III, M.D., be, and hereby is, placed on INDEFINITE SUSPENSION for a period of not less than twelve (12) months.

Should Dr. Phocas seek reinstatement of his license, he shall be noticed to appear before the Board, in accordance with the Administrative Process Act. As petitioner, Dr. Phocas has the

burden of proving his competency and fitness to practice medicine and surgery in the Commonwealth of Virginia in a safe manner.

Upon entry of this Consent Order, the license of John George Phocas, III, M.D., will be recorded as suspended and no longer current.

Pursuant to Section 54.1-2400.2 of the Code, the signed original of this Consent Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public inspection and copying upon request.

FOR THE BOARD:

*for* William L. Harp, M.D.  
Executive Director  
Virginia Board of Medicine

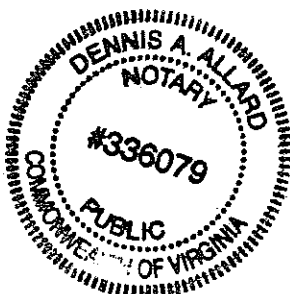
2/16/2010  
ENTERED

SEEN AND AGREED TO:

John George Phocas, III, M.D.  
John George Phocas, III, M.D.

COMMONWEALTH OF VIRGINIA  
COUNTY/CITY OF Virginia Beach, TO WIT:

Subscribed and sworn to before me, the undersigned Notary Public, in and for the Commonwealth of Virginia, at large, this 15<sup>th</sup> day of FEBRUARY, 2010 by John George Phocas, III, M.D.



Dennis A. Allard

Embossed Herein is My  
Commonwealth of Virginia Notary Public Seal  
My Commission Expires August 01, 2011  
Dennis A. Allard #336079

Notary Public

Registration Number: 336079

My commission expires: 8/31/2011