

EFFECTIVE AS A FINAL ORDER

DATE: 3.30.2022

FILED *JJC*
MAR 09 2022

**BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS**

KS State Board of Healing Arts

In the Matter of

**Arthur P. Fine, M.D.
Kansas License No. 04-43708**

Docket No. 22-HA 00030

SUMMARY ORDER

NOW ON THIS 9th day of March, 2022, this matter comes before Susan Gile, Acting Executive Director, Kansas State Board of Healing Arts ("Board"), in summary proceedings pursuant to K.S.A. 77-537.

Pursuant to K.S.A 77-537 and K.S.A. 77-542, this Summary Order shall become effective as a Final Order, without further notice, if no written request for a hearing is made within 15 days of service. Upon review of the agency record and being duly advised in the premises, the following findings of fact, conclusions of law, and order are made for and on behalf of the Board:

Findings of Fact

1. Arthur P. Fine, M.D. ("Licensee") was issued License No. 04-43708 to practice medicine and surgery in Kansas on or about August 13, 2020. His current license designation is Active.

2. Licensee's last mailing address known to the Board is: **CONFIDENTIAL** ;
CONFIDENTIAL). Licensee's last email address as known to the Board is:
CONFIDENTIAL .

3. The factual basis for this Order is as follows:

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License No. 04-43708**

- a. On or about September 4, 2020 Licensee entered into a Consent Order with the West Virginia Board of Medicine (“the West Virginia Board”). (Bd. Ex. 1)
- b. Per the Consent Order, both Licensee and the West Virginia Board stipulated to the truth and accuracy of the following facts and conclusions of law:
 - i. Licensee “prescribed controlled substances to two separate individuals on a regular basis without maintaining a medical record or documented treatment plan for either patient. The two individuals were unaffiliated with [Licensee’s] practice” (*Id.*)
 - ii. The Board found that probable cause existed to charge Licensee with a number of violations of West Virginia law, including “dishonorable, unethical or unprofessional conduct,” “failure to practice medicine with that level of care, skill and treatment which is recognized by a reasonable, prudent, physician engaged in the same or a similar specialty as being acceptable under similar conditions and circumstances,” “prescribing a controlled substance other than in good faith and in a therapeutic manner in accordance with accepted medical standards and in the course of the physician’s professional practice,” and/or “failure to keep written records justifying the course of treatment of a patient.” (*Id.*)
- c. The West Virginia Board imposed, and Licensee agreed to, the following discipline as a result of his violations of West Virginia law:

- i. A public reprimand; and
 - ii. Successful completion of Case Western Reserve University's Intensive Course in Controlled Substance Prescribing, including all pre-course and post-course requirements. (*Id.*)
- d. As a result of entering into this Consent Order and the facts underlying Licensee's public discipline in West Virginia, Licensee was subsequently disciplined in the following jurisdictions:
- i. On or about November 17, 2020 Licensee agreed to a Consent Order with the Mississippi State Board of Medical Licensure publicly reprimanding him and requiring him to comply with the terms of the West Virginia Consent Order. (Bd. Ex. 2)
 - ii. On or about January 10, 2021 Licensee agreed to a Stipulation and Final Agency Order with the Colorado Medical Board issuing a public Letter of Admonition; placing him on five years' probation, and requiring him to complete the PROBE Ethics and Boundaries Course put on by CPEP. (Bd. Ex. 3)
 - iii. On or about January 12, 2021 Licensee agreed to a Consent Agreement and Order with the Pennsylvania State Board of Medicine publicly reprimanding him. (Bd. Ex. 4)
 - iv. On or about February 17, 2021 a Default Order was issued by the Maryland State Board of Physicians after Licensee failed to respond

to an offer of a Consent Order. Licensee was publicly reprimanded and ordered to comply with the West Virginia Order. (Bd. Ex. 5)

- v. On or about May 5, 2021, following a hearing held by the New Hampshire Board of Medicine, an Order was entered publicly reprimanding him. (Bd. Ex. 6)

Applicable Law

4. Per K.S.A. 65-2836(j) of the Kansas Healing Arts Act, a Licensee's "license may be revoked, suspended or limited, or the licensee may be publicly censured or placed under probationary conditions" where a licensee "has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state"

Conclusions of Law

5. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

6. The Board finds Licensee violated K.S.A. 65-2836(j) by having disciplinary action taken against him by the West Virginia Board, as well as having reciprocal disciplinary action taken against him by the state medical Boards of Mississippi, Colorado, Pennsylvania, Maryland, and New Hampshire.

7. Based on the facts and circumstances set forth herein, the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of law, and the

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protection of the public interest does not require the Board to give notice and opportunity to participate to persons other than Licensee.

IT IS HEREBY ORDERED that Licensee is **PUBLICLY CENSURED**.

PLEASE TAKE NOTICE that upon becoming effective as a Final Order, this document shall be deemed a public record and be reported to any reporting entities authorized to receive such disclosure.

Dated this 9th day of March 2022.

**KANSAS STATE BOARD
OF HEALING ARTS**

Susan Gile

Susan Gile
Acting Executive Director

Summary Order
Arthur P. Fine, M.D.
License No. 04-43708

FINAL ORDER NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service. A party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* Reconsideration of a Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within 30 days following service of the Final Order. A copy of any petition for judicial review must be served upon Susan Gile, Acting Executive Director, Kansas Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the above and foregoing **FINAL ORDER** by depositing the same in the United States Mail, postage prepaid, on this 30th day of March 2022, addressed and emailed to:

Arthur P. Fine, M.D.
CONFIDENTIAL

Licensee

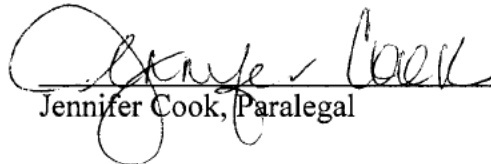
And a copy was hand-delivered to:

Matthew Gaus, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612
Matthew.gaus@ks.gov

Licensing Administrator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Office of the General Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And the original was filed with the office of the Executive Director.



Jennifer Cook, Paralegal

EXHIBIT 1

West Virginia Consent Order

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE:

ARTHUR PHILIP FINE, MD

Complaint No. 19-123-W

CONSENT ORDER

The West Virginia Board of Medicine (the "Board") and Arthur Philip Fine, MD ("Dr. Fine"), freely and voluntarily enter into the following Consent Order pursuant to West Virginia Code § 30-3-14, *et seq.*

FINDINGS OF FACT

The Board and Dr. Fine stipulate to the truthfulness and accuracy of the facts, as set forth herein below:

1. Dr. Fine holds a West Virginia medical license, License No. 26616, which was first issued in 2015. Dr. Fine's address of record with the Board is in **CONFIDENTIAL**.
2. Dr. Fine also holds a license to practice medicine and surgery in Pennsylvania. Prior to relocating to West Virginia, Dr. Fine practiced medicine and surgery in Pittsburg, Pennsylvania.
3. Dr. Fine's self-identified area of specialty is general surgery.
4. On September 8, 2019, the Complaint Committee of the Board authorized Initiated Complaint No. 19-123-W against Dr. Fine based upon a third-party report from Dr. Fine's former employer, a West Virginia hospital, raising concerns regarding Dr. Fine's prescribing of controlled substances.
5. The hospital reported it had been alerted by local pharmacists of inappropriate prescribing patterns by Dr. Fine. The hospital's investigation indicated that over the preceding

twelve months, Dr. Fine prescribed hydrocodone and/or benzodiazepines to two separate individuals without appropriate documentation of a physician-patient relationship or other documentation required under the West Virginia Medical Practice Act. The hospital reported that it had met with Dr. Fine to discuss its concerns, and Dr. Fine acknowledged that there was no documentation of an ongoing treatment plan or of his prescribing for the two individuals.

6. CONFIDENTIAL confirmed that Dr. Fine prescribed controlled substances to two separate individuals on a regular basis without maintaining a medical record or documented treatment plan for either patient. The two individuals were unaffiliated with Dr. Fine's practice at the West Virginia hospital.

7. During the CONFIDENTIAL process, Dr. Fine indicated that the two individuals identified by the hospital were patients who established with him during his practice of medicine in Pennsylvania. While Dr. Fine acknowledged deficits in his medical recordkeeping with respect to the two patients, he contends that at the time of the prescribing in question he had legitimate physician patient relationships with these two individuals, identified herein as Patient A and Patient B.

8. Dr. Fine asserts that he had a long professional relationship with Patient A, who established as a patient with him in Pittsburg, Pennsylvania. Dr. Fine performed a laparoscopic cholecystectomy on Patient A for biliary dyskinesia. He subsequently also treated Patient A for severe anxiety. Dr. Fine continued to prescribed benzodiazepines for Patient A after he left his prior practice. Dr. Fine acknowledged that he had not physically seen or evaluated Patient A in eight years, but continued to issue "occasional" benzodiazepine prescriptions to the patient in West Virginia and without maintaining medical records of his ongoing treatment.

9. **CONFIDENTIAL**, however she was originally a co-worker and his patient in Pennsylvania. Patient B relocated to West Virginia approximately two years ago. Dr. Fine issued prescriptions to Patient **CONFIDENTIAL** for benzodiazepines and opioids. Dr. Fine asserts that he issued these prescriptions, in part, because Patient B had difficulty finding a provider. Dr. Fine acknowledges that he did not maintain a medical record of his ongoing treatment for Patient B. He also acknowledges that on at least two occasions he prescribed small, partial benzodiazepine prescriptions for Patient B after Patient B took more than the allotted amount of her benzodiazepine prescription and ran out prior to the refill date.

10. In the course of the Committee's investigation, Dr. Fine acknowledged deficits in his judgment and decision-making in his treatment of Patients A and B.

11. The Board and Dr. Fine voluntarily enter into this Consent Order to resolve Complaint No. 19-123-W, and to establish appropriate terms and conditions upon Dr. Fine's practice of medicine in West Virginia.

CONCLUSIONS OF LAW

The Board and Dr. Fine stipulate to the following conclusions of law:

1. Dr. Fine's license to practice medicine and surgery in the state of West Virginia is subject to regulation and discipline by the West Virginia Board of Medicine, the "regulatory and disciplinary body for the practice of medicine and surgery" for physicians, podiatrists and physician assistants in West Virginia. W.Va. Code § 30-3-5 and § 30-3-7(a).

2. The Board has a mandate to ensure "a professional environment that encourages the delivery of quality medical services" to protect the public interest. W.Va. Code § 30-3-2.

3. The West Virginia Medical Practice Act sets forth conduct which may render an individual unqualified for licensure or subject to discipline or other restrictions upon licensure. W.Va. Code § 30-3-14. Pursuant to W.Va. Code § 30-1-8(c), the Board has promulgated legislative rules that "delineate conduct, practices or acts which, in the judgment of the board, constitute professional negligence, a willful departure from accepted standards of professional conduct and/or which may render an individual unqualified or unfit for licensure, registration or other authorization to practice." W. Va. Code R. § 11-1A-12.

4. Probable cause may exist to substantiate disciplinary charges against Dr. Fine pursuant to the West Virginia Medical Practice Act and the Board's legislative rules including, but not limited to, the following provisions:

- a. W. Va. Code § 30-3-14(c)(17), W. Va. Code R. § 11-1A-12.1.e and 12.1.j, and W. Va. Code R. § 11-1A-12.2.d, relating to dishonorable, unethical or unprofessional conduct; and/or
- b. W. Va. Code § 30-3-14(c)(17) and/or W. Va. Code R. § 11-1A-12.1.x, relating to engaging in malpractice or the failure to practice medicine with that level of care, skill and treatment which is recognized by a reasonable, prudent, physician engaged in the same or a similar specialty as being acceptable under similar conditions and circumstances; and/or
- c. W. Va. Code § 30-3-14(c)(13) and W. Va. Code R. § 11-1A-12.2.a, relating to prescribing a controlled substance other than in good faith and in a therapeutic manner in accordance with accepted medical standards and in the course of the physician's professional practice; and/or

- d. W. Va. Code § 30-3-14(c)(11) and W. Va. Code R. §§ 11-1A-12.1.u and 12.1.jj, relating to the failure to keep written records justifying the course of treatment of a patient.

5. It is appropriate and in the public interest to waive the commencement of proceedings against Dr. Fine and to proceed without the filing of charges, or a formal Complaint and Notice of Hearing, subject to compliance by Dr. Fine with the provisions of this Consent Order.

6. This Consent Order sets forth reasonable and appropriate discipline upon Dr. Fine's West Virginia medical license in the form of a public reprimand and additional continuing medical education.

CONSENT

By signing his name to this Consent Order, Arthur Philip Fine, MD, acknowledges that he understands and agrees with the following:

1. Dr. Fine has read and understands this entire Consent Order;
2. Dr. Fine agrees that he has been given adequate time and opportunity to review and consider the terms set forth in this Consent Order;
3. Dr. Fine understands that he has the right to legal representation in this matter, at his own expense, and that has been afforded adequate time and opportunity to consult with an attorney regarding the legal effect of this Consent Order;
4. Dr. Fine understands that this Consent Order is a legally binding Order of the West Virginia Board of Medicine that affects his rights and privileges;

5. Dr. Fine acknowledges that he is fully aware that, without his consent, no permanent legal action may be taken against him except after a hearing held in accordance with West Virginia Code § 30-3-14(h) and § 29A-5-1, *et seq.*;

6. Dr. Fine is aware of his legal rights in this matter, in addition to his right to be represented by counsel at his own expense, including: the right to a formal hearing, after reasonable notice, before the West Virginia Board of Medicine on the disciplinary charges before the Board; the right to confront and cross-examine witnesses against him; the right to present evidence and testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to appeal under Chapter 29A of the West Virginia Code in the event of a final order or decision adverse to him;

7. Dr. Fine knowingly and voluntarily waives all such rights, and agrees to the entry of this Consent Order relative to his practice of medicine in the state of West Virginia;

8. Dr. Fine acknowledges that if he violates any of the terms of this Consent Order, further action may be taken against his license by the Board, as permitted by law; and

9. Dr. Fine understands that this Order is a public document which will be available for public inspection, will be accessible through the Board's website, and will be a permanent part of his historical file with the Board. Matters contained herein will be reported to the National Practitioner Data Bank, and may be reported to other jurisdictions, the Federation of State Medical Boards and as otherwise required by law.

ORDER

WHEREFORE, on the basis of the foregoing stipulated Findings of Fact and Conclusions of Law, and with the consent of Dr. Fine, the West Virginia Board of Medicine hereby **ORDERS** as follows:

1. Dr. Fine is hereby **PUBLICLY REPRIMANDED** for his improper prescribing to two patients without maintaining medical records.
2. *Training and Education.* At his own expense, Dr. Fine shall enroll in and successfully complete **Case Western Reserve University's Intensive Course in Controlled Substance Prescribing**, including all pre-course and post-course requirements. To satisfy this requirement, Dr. Fine must complete all pre-course requirements and virtually attend and successfully complete this course **on November 9-11, 2020**.
3. *Notification of Enrollment.* Dr. Fine shall provide the Board with a copy of his enrollment confirmation from the CME provider on or before **October 1, 2020**, and he shall submit acceptable documentation from the CME provider of his successful completion of the course to the Board within **ten days** of his completion of the course.
4. *Successful Completion of CME.* Successful completion of the CME course required by this Order shall be determined solely by the CME provider. A determination by the CME provider that Dr. Fine has failed to successfully complete any program requirement, including pre or post program requirements, shall constitute clear and convincing evidence for the Board to take further action with respect to Dr. Fine's West Virginia medical license, including the imposition of additional discipline.
5. *Limitation on Use of CME hours.* Dr. Fine may not utilize any CME hours he earns pursuant to his participation in the CME course required by this Order to satisfy his biennial continuing medical education obligation pursuant to W. Va. Code R. § 11-6-3.1 or any superseding enactment of the Board's legislative rule governing continuing medical education requirements and reporting for physicians.


6. Dr. Fine shall at all times fully comply with all of the professional practice requirements of the West Virginia Medical Practice Act as set forth in W. Va. Code § 30-3-1 *et seq.*, and in the Board's legislative rules, including but not limited to W. Va. Code R. § 11-1A-1 *et seq.* Dr. Fine shall also fully comply with his legal duty to access the West Virginia Controlled Substances Monitoring Database in accordance with W. Va. Code §60A-9-5a.

7. Dr. Fine agrees that he may be subject to additional disciplinary processes, as permitted by law, for any violation of the terms of this Consent Order.


8. This Consent Order shall be deemed entered on the date that this Order, with all required signatures affixed hereupon, is received in the Board's 101 Dee Drive, Charleston, West Virginia, office. The Executive Director of the West Virginia Board of Medicine is hereby authorized to denote the date of entry on behalf of the Board in accordance with this paragraph.

ENTERED ON: September 4, 2020

WEST VIRGINIA BOARD OF MEDICINE


Kishore K. Challa, MD, FACC
President

Date: sep 4 2020


Quartel-Ayyub Amjad, MD, MPH
Secretary

Date: 8/31/2020

ACCEPTANCE

I, ARTHUR PHILIP FINE, MD, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT ORDER. I HAVE BEEN GIVEN SUFFICIENT TIME AND OPPORTUNITY TO CONSIDER THIS CONSENT ORDER, AND I UNDERSTAND THE EFFECT IT WILL HAVE UPON MY LICENSE TO PRACTICE MEDICINE AND SURGERY IN WEST VIRGINIA.

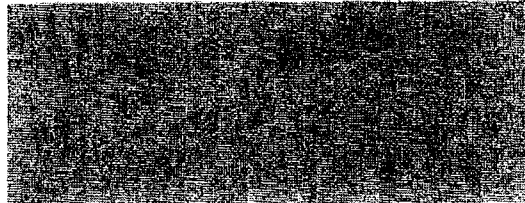
BY SIGNING THIS CONSENT ORDER, I HAVE WAIVED CERTAIN RIGHTS, BUT I DO SO KNOWINGLY AND VOLUNTARILY, AND I DO NOT WISH TO ASSERT THOSE RIGHTS IN THIS MATTER.

I UNDERSTAND THAT I HAVE THE RIGHT TO LEGAL COUNSEL, AND THAT I HAVE BEEN PROVIDED WITH AMPLE TIME TO SEEK LEGAL ADVICE REGARDING MY ACCEPTANCE OF THIS CONSENT ORDER FROM AN ATTORNEY.

I AM SIGNING THIS CONSENT ORDER VOLUNTARILY, AND I UNDERSTAND THE POTENTIAL CONSEQUENCES OF VIOLATING THIS CONSENT ORDER.



Arthur Philip Fine, MD



Date: 21 AUG 2020

STATE OF West Virginia

COUNTY OF Mason, to-wit:

I, Mary Pyles, a Notary Public for said county and state do hereby certify that Arthur Philip Fine, MD, whose name is signed herein above has this day acknowledged the same before me.

Given under my hand this 21st day of August, 2020.

My Commission expires Nov 21, 2021


Notary Public Jo

EXHIBIT 2
Mississippi Consent Order

BEFORE THE MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE
IN THE MATTER OF THE PHYSICIAN'S LICENSE
OF
AUTHUR PHILIP FINE, M.D.

CONSENT ORDER

WHEREAS, AUTHUR PHILIP FINE, M.D., hereinafter referred to as "Licensee," is the current holder of Mississippi Medical License No. 27879, said license number expires on June 30, 2021;

WHEREAS, the Investigative Staff of the Mississippi State Board of Medical Licensure, hereinafter referred to as the "Board," has received the Consent Order, dated September 8, 2019, as issued by the West Virginia Board of Medicine, hereinafter referred to as the "West Virginia Board", wherein Licensee was found guilty of violations of the West Virginia Code pertaining to the practice of medicine, and setting forth certain requirements for his continued licensure in the State of West Virginia;

WHEREAS, pursuant to subsections (8)(d) and (9) of Miss. Code Ann., § 73-25-29, the aforementioned actions by the West Virginia Board constitutes public disciplinary action against Licensee in another jurisdiction, serving as grounds for which the Board may revoke the Mississippi medical license of Licensee, suspend his right to practice for a time period deemed proper by the Board, place his license on probation, the terms of which may be set by the Board, or take any other action in relation to his license as the Board may deem proper under the circumstances;

WHEREAS it is the desire of Licensee to avoid an evidentiary hearing before the Board and, in lieu thereof, has agreed to enter into this Consent Order;

NOW, THEREFORE, the Mississippi State Board of Medical Licensure, with consent of Licensee as signified by his joinder herein, does hereby **Reprimand** Licensee, subject to the following terms and conditions:

1. Licensee agrees to comply with all terms set forth in the West Virginia Consent Order, including the completion of any CME coursework required. Licensee further agrees to provide documentation evidencing the successful completion of said CME to this Board upon completion, said documentation to be submitted within thirty (30) days of reporting successful completion to the West Virginia Board.
2. Licensee shall obey all federal, state and local laws, and all rules and regulations governing the practice of medicine.
3. At such time as Licensee has complied with all of the terms and conditions imposed on his license in West Virginia and said license is thereby deemed unrestricted by the West Virginia Board, he shall have the right, but not the obligation, to request reciprocal removal of all restrictions imposed by virtue of this Consent Order. In such event, this Board reserves the right to request that Licensee appear before the Board to address his licensure status and plans. When considering reciprocal removal of restrictions, this Board reserves the right in its absolute discretion to impose any other restriction deemed necessary to protect the public.
4. Licensee shall reimburse the Board for all costs incurred in relation to the pending matter pursuant to Miss. Code Ann., §73-25-30. Licensee shall be advised of the total assessment by separate written notification, and shall tender to the Board a certified check or money order made payable to the Mississippi State Board of Medical Licensure,

on or before forty (40) days from the date the assessment is mailed to Licensee via U.S. Mail to Licensee's current mailing address.

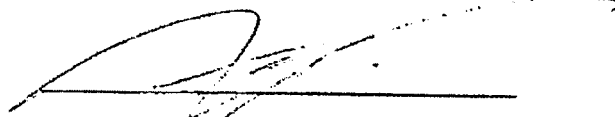
This Consent Order shall be subject to approval by the Board. If the Board fails to approve this Consent Order, in whole or in part, it shall have no force or effect on the parties. It is further understood and agreed that the purpose of this Consent Order is to avoid a hearing before the Board. In this regard, Licensee authorizes the Board to review and examine any documentary evidence or material concerning the Licensee prior to or in conjunction with its consideration of this Consent Order. Should this Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of this Consent Order and other documents and matters pertaining thereto by the Board shall not unfairly or illegally prejudice the Board or any of its members from participation in any further proceedings.

Should the Board hereafter receive documented evidence of Licensee violating any of the terms and conditions of this Consent Order, the Board shall have the right, pursuant to a full evidentiary hearing, to revoke the medical license of Licensee, suspend it for a time deemed proper by the Board, or take any other action determined as necessary by the Board.

Licensee understands and expressly acknowledges that this Consent Order, if approved and executed by the Mississippi State Board of Medical Licensure, shall constitute a public record of the State of Mississippi, thereby accessible through the Board's website. Licensee further acknowledges that the Board shall provide a copy of this Order to, among others, the U.S. Drug Enforcement Administration. Due to the public nature of this Order, the Board makes no representation as to actions, if any, which any insurance company, healthcare network, agency or jurisdiction may take in response to this Order.

Recognizing his right to notice of charges specified against him, to have such charges adjudicated pursuant to Miss. Code Ann., § 73-25-27 (1972), to be represented therein by legal counsel of his choice, and to a final decision rendered upon written findings of fact and conclusions of law, **AUTHUR PHILIP FINE, M.D.**, nevertheless, hereby waives his right to notice and a formal adjudication of charges, thereby reprimanding his Mississippi medical license, subject to those terms and conditions listed above.

EXECUTED AND EFFECTIVE, this the 17, day of NOVEMBER, 2020.



AUTHUR PHILIP FINE, M.D.

ACCEPTED AND APPROVED, this the 21st, day of ^{January 2021} ~~November~~, 2020, by the
Mississippi State Board of Medical Licensure.



JEANNE ANN REA, M.D.
Board President

EXHIBIT 3
Colorado Stipulation and Final Agency
Order

BEFORE THE COLORADO MEDICAL BOARD

STATE OF COLORADO

CASE NO. 2020-6545-B

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF ARTHUR PHILIP FINE, M.D., LICENSE NUMBER CDR-660,

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel B ("Panel") of the Colorado Medical Board ("Board") and Arthur Phillip Fine, M.D. ("Respondent") (collectively, the "Parties") as follows:

JURISDICTION AND CASE HISTORY

1. Respondent was licensed to practice medicine in the state of Colorado on March 11, 2020 and was issued license number CDR-660, which Respondent has held continuously since that date ("License").
2. The Panel and the Board have jurisdiction over Respondent and over the subject matter of this proceeding.
3. On November 20, 2020, the Panel reviewed case number 2020-6545-B and determined that further proceedings by formal complaint were warranted pursuant to Section 12-240-125(4)(c)(V), C.R.S. The Parties have agreed to resolution of this matter prior to referral to the Attorney General.
4. It is the intent of the Parties and the purpose of this Stipulation and Final Agency Order ("Order") to provide for a settlement of all matters set forth in case number 2020-6545-B, without the necessity of conducting a formal disciplinary hearing. This Order constitutes the entire agreement between the Parties, and there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Order.
5. Respondent understands that:
 - a. Respondent has the right to be represented by an attorney of the Respondent's choice, and Respondent has voluntarily chosen to proceed without representation;

b. Respondent has the right to a formal complaint and disciplinary hearing pursuant to Sections 12-240-125(4)(c)(V) and 12-240-125(5), C.R.S.;

c. By entering into this Order, Respondent is knowingly and voluntarily giving up the right to a formal complaint and disciplinary hearing, admits the facts contained in this Order, and relieves the Panel of its burden of proving such facts;

d. Respondent is knowingly and voluntarily giving up the right to present a defense by oral and documentary evidence and to cross-examine witnesses who would testify on behalf of the Panel; and

e. Respondent is knowingly and voluntarily waiving the right to seek judicial review of this Order.

FACTUAL BASIS

6. Respondent specifically admits and the Panel finds that:

a. On September 4, 2020, Respondent entered into a Consent Order with the West Virginia Board of Medicine ("West Virginia Board"). In the Consent Order, Respondent stipulated to the following facts:

- i. Respondent prescribed hydrocodone and/or benzodiazepines to two separate individuals without appropriate documentation of a physician-patient relationship or other documentation required under the West Virginia Medical Practice Act. These individuals are identified as Patient A and Patient B.
- ii. Respondent previously had a professional relationship with Patient A when working at a medical facility in Pittsburg, Pennsylvania.
- iii. Respondent continued prescribing benzodiazepines for Patient A after leaving the Pittsburg practice.
- iv. Respondent acknowledged that he had not physically seen or evaluated Patient A in eight years, but continued to issue "occasional" benzodiazepine prescriptions to the patient and did not maintain medical records of his ongoing treatment.
- v. **CONFIDENTIAL**. Respondent prescribed benzodiazepines and opioids to Patient B.
- vi. Respondent acknowledged that he did not maintain a medical record of his ongoing treatment for Patient B.
- vii. Respondent acknowledged that on at least two occasions he prescribed small, partial benzodiazepine prescriptions for Patient B after Patient B took more than the allotted amount of

her benzodiazepine prescription and ran out prior to the refill date.

7. Respondent admits and the Panel finds that the acts and/or omissions described in the factual basis above constitutes unprofessional conduct pursuant to Section 12-240-121(1)(j) and ((v) C.R.S., which states:

(1) Unprofessional conduct” as used in this article 240 means:

(j) Any act or omission that fails to meet generally accepted standards of medical practice;

(v) Falsifying or repeatedly making incorrect essential entries or repeatedly failing to make essential entries on patient records;

8. Based upon the above, the Parties stipulate that the terms of this Order are authorized by Section 12-240-125(5)(c)(III), C.R.S.

CONFIDENTIAL

PROBATIONARY TERMS

11. Respondent’s license to practice medicine is hereby placed on probation indefinitely commencing on the effective date of this Order. All terms of probation shall be effective throughout the probationary period and shall constitute terms of this Order.

12. During the probationary period, Respondent agrees to be bound by the terms and conditions set forth below.

ETHICS PROGRAM

13. Within one year of the effective date of this Order, Respondent shall successfully complete the PROBE: Ethics and Boundaries Program (“PROBE”) conducted by the Center for Personalized Education for Physicians (“CPEP”).

14. Respondent shall sign any and all releases necessary to allow CPEP to communicate with the Panel directly. Respondent shall not revoke such releases prior to successful completion and final assessment following completion of PROBE.

Any failure to execute such a release or any premature revocation of such a release shall constitute a violation of this Order.

15. In order to successfully complete PROBE, Respondent's participation in the course must be rated as successful, without condition or qualification. The Board in its discretion may impose further remedial coursework if the Respondent receives a conditional pass or negative assessment from CPEP.

16. Respondent shall provide proof of timely and successful completion of ProBE to the Panel within one year of the effective date of this Order.

TOLLING OF THE PROBATIONARY PERIOD

17. Respondent must comply with all other terms of the Order and all other terms of probation. Unless otherwise specified, all terms of the Order and all terms of probation shall remain in effect, regardless of whether the probationary period has been tolled, from the effective date of this Order until probation is terminated. The probationary period shall be tolled for any time that Respondent is not in compliance with any term of this Order.

TERMINATION OF INDEFINITE PROBATION

18. After successful completion of all probationary terms other than treatment monitoring, and after a minimum of five (5) years of probation, Respondent may submit a written request for restoration of Respondent's license to unrestricted status. With any request, Respondent must provide the Panel with a report from CPHP finding Respondent safe to practice with skill and safety to patients. If Respondent has complied with the requirements set forth in this paragraph, such release shall be granted by the Panel in the form of a written notice.

OTHER TERMS

19. The terms of this Order were mutually negotiated and determined.

20. Both Parties acknowledge that they understand the legal consequences of this Order; both Parties enter into this Order voluntarily; and both Parties agree that no term or condition of this Order is unconscionable.

21. All costs and expenses incurred by Respondent to comply with this Order shall be the sole responsibility of Respondent, and shall in no way be the obligation of the Board or Panel.

22. If Respondent is licensed by any other jurisdiction, Respondent shall report this Order to all other jurisdictions in which Respondent is licensed.

23. During the probationary period or any period in which a physician is subject to prescribing restrictions, no physician shall perform an assessment of a patient's medical history and current medical condition, including a personal physical examination, for the purpose of concluding that a patient may benefit from the use of medical marijuana, recommending the use of medical marijuana or certifying a debilitating medical condition for an applicant to the Colorado Medical Marijuana Program. Respondent hereby understands and agrees that he/she shall not certify to the state health agency that a patient has a debilitating medical condition or that the patient may benefit from the use of medical marijuana.

24. Respondent shall obey all state and federal laws while the terms of this Order are in effect.

25. So that the Board may notify hospitals of this agreement pursuant to section 12-240-125(11), C.R.S., Respondent presently holds privileges at or is employed by the following hospitals and facilities:

26. This Order and all its terms shall have the same force and effect as an order entered after a formal disciplinary hearing pursuant to section 12-240-125(5)(c)(III), C.R.S., except that it may not be appealed. Failure to comply with the terms of this Order may be sanctioned by the Inquiry Panel as set forth in section 12-240-125(5)(c)(IV), C.R.S. This Order and all its terms also constitute a valid board order for purposes of section 12-240-121(1)(n), C.R.S.

27. This Order shall be admissible as evidence at any proceeding or future hearing before the Board.

28. Invalidation of any portion of this Order by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

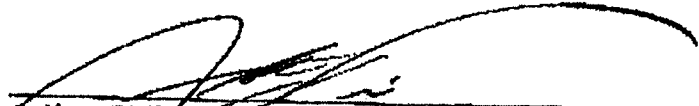
29. During the pendency of any action arising out of this Order, the terms of this Order shall be deemed to be in full force and effect and shall not be tolled.

30. Respondent acknowledges that the Panel may choose not to accept the terms of this Agreement and that if the Agreement is not approved by the Panel and signed by a Panel member or other authorized person, it is void.

31. This Order shall be effective upon (a) mailing by first-class mail to Respondent at Respondent's address of record with the Board, or (b) service by electronic means on Respondent at Respondent's electronic address of record with the Board. Respondent hereby consents to service by electronic means if Respondent has an electronic address on file with the Board.

32. Upon becoming effective, this Order shall be open to public inspection and shall be publicized pursuant to the Board's standard policies and procedures. This Order constitutes discipline against Respondent's license. Additionally, this Order shall be reported the Federation of State Medical Boards, the National Practitioner Data Bank and as otherwise required by law.

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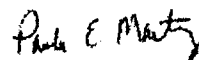


Arthur Philip Fine, M.D.

THE FOREGOING Stipulation and Final Agency Order is approved this 10th
day of January, 2021.

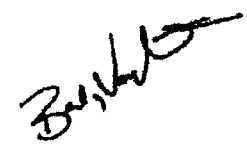
THE FOREGOING Stipulation and Final
Agency Order is approved by the
Colorado Medical Board, Inquiry Panel B
this 19th day of February, 2021.

FOR THE COLORADO MEDICAL BOARD
INQUIRY PANEL B



Paula E. Martinez
Program Director
Delegated Authority to Sign by Inquiry Panel

THE FOREGOING Stipulation and Final Agency Order is effective upon service
to Respondent, on February 19, 2021.



APPROVED AS TO FORM

FOR RESPONDENT

ATTORNEY'S NAME & ADDRESS

EXHIBIT 4

Pennsylvania Consent Agreement and
Order

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

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

File No.: 20-49-010775

vs.

**Arthur Philip Fine, M.D.,
Respondent**

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and Arthur Philip Fine, 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 40 P.S. §§ 1303.101-1303.910, 63 Pa.C.S. Chapter 31 ("Chapter 31").

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. MD029758E, which was originally issued on August 12, 1983, and which is currently set to expire on March 31, 2021.

Prothonotary Filed On: Feb 03 2021 11:05 AM Department of State

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 last known on file with the Board is: **CONFIDENTIAL**

CONFIDENTIAL

c. At all relevant and material times, Respondent was authorized to practice as a physician in the State of West Virginia.

d. On or about September 4, 2020, the West Virginia Board of Medicine ("West Virginia Board") approved a Consent Order In Re: Arthur Philip Fine, MD at Complaint No. 19-123-W.

e. A true and correct copy of the Consent Order referenced in paragraph 3d is attached as **Exhibit A** and is incorporated by reference.

f. Pursuant to the Consent Order referenced in paragraph 3d, the West Virginia Board publicly reprimanded Respondent and ordered Respondent to enroll in and successfully complete Case Western Reserve University's Intensive Course in Controlled Substance Prescribing.

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 §§ 39 through 42 of the Act, 63 P.S. §§ 422.39-422.42; or 63 Pa. C.S. § 3108(b)(4); and/or impose the costs of investigation under 63 Pa. C.S. § 3108(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 §§ 39 through 42 of the Act, 63 P.S. §§ 422.39-422.42; or 63 Pa. C.S. § 3108(b)(4); and/or impose the costs of investigation under 63 Pa. C.S. § 3108(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. **PUBLIC REPRIMAND:** A public reprimand shall be placed on Respondent's disciplinary record with the Board.

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.

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. To the extent that Respondent is not represented by legal counsel, Respondent has knowingly elected to proceed without the assistance of legal counsel.

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: 1/15/21


Arthur Phillip Fine, M.D.
Respondent

DATED: 12 Jan 2021

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

**EXHIBIT
A**

IN RE:

ARTHUR PHILIP FINE, MD

Complaint No. 19-123-W

CONSENT ORDER

The West Virginia Board of Medicine (the "Board") and Arthur Philip Fine, MD ("Dr. Fine"), freely and voluntarily enter into the following Consent Order pursuant to West Virginia Code § 30-3-14, *et seq.*

FINDINGS OF FACT

The Board and Dr. Fine stipulate to the truthfulness and accuracy of the facts, as set forth herein below:

1. Dr. Fine holds a West Virginia medical license, License No. 26616, which was first issued in 2015. Dr. Fine's address of record with the Board is in **CONFIDENTIAL**.
2. Dr. Fine also holds a license to practice medicine and surgery in Pennsylvania. Prior to relocating to West Virginia, Dr. Fine practiced medicine and surgery in Pittsburg, Pennsylvania.
3. Dr. Fine's self-identified area of specialty is general surgery.
4. On September 8, 2019, the Complaint Committee of the Board authorized Initiated Complaint No. 19-123-W against Dr. Fine based upon a third-party report from Dr. Fine's former employer, a West Virginia hospital, raising concerns regarding Dr. Fine's prescribing of controlled substances.
5. The hospital reported it had been alerted by local pharmacists of inappropriate prescribing patterns by Dr. Fine. The hospital's investigation indicated that over the preceding

twelve months, Dr. Fine prescribed hydrocodone and/or benzodiazepines to two separate individuals without appropriate documentation of a physician-patient relationship or other documentation required under the West Virginia Medical Practice Act. The hospital reported that it had met with Dr. Fine to discuss its concerns, and Dr. Fine acknowledged that there was no documentation of an ongoing treatment plan or of his prescribing for the two individuals.

6. CONFIDENTIAL confirmed that Dr. Fine prescribed controlled substances to two separate individuals on a regular basis without maintaining a medical record or documented treatment plan for either patient. The two individuals were unaffiliated with Dr. Fine's practice at the West Virginia hospital.

7. During the investigation process, Dr. Fine indicated that the two individuals identified by the hospital were patients who established with him during his practice of medicine in Pennsylvania. While Dr. Fine acknowledged deficits in his medical recordkeeping with respect to the two patients, he contends that at the time of the prescribing in question he had legitimate physician patient relationships with these two individuals, identified herein at Patient A and Patient B.

8. Dr. Fine asserts that he had a long professional relationship with Patient A, who established as a patient with him in Pittsburg, Pennsylvania. Dr. Fine performed a laparoscopic cholecystectomy on Patient A for biliary dyskinesia. He subsequently also treated Patient A for severe anxiety. Dr. Fine continued to prescribed benzodiazepines for Patient A after he left his prior practice. Dr. Fine acknowledged that he had not physically seen or evaluated Patient A in eight years, but continued to issue "occasional" benzodiazepine prescriptions to the patient in West Virginia and without maintaining medical records of his ongoing treatment.

9. **CONFIDENTIAL** however she was originally a co-worker and his patient in Pennsylvania. Patient B relocated to West Virginia approximately two years ago. Dr. Fine issued prescriptions to **CONFIDENTIAL** for benzodiazepines and opioids. Dr. Fine asserts that he issued these prescriptions, in part, because Patient B had difficulty finding a provider. Dr. Fine acknowledges that he did not maintain a medical record of his ongoing treatment for Patient B. He also acknowledges that on at least two occasions he prescribed small, partial benzodiazepine prescriptions for Patient B after Patient B took more than the allotted amount of her benzodiazepine prescription and ran out prior to the refill date.

10. In the course of the Committee's investigation, Dr. Fine acknowledged deficits in his judgment and decision-making in his treatment of Patients A and B.

11. The Board and Dr. Fine voluntarily enter into this Consent Order to resolve **CONFIDENTIAL**, and to establish appropriate terms and conditions upon Dr. Fine's practice of medicine in West Virginia.

CONCLUSIONS OF LAW

The Board and Dr. Fine stipulate to the following conclusions of law:

1. Dr. Fine's license to practice medicine and surgery in the state of West Virginia is subject to regulation and discipline by the West Virginia Board of Medicine, the "regulatory and disciplinary body for the practice of medicine and surgery" for physicians, podiatrists and physician assistants in West Virginia. W.Va. Code § 30-3-5 and § 30-3-7(a).
2. The Board has a mandate to ensure "a professional environment that encourages the delivery of quality medical services" to protect the public interest. W.Va. Code § 30-3-2.

3. The West Virginia Medical Practice Act sets forth conduct which may render an individual unqualified for licensure or subject to discipline or other restrictions upon licensure. W.Va. Code § 30-3-14. Pursuant to W.Va. Code § 30-1-8(c), the Board has promulgated legislative rules that "delineate conduct, practices or acts which, in the judgment of the board, constitute professional negligence, a willful departure from accepted standards of professional conduct and/or which may render an individual unqualified or unfit for licensure, registration or other authorization to practice." W. Va. Code R. § 11-1A-12.

4. Probable cause may exist to substantiate disciplinary charges against Dr. Fine pursuant to the West Virginia Medical Practice Act and the Board's legislative rules including, but not limited to, the following provisions:

- a. W. Va. Code § 30-3-14(c)(17), W. Va. Code R. § 11-1A-12.1.e and 12.1.j, and W. Va. Code R. § 11-1A-12.2.d, relating to dishonorable, unethical or unprofessional conduct; and/or
- b. W. Va. Code § 30-3-14(c)(17) and/or W. Va. Code R. § 11-1A-12.1.x, relating to engaging in malpractice or the failure to practice medicine with that level of care, skill and treatment which is recognized by a reasonable, prudent, physician engaged in the same or a similar specialty as being acceptable under similar conditions and circumstances; and/or
- c. W. Va. Code § 30-3-14(c)(13) and W. Va. Code R. § 11-1A-12.2.a, relating to prescribing a controlled substance other than in good faith and in a therapeutic manner in accordance with accepted medical standards and in the course of the physician's professional practice; and/or

- d. W. Va. Code § 30-3-14(c)(11) and W. Va. Code R. §§ 11-1A-12.1.u and 12.1.jj, relating to the failure to keep written records justifying the course of treatment of a patient.

5. It is appropriate and in the public interest to waive the commencement of proceedings against Dr. Fine and to proceed without the filing of charges, or a formal Complaint and Notice of Hearing, subject to compliance by Dr. Fine with the provisions of this Consent Order.

6. This Consent Order sets forth reasonable and appropriate discipline upon Dr. Fine's West Virginia medical license in the form of a public reprimand and additional continuing medical education.

CONSENT

By signing his name to this Consent Order, Arthur Philip Fine, MD, acknowledges that he understands and agrees with the following:

1. Dr. Fine has read and understands this entire Consent Order;
2. Dr. Fine agrees that he has been given adequate time and opportunity to review and consider the terms set forth in this Consent Order;
3. Dr. Fine understands that he has the right to legal representation in this matter, at his own expense, and that has been afforded adequate time and opportunity to consult with an attorney regarding the legal effect of this Consent Order;
4. Dr. Fine understands that this Consent Order is a legally binding Order of the West Virginia Board of Medicine that affects his rights and privileges;

5. Dr. Fine acknowledges that he is fully aware that, without his consent, no permanent legal action may be taken against him except after a hearing held in accordance with West Virginia Code § 30-3-14(h) and § 29A-5-1, *et seq.*;

6. Dr. Fine is aware of his legal rights in this matter, in addition to his right to be represented by counsel at his own expense, including: the right to a formal hearing, after reasonable notice, before the West Virginia Board of Medicine on the disciplinary charges before the Board; the right to confront and cross-examine witnesses against him; the right to present evidence and testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to appeal under Chapter 29A of the West Virginia Code in the event of a final order or decision adverse to him;

7. Dr. Fine knowingly and voluntarily waives all such rights, and agrees to the entry of this Consent Order relative to his practice of medicine in the state of West Virginia;

8. Dr. Fine acknowledges that if he violates any of the terms of this Consent Order, further action may be taken against his license by the Board, as permitted by law; and

9. Dr. Fine understands that this Order is a public document which will be available for public inspection, will be accessible through the Board's website, and will be a permanent part of his historical file with the Board. Matters contained herein will be reported to the National Practitioner Data Bank, and may be reported to other jurisdictions, the Federation of State Medical Boards and as otherwise required by law.

ORDER

WHEREFORE, on the basis of the foregoing stipulated Findings of Fact and Conclusions of Law, and with the consent of Dr. Fine, the West Virginia Board of Medicine hereby **ORDERS** as follows:

1. Dr. Fine is hereby **PUBLICLY REPRIMANDED** for his improper prescribing to two patients without maintaining medical records.
2. *Training and Education.* At his own expense, Dr. Fine shall enroll in and successfully complete **Case Western Reserve University's Intensive Course in Controlled Substance Prescribing**, including all pre-course and post-course requirements. To satisfy this requirement, Dr. Fine must complete all pre-course requirements and virtually attend and successfully complete this course on **November 9-11, 2020**.
3. *Notification of Enrollment.* Dr. Fine shall provide the Board with a copy of his enrollment confirmation from the CME provider on or before **October 1, 2020**, and he shall submit acceptable documentation from the CME provider of his successful completion of the course to the Board within **ten days** of his completion of the course.
4. *Successful Completion of CME.* Successful completion of the CME course required by this Order shall be determined solely by the CME provider. A determination by the CME provider that Dr. Fine has failed to successfully complete any program requirement, including pre or post program requirements, shall constitute clear and convincing evidence for the Board to take further action with respect to Dr. Fine's West Virginia medical license, including the imposition of additional discipline.
5. *Limitation on Use of CME hours.* Dr. Fine may not utilize any CME hours he earns pursuant to his participation in the CME course required by this Order to satisfy his biennial continuing medical education obligation pursuant to W. Va. Code R. § 11-6-3.1 or any superseding enactment of the Board's legislative rule governing continuing medical education requirements and reporting for physicians.

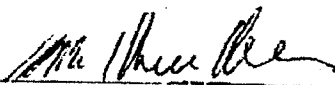
6. Dr. Fine shall at all times fully comply with all of the professional practice requirements of the West Virginia Medical Practice Act as set forth in W. Va. Code § 30-3-1 *et seq.*, and in the Board's legislative rules, including but not limited to W. Va. Code R. § 11-1A-1 *et seq.* Dr. Fine shall also fully comply with his legal duty to access the West Virginia Controlled Substances Monitoring Database in accordance with W. Va. Code §60A-9-5a.

7. Dr. Fine agrees that he may be subject to additional disciplinary processes, as permitted by law, for any violation of the terms of this Consent Order.

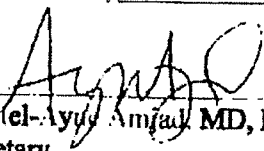
8. This Consent Order shall be deemed entered on the date that this Order, with all required signatures affixed hereupon, is received in the Board's 101 Dee Drive, Charleston, West Virginia, office. The Executive Director of the West Virginia Board of Medicine is hereby authorized to denote the date of entry on behalf of the Board in accordance with this paragraph.

ENTERED ON: September 4, 2020

WEST VIRGINIA BOARD OF MEDICINE


Kishore K. Challa, MD, FACC
President

Date: sep 4 2020


Quartel-Ayud Amfadi, MD, MPH
Secretary

Date: 8/31/2020

ACCEPTANCE

I, ARTHUR PHILIP FINE, MD, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT ORDER. I HAVE BEEN GIVEN SUFFICIENT TIME AND OPPORTUNITY TO CONSIDER THIS CONSENT ORDER, AND I UNDERSTAND THE EFFECT IT WILL HAVE UPON MY LICENSE TO PRACTICE MEDICINE AND SURGERY IN WEST VIRGINIA.

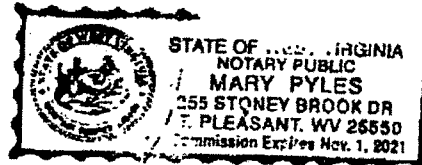
BY SIGNING THIS CONSENT ORDER, I HAVE WAIVED CERTAIN RIGHTS, BUT I DO SO KNOWINGLY AND VOLUNTARILY, AND I DO NOT WISH TO ASSERT THOSE RIGHTS IN THIS MATTER.

I UNDERSTAND THAT I HAVE THE RIGHT TO LEGAL COUNSEL, AND THAT I HAVE BEEN PROVIDED WITH AMPLE TIME TO SEEK LEGAL ADVICE REGARDING MY ACCEPTANCE OF THIS CONSENT ORDER FROM AN ATTORNEY.

I AM SIGNING THIS CONSENT ORDER VOLUNTARILY, AND I UNDERSTAND THE POTENTIAL CONSEQUENCES OF VIOLATING THIS CONSENT ORDER.

Arthur Philip Fine, MD

Date: 29.8.20



STATE OF West Virginia

COUNTY OF Mason, to-wit:

I, Mary Pyles, a Notary Public for said county and

state do hereby certify that Arthur Philip Fine, MD, whose name is signed herein above has this day acknowledged the same before me.

Given under my hand this 21st day of August, 2020.

My Commission expires Nov 21, 2021

Mary Pyles
Notary Public

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

Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

File No.: 20-49-010775

vs.

Arthur Philip Fine, M.D.,
Respondent

ORDER

AND NOW, this 3rd day of February, 2021, 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



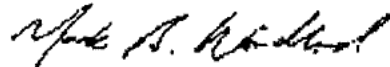
K. Kalonji Johnson
Commissioner

For the Commonwealth:

For the Respondent:

Date of mailing:

BY ORDER:
STATE BOARD OF MEDICINE



Mark B. Woodland, M.S., M.D.
Chair

Keith E. Bashore, Prosecuting Attorney
2601 North Third Street
P.O. Box 69521
Harrisburg, PA 17106-9521

Arthur Philip Fine, M.D.

CONFIDENTIAL

02/03/2021

EXHIBIT 5

Maryland Default Order

IN THE MATTER OF	*	BEFORE THE MARYLAND
ARTHUR FINE, M.D.	*	STATE BOARD OF
Respondent	*	PHYSICIANS
License Number: D88804	*	Case Number: 2221-0061

* * * * *

ORDER OF DEFAULT

PROCEDURAL BACKGROUND

The Maryland Board of Physicians (the "Maryland Board") received information that Arthur Fine, M.D., (the "Respondent") License Number D88804, was disciplined by the West Virginia Board of Medicine (the "West Virginia Board"). In an Order dated September 4, 2020, the West Virginia Board reprimanded the Respondent and required the Respondent to complete certain coursework.

Based on the above referenced West Virginia Board sanction, the Maryland Board has grounds to charge the Respondent with violating the following provisions of the Maryland Medical Practice Act (the "Act"), under H. O. § 14-404(a):

- (a) Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:
 - (21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veteran's Administration for an act that would be grounds for disciplinary action under this section,

Disciplinary Panel B ("Panel B") of the Maryland Board has determined that the acts for which the Respondent was disciplined in West Virginia would be grounds for

disciplinary action under H.O. § 14-404(a). The grounds for disciplinary action under H.O. § 14-404(a) are as follows:

- (40) Fails to keep adequate medical records as determined by appropriate peer review.

On December 2, 2020, the Maryland Board attempted to notify the Respondent by regular mail at his address of record of its investigation of this matter and offered a Consent Order imposing a reciprocal sanction. The Respondent was further advised that if he did not respond to the Board's letter within ten business days, the Board would enter a default order, making the same findings and imposing the same sanctions as in the Consent Order. The Respondent did not respond.

On January 11, 2021, the Board emailed the Respondent at an email address provided on the Respondent's 2018 Maryland renewal application, requesting a response on or before January 15, 2021. The Respondent did not respond.

Attempts to reach the Respondent by telephone were also unsuccessful.

I. FINDINGS OF FACT

Panel B makes the following findings of fact:

1. At all times relevant hereto, the Respondent was a physician licensed to practice medicine in the State of Maryland. The Respondent was initially licensed in Maryland on or about January 29, 2020.
2. The West Virginia Board entered a Consent Order on September 4, 2020 which reprimanded the Respondent and required the Respondent to complete certain coursework. A copy of the West Virginia Order is attached hereto.

3. In its September 4, 2020 Order, the West Virginia Board found that the Respondent prescribed controlled substances to two separate individuals on a regular basis without maintaining a medical record or documented treatment plan.

II. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel B concludes as a matter of law that the disciplinary action taken by the West Virginia Board against the Respondent was for an act or acts that would be grounds for disciplinary action under Health Occ. § 14-404(a)(40) had those offenses been committed in this state, and would thus subject him to discipline under Health Occ. §14-404(a)(21). Panel B further concludes that the Respondent was in default with respect to answering the charges and has not contested them.

III. ORDER

It is thus, by Panel B, hereby:

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED that the Respondent shall comply with the terms and conditions of the September 4, 2020 West Virginia Board Consent Order; and be it further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director or her designee signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order; and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that, if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If the disciplinary panel determines there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings followed by an exceptions process before a disciplinary panel; and if the disciplinary panel determines there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that, after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend Respondent's license with appropriate terms and conditions, or revoke the Respondent's license. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; and it is further

ORDERED that this Consent Order is a public document. See Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

Signature on File

02/17/2021
Date

Christine A. Farrelly
Executive Director
Maryland Board of Physicians

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Md. Code Ann., Health Occ. § 14-408(b), the Respondent has the right to seek judicial review of this Order of Default. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Order of Default. The cover letter accompanying this Order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondent files a petition for judicial review, the Board is a party and should be served with the court's process at the following address:

**Maryland State Board of Physicians
Christine A. Farrelly, Executive Director
4201 Patterson Avenue
Baltimore, Maryland 21215**

Notice of any petition should also be sent to the Board's counsel at the following address:

**Noreen Rubin
Assistant Attorney General
Department of Health
300 West Preston Street, Suite 302
Baltimore, Maryland 21201**

EXHIBIT 6

New Hampshire Order

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
DIVISION OF HEALTH PROFESSIONS**

Board of Medicine
7 Eagle Square
Concord, N.H. 03301
Telephone 603-271-1203 · Fax 603-271-6702



June 4, 2021

By Certified Mail and E-Mail

Arthur Philip Fine, MD
CONFIDENTIAL

RE: Docket #: 21-MED-003

Dear Dr. Fine:

-----Enclosed is the "Final Decision and Order" in the above matter, approved by the Board on June 2, 2021 and issued on June 4, 2021.-----

Please feel free to contact me if you should have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Christine Senko".

Christine Senko,
Administrator, NH Office of Professional Licensure
and Certification

Enclosure

cc: Laura Lombardi, Esquire,
Board Counsel

NON PUBLIC
JUNE 2
VI, A

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

BOARD OF MEDICINE

**In Re: Arthur Philip Fine, MD
Med. License #20233 (multi-state compact)**

Docket No.: 21-MED-0003

**FINAL DECISION AND
REPRIMAND - 05/13/21**

I. ATTENDEES:

David Conway, M.D. Board President
Nina Gardner, Board Member
Donald LeBrun, Board Member
Richard Kardell, DO. Board Member
Linda Tatarczuch, Board Member
Emily Baker, M.D. Board Member
Gilbert Fanciullo, M.D. Board Member
Johnathan Ballard, M.D. Board
Member
Attorney Laura Lombardi, Board Counsel
Christine Senko, Administrator
Todd H. Prevett, OPLC Hearings Examiner and Presiding Officer

II. CASE SUMMARY/PROCEDURAL HISTORY:

On or about 10/05/20, the Board received a report from the Physician Data Center alleging Dr. Arthur Fine ("Licensee") had been reprimand by the West Virginia Board of Medicine on 09/04/20 for prescribing controlled substances for two patients without maintaining proper records or treatment plans. After investigation, the Board voted on or about 04/05/21 to commence an adjudicative reciprocal disciplinary proceeding and a final adjudicative hearing was held on 05/05/21. Pursuant to N.H. Code Admin. R. Med 207.01(b) ("Rules"), Todd H. Prevett, Esq., (Hearings Examiner) was appointed as presiding officer.

III. SUMMARY OF THE EVIDENCE:

The Board received the following evidence pursuant to RSA 541-A:33 and Rule 206.09:

a. Exhibits were submitted by the Board, numbered as follows:

1. Notice of Hearing, dated 04/05/20 (*sic*, 04/05/21)
2. Consent Order from West Virginia Board of Medicine, dated 09/04/20
3. Licensee's Response to Complaint

IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:

After receiving the complaint and ordering an investigation, the Board conducted this adjudicative disciplinary hearing pursuant to RSA 329:17-c on 05/05/21. Licensee failed to appear, but did provide an email, dated 05/05/20 indicating that he was aware of the hearing and that he was voluntarily choosing not to appear, due to feeling emotionally exhausted by the process. Pursuant to RSA 329:17-c, the Board may issue any disciplinary sanction or take any action with regard to the Licensee otherwise permitted under RSA 329:17(VII), including sanctions or actions that are more stringent than those imposed by the foreign jurisdiction. Licensee has the opportunity to demonstrate why a lesser sanction should be imposed instead.

The credible evidence presented at the hearing allows the Board to find the following facts. Licensee has had a compact medical license in New Hampshire since 2010. He had been practicing predominantly in Pennsylvania and then West Virginia. Licensee prescribed benzodiazepines for a patient, without proper examination and without maintaining proper medical records. Licensee also prescribed benzodiazepines and opioids for a separate patient, without maintaining proper medical records for this patient's treatment. Licensee does not contest the facts or the West Virginia disciplinary decision.

V. DISCUSSION AND FINDINGS OF FACTS / CONCLUSIONS OF LAW:

After reviewing all of the uncontested evidence, the Board clearly finds by a preponderance of the evidence that the Respondent has committed misconduct. The central facts in this case are clear. Licensee prescribed opioids to a patient and did not keep the proper records, especially considering the nature of such a drug. Licensee also prescribed opioids and benzodiazepines to a separate patient, and

did not keep the proper records. The Board notes that this second patient CONFIDENTIAL C O , and the Board construes this as underscoring the requirement that Licensee keep proper records, as to address any appearance of impropriety. The Board considered harsher discipline in this case, and will certainly consider such sanctions if any further misconduct come to light. However, the Board ultimately concludes that instituting reciprocal discipline is appropriate in this matter. As part of this decision, the Board makes the following findings of fact and conclusions of law:

- A. On or about September 2020 to the present, Licensee was a physician, licensed through the interstate compact in the State of New Hampshire.
- B. On or about 10/05/20, the Board received an administrative final order from the licensing authority of West Virginia, reprimanding Licensee and subjecting him to further discipline for the same alleged transaction or occurrence, pursuant to RSA 329:17-a.
- C. Pursuant to RSA 329:17-a, Licensee was given the opportunity to appear and show cause why similar disciplinary sanctions should not be imposed by the Board. Licensee failed to appear on 05/05/21.
- D. Pursuant to RSA 329:17(VI)(k), Licensee has committed professional misconduct by failing to maintain adequate medical record documentation on diagnostic and therapeutic treatment provided to two separate patients.
- E. Pursuant to RSA 329:17-a and RSA 329:17(VII)(a), and upon a finding of professional misconduct under section RSA 329:17(VI), the Board orders that Licensee is hereby reprimanded.
- F. Pursuant to RSA 329:17(VII)(g), the Board elects *not* to subject Licensee to assessment of additional fines or costs of investigation and enforcement, based on the Licensee's personal circumstances.
- G. Pursuant to RSA 329:24(III)(b) and Rules 408.03 and 411.02, and upon a finding of professional misconduct, the Board finds that the above-referenced reprimand is appropriate and is the minimum sanction required in order to punish and/or deter said conduct. The Board considered the following factors in coming to this conclusion: the mild nature of the offense, the Licensee's negligent mind at the time of the offense, the Licensee's moderate acknowledgment of his wrongdoing, the Licensee's moderate willingness to cooperate with the Board, the purpose of RSA 329:17 in preventing further misconduct, the potential harm to patients and the public health/safety, the strong deterrent message the Board wishes to send to other violators, and the moderate extent of enforcement activities required for this case.

VI. CONCLUSION AND DECISION:

Pursuant to RSA 329:17, the Board hereby orders that Licensee be REPRIMANDED, and subjects him to further discipline as outlined above.

DATED: 05/13/21

_____/s/ Todd H. Prevett, Esq._____
Todd H. Prevett, Esq., Hearings Examiner
Authorized Representative of the
Board of Medicine-
New Hampshire Office of
Professional Licensure & Certification
7 Eagle Square
Concord, NH 03301