

STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

In re: Stephen H. Fox, M.D.)
) Licensing Matter
)

STIPULATION AND CONSENT ORDER

NOW COME Stephen H. Fox, M.D. (“Applicant”) and the State of Vermont, by and through Attorney General William H. Sorrell and undersigned counsel, Assistant Attorney General Margaret O. Vincent, and stipulate as follows:

1. Stephen H. Fox, M.D., Applicant, filed an application for Vermont medical licensure in June of 2016. Applicant presently has a Probation Agreement regarding his medical license in the State of Massachusetts.
2. Jurisdiction rests in the Vermont Board of Medical Practice (the “Board”) pursuant to 26 V.S.A. §§ 1353, 1391, 1398 and 3 V.S.A. §§ 809 and 814(c) and (d).

BACKGROUND

3. Applicant disclosed in applying for medical licensure in Vermont that on July 29, 2014, he entered into a Voluntary Agreement Not to Practice Medicine with the Commonwealth of Massachusetts Board of Registration in Medicine (herein referred to as the Massachusetts Board). (*see Exhibit A*)
4. The Voluntary Agreement was then followed by a Consent Order agreed to by the Applicant and the Massachusetts Board on September 10 of 2015. (*see Exhibit B*)
5. The Conclusion of Law in the Consent Order held that the Applicant had practiced medicine while his ability to do so was impaired by alcohol and drugs and that he

had engaged in conduct that undermined the public confidence in the integrity of the medical profession.

6. The facts that supported the Massachusetts's Board Consent Order are the following;
 - a. In July of 2014, Applicant was employed by Baystate Medical Practice and was affiliated with Baystate Franklin Medical Center in Massachusetts.
 - b. In or about late Spring 2014, after work, the Respondent frequently consumed a sixteen-ounce beer and smoked marijuana.
 - c. By June 2014, the Respondent smoked marijuana at times in the evening when he was on call.
 - d. During the weekend of July 4, 2014, Respondent was the on-call surgeon, at Baystate Franklin.
 - e. On the evening of July 4, 2014, as the on-call surgeon, the Respondent performed an incision and drainage.
 - f. As the weekend progressed, concerns were raised by hospital staff about the Respondent's ability to perform his duties.
 - g. On the evening of July 5, 2014, Baystate Medical Practice removed the Respondent from call and from all clinical duties.
 - h. The Respondent had a blood sample drawn on the evening of July 5, 2014.
 - i. On July 7, 2014, the sample results were positive for alcohol and marijuana.
 - j. Respondent voluntarily entered an inpatient substance abuse treatment program at Caron in Pennsylvania on July 13, 2014 and remained there until November 5, 2014.

7. The Consent Order suspended Applicant's license indefinitely. The Order did allow Applicant to petition for a stay of suspension after eighteen consecutive months of documented sobriety.
8. On February 3, 2016 Applicant filed a Petition to Stay Suspension and on March 24, 2016, the Massachusetts Board entered into a Probation Agreement with Applicant.
9. The Probation Agreement required a number of conditions including continued participation with the Physician Health Services of the Massachusetts Medical Society, and obtaining a health care provider monitor experienced in the treatment of substance use disorder. (*see Exhibit C*)
10. Applicant is seeking a Vermont license so he may practice in the Wound Care Center at Brattleboro Memorial Hospital and work toward a return to practice as a general surgeon.

II. Agreement as to Terms and Conditions of Vermont Licensure

11. Applicant is knowingly and voluntarily agreeing to this Stipulation and Consent Order. He agrees and understands that by executing this document he is waiving at this time any rights of due process that he may possess with regard to the issuance to him of a Vermont medical license with accompanying terms and conditions. He agrees that the Vermont Board of Medical Practice possesses and shall continue to maintain jurisdiction in this matter, including any required action to enforce the terms herein.
12. Applicant acknowledges that at all times he has had the right to be represented by counsel in this matter. Applicant agrees that he personally has read and carefully

reviewed this document. Applicant agrees to accept and fully abide by the terms and conditions set forth below while this agreement remains in force.

13. Applicant agrees that the terms and conditions of this agreement shall be imposed concurrently with the issuance of Applicant's Vermont medical license.
14. Applicant understands and agrees that that the Vermont medical license issued pursuant to this agreement shall be issued with the designation "conditioned" for at least three years from the time that the Board accepts and approves this Stipulation and Consent Order, until such time as the conditions may be lifted. After the Board has received three years of reports as called for in this agreement, Applicant may request that the Board lift the conditions by submitting a request through the assigned Committee.
15. Applicant agrees that he shall abide fully and in good faith with all provisions of his Vermont Practitioner Health Program ("VPH") contract. Applicant shall not cease, terminate, or interrupt his participation in VPH without the advance written approval of the Board or Committee specifically assigned, following presentation of a written petition from him in this regard. The Committee and/or Board shall retain sole discretion to approve or disapprove any such petition. The Applicant and VPH may agree to modifications of the provisions of his VPH contract without Board approval, but Applicant must inform the Board immediately of any request to modify the VPH contract or any modifications to it.
16. Applicant agrees that he shall abide fully and in good faith will all provisions of his Probation Agreement with the Massachusetts Board.

17. Applicant agrees that he shall abide fully and in good faith will all provisions of his contract with Physician Health Services (“PHS”) of the Massachusetts Medical Society.
18. Applicant agrees that he shall report to the Board any violations of his VPHP contract, his contract with PHS, or any investigation conducted by the Massachusetts Board.
19. Applicant has informed the Board that if he is granted a conditioned license he will be employed by Brattleboro Memorial Hospital. Applicant shall inform the Board immediately if he is no longer employed by Brattleboro Memorial Hospital and shall not practice medicine in any other practice setting in the State of Vermont without the approval of the assigned Committee or Board.
20. Applicant agrees to a practice monitor. The practice monitor is Dr. Greg Gadowski, M.D., Director, of the Wound Care Clinic. Any change in the practice monitor shall be subject to the approval of the assigned Committee or the Board.
21. Applicant shall be responsible for ensuring that the practice monitor complies with the terms and obligations of the Practice Monitoring Agreement that shall be signed by both Respondent and the practice monitor. The Practice Monitoring Agreement is attached hereto as “Exhibit D”.
22. Applicant shall comply with the terms and obligations of the Practice Monitoring Agreement.
23. The practice monitor shall report his findings in writing to the assigned Committee on a quarterly basis. The practice monitor’s first report shall be submitted to the

assigned Committee no later than 90 days from Applicant's first day of work at Brattleboro Memorial Hospital.

24. The practice monitoring shall continue for two (2) years from the date of the approval of this Stipulation and Consent Order. At the end of the two (2) year monitoring period, Respondent shall submit a written request to the assigned Committee to end the requirement for monitoring. The practice monitoring requirement will not cease until the Committee has approved, in writing, Respondent's request to end the monitoring.
25. Respondent shall provide a copy of this Stipulation and Consent Order to the practice monitor.
26. Respondent shall be solely responsible for all costs associated with the practice monitor. Respondent shall be responsible for ensuring that the practice monitor's reports are timely submitted to the Committee.
27. Applicant agrees that he will not participate in surgery during a period of 18 months from the approval of this agreement except as expressly provided herein. During that period, Applicant's participation in surgery shall be limited to acting as First Assistant only. Applicant may also perform minor procedures that will be done under local anesthetic with nurse supervision.
28. Applicant agrees that his agreement with the practice monitor shall provide that the practice monitor immediately notify the Board if the Applicant relapses or if there is any indication that the Applicant has engaged in practice that does not meet the standard of care. Applicant must also immediately notify the Board if the practice

monitor informs him of a belief that the Applicant has relapsed or may have engaged in practice that does not meet the standard of care.

29. Applicant agrees to allow a Board member, an investigator for the Board or an Assistant Attorney General to speak with applicant's practice monitor regarding his recovery or his ability to practice. The agreement with the practice monitor must include Applicant's consent to having the practice monitor speak with a Board representative and the practice monitor's agreement to do so.
30. Applicant may petition the Board for relief of the condition that his involvement with surgical practice be limited to being a First Assistant, 12 months from the date of this Order. The petition shall include documentation from applicant's practice monitor as well as from the Chief of Surgery at Brattleboro Memorial Hospital attesting that Applicant is in good standing with the Hospital and has the clinical skills necessary to perform general surgery.
31. The parties agree that this Stipulation and Consent Order shall be a public document, shall be made part of Applicant's licensing file, and shall be reported as a conditioned license to other licensing authorities and/or entities including, but not limited to, the National Practitioner Data Bank and the Federation of State Medical Boards.
32. This Stipulation and Consent Order is subject to review and acceptance by the Vermont Board of Medical Practice and shall not become effective until presented to and approved by the Board. If the Board rejects any part of this Stipulation and Consent Order, the entire agreement shall be considered void. However, should the terms and conditions of this Stipulation and Consent Order be deemed acceptable

by the Board, the parties request that the Board enters an order adopting the facts and/or conclusions herein and all terms and conditions of licensure as set forth herein, including that this license is conditioned.

33. Applicant agrees that all terms and conditions herein may be adopted as an enforceable order of the Board. Applicant agrees that the Board of Medical Practice shall retain continuing jurisdiction in this matter and may enforce as necessary all terms and conditions herein.

Dated at Burlington, Vermont, this 29 day of July, 2016.

STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

by: Margaret O. Vincent
MARGARET O. VINCENT
Assistant Attorney General

Dated at Rochester, Vermont, this 28 day of July, 2016.

EC
STEPHEN H. FOX, M.D.
Applicant

ORDER

The Vermont Board of Medical Practice, so Orders, that the Vermont Medical License of Stephen H. Fox, M.D., shall be a Conditioned License subject to the above Terms and Conditions.

FOREGOING, AS TO STEPHEN H. FOX, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Yed M. Allen

Sh. Allen

Megan Susan Gavel

Shirley Ryan

W. H. H. H.

RN Benjamin

[Signature]

DATED: *August 3rd, 2016*

ENTERED AND EFFECTIVE: *August 3rd, 2016*

EXHIBIT A

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Docket No.14-297

_____)
In the Matter of Stephen H. Fox, M.D.)
_____)
Registration No. 216553)
_____)

VOLUNTARY AGREEMENT NOT TO PRACTICE MEDICINE

1. I agree to cease my practice of medicine in the Commonwealth of Massachusetts effective immediately.
2. This Agreement will remain in effect until the Board of Registration in Medicine (Board) determines that this Agreement should be modified or terminated; or until the Board takes other action against my license to practice medicine; or until the Board takes final action on the above-referenced matter.
3. I am entering this Agreement voluntarily.
4. I understand that this Agreement is a public document and may be subject to a press release.
5. I understand that this action is non-disciplinary but will be reported by the Board to the appropriate federal data banks and national reporting organizations, including the National Practitioner Data Bank and the Federation of State Medical Boards.
6. Any violation of this Agreement shall be prima facie evidence for immediate summary suspension of my license to practice medicine.
7. I understand that by voluntarily agreeing not to practice medicine in the Commonwealth of Massachusetts pursuant to this Agreement, I do not waive my right to contest any allegations brought against me by the Board and my signature to this Agreement does not constitute any admissions on my part. Nothing contained in this Agreement shall be construed as an admission or acknowledgment by me as to wrongdoing of any kind in the practice of medicine or otherwise.
8. I agree to provide a complete copy of this Agreement, within twenty-four (24) hours of notification of the Board's acceptance of this Agreement, by certified mail, return receipt

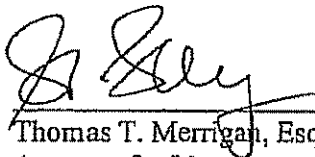
requested, or by hand delivery to the following designated entities: any in-state or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which I practice medicine; any in-state or out-of-state health maintenance organization, with which I have privileges or any other kind of association; any state agency, in-or-out-of state, with which I have a provider contract; any in-state or out-of-state medical employer, whether or not I practice medicine there; the Drug Enforcement Administration Boston Diversion Group; Massachusetts Department of Public Health Drug Control Program; and the state licensing boards of all states in which I have any kind of license to practice medicine. I will certify to the Board within seven (7) days that I have complied with this directive. The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above or any other affected entity, of any action it has taken.

9. This Agreement represents the entire agreement between the parties at this time.



Stephen H. Fox, M.D.
Licensee

7/29/2014
Date



Thomas T. Merrigan, Esq.
Attorney for Licensee

8.8.14
Date

Accepted by the Board of Registration in Medicine this 29th day of July,

2014

Condace Lapidus Stare, MD

Board Chair or Designee

Ratified by vote of the Board of Registration in Medicine this 10th day of September,

2014

Condace Lapidus Stare, MD

Board Chair or Board Member

EXHIBIT B

2. On July 29, 2014, the Respondent entered into a Voluntary Agreement Not to Practice Medicine ("VANP"). The VANP was ratified by the full Board on September 10, 2014.
3. The Respondent was employed by Baystate Medical Practice ("BMP") and was affiliated with Baystate Franklin Medical Center ("Baystate Franklin").
4. In or about late Spring 2014, after work, the Respondent frequently consumed a sixteen-ounce beer and smoked marijuana.
5. By June 2014, the Respondent smoked marijuana at times in the evening when he was on call.
6. During the weekend of July 4, 2014, the Respondent was the on-call surgeon at Baystate Franklin.
7. On the evening of July 4, 2014, as the on-call surgeon, the Respondent performed an exploratory laparotomy.
8. On the morning of July 5, 2014, as the on-call surgeon, the Respondent performed an incision and drainage.
9. As the weekend progressed, concerns were raised by hospital staff about the Respondent's ability to perform his duties.
10. On the evening of July 5, 2014, BMP removed the Respondent from call and from all clinical duties.
11. The Respondent had a blood sample drawn on the evening of July 5, 2014.
12. On July 7, 2014, the sample results were positive for alcohol and marijuana.
13. The Respondent voluntarily entered an in-patient substance abuse treatment program at Caron in Pennsylvania on July 13, 2014. He remained at Caron until November 5, 2014.

14. The Respondent successfully completed the Caron program on November 5, 2014.

15. The Respondent entered into a Physician Substance Use Monitoring/Behavioral Health Monitoring Contract with the Physician Health Services (PHS) program of the Massachusetts Medical Society, effective July 13, 2014. He has been compliant with that contract.

Conclusion of Law

A. The Respondent has violated G.L. c. 112, §5 ninth par. (d) and 243 CMR 1.03(5)(a)4 by practicing medicine while his ability to do so was impaired by alcohol and drugs.

B. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession. *See Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982).

Sanction and Order

The Respondent's license is hereby indefinitely suspended. The Respondent has leave to petition for a stay of suspension after eighteen consecutive months of documented sobriety as demonstrated by compliance with his PHS substance use monitoring contract. Furthermore, any stay will be conditioned upon the Respondent's entry into a 5-year Probation Agreement under terms and conditions that the Board deems appropriate at that time, including ongoing compliance with his PHS contract; a board-approved practice plan that includes monitoring of his clinical practice; regular meetings with his therapist; and any other conditions as the board may deem appropriate. This sanction is imposed for each violation of law listed in the Conclusion section and not a combination of any or all of them.

Execution of this Consent Order

The Respondent shall provide a complete copy of this Consent Order and Probation Agreement, with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any in- or out-of-state health maintenance organization with whom the Respondent has privileges or any other kind of association; any state agency, in- or out-of-state, with which the Respondent has a provider contract; any in- or out-of-state medical employer, whether or not the Respondent practices medicine there; the state licensing boards of all states in which the Respondent has any kind of license to practice medicine; the Drug Enforcement Administration Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which the Respondent becomes associated for the duration of this suspension. The Respondent is further directed to certify to the Board within ten (10) days that the Respondent has complied with this directive.

The Board expressly reserves the authority to independently notify, at any time, any of

the entities designated above, or any other affected entity, of any action it has taken.



Stephen H. Fox, M.D.
Licensee



Date



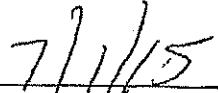
Thomas T. Merrigan, Esq.
Attorney for the Licensee



Date

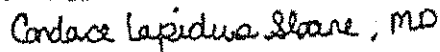


Gloria Brooks, Esq.
Complaint Counsel



Date

So ORDERED by the Board of Registration in Medicine this 10th day of September, 2015.



Candace Lapidus Sloane, M.D.
Board Chair

EXHIBIT C

III. JURISDICTION

The parties agree that the Board has the authority to enter into this Probation Agreement, and that the Board may enforce the terms of this Agreement in accordance with applicable laws and regulations and the provisions of this Agreement.

IV. CONDITIONS OF PROBATION

During the probationary period, which shall be effective on the date the Board accepts this Agreement, the Respondent shall comply with each of the following requirements:

A. The Respondent agrees to undergo monitoring by the Board until at least five years from the date in which the Board approves the Probation Agreement and for such further period thereafter as the Board shall for reasonable cause order. At the Board's discretion, any periods during which the Respondent is not practicing medicine, during the probationary period, may extend the probationary period.

B. The Respondent shall refrain from all consumption of alcohol, and use of all controlled substances, unless specifically prescribed by a treating physician who has been informed of the Respondent's chemical dependency history, for a legitimate medical purpose and in the usual course of the treating physician's medical practice.

C. The Respondent shall not prescribe any controlled substances to himself or any member of his family; and agrees that this provision contained in this sentence will survive the

probationary period. Prescribing of controlled substances under this paragraph must be in accordance with all applicable state and federal controlled substance registration requirements.

D. The Respondent has entered into a contract, dated July 13, 2014, and in a form acceptable to the Board, with Physician Health Services ("PHS") of the Massachusetts Medical Society. The Respondent agrees to abide fully by all terms of this contract. This contract includes a provision that PHS will promptly inform the Board of any lapse or violation of its terms by the Respondent, and the contract provides for any necessary waivers of privilege or confidentiality by the Respondent. PHS shall submit quarterly reports to the Board which detail the Respondent's compliance with this contract.

E. The Respondent shall undergo random bodily fluid screenings as required by PHS or as may be required by the Board, this requirement may be reasonably modified from time to time consistent with scientific or practical advances in the field of alcohol and drug detection. The Respondent shall submit random samples at least weekly on average, or at such other frequency as the Board or PHS may require. An officer of PHS shall file reports of the screening evaluations completed during the previous three months with the Board within thirty (30) days as part of their quarterly report. Said reports shall specify the dates on which samples were taken and shall specify the results of the analysis of such samples and shall be signed by the person in charge. In addition, the Respondent shall obtain the written agreement of PHS to notify the Board immediately by telephone and in writing:

1. a) in the event that Respondent's sample is found to contain any evidence of alcohol or any controlled substance in violation of this Probation Agreement; or

b) in the event that PHS has other reliable evidence that the Respondent has used alcohol or any controlled substance in violation of this Probation Agreement;

2. in the event that the Respondent misses any random bodily fluid test, excluding an administrative or laboratory mistake beyond the Respondent's control;

3. in the event that the Respondent refuses to cooperate with PHS in monitoring bodily fluids in any manner; or

4. in the event that the Respondent withdraws any waiver filed in connection with this Probation Agreement; or

5. in the event that the PHS contract is terminated for any reason other than successful completion of the contract, as determined by the Director of PHS.

The Respondent agrees to waive any privileges he may have concerning such reports and disclosures to the Board by PHS.

F. The Respondent shall at all times during the length of the probationary period be reasonably available to provide an immediate bodily fluid screen at the request of the Board.

G. The Respondent shall immediately notify the Board in writing any time that any treating physician writes a prescription for the Respondent for a controlled substance in Schedules II through IV, inclusive.

H. The Respondent shall be under the care of a licensed or certified health care professional experienced in the treatment of substance use disorders who shall submit written reports, including reports on all missed sessions, to the Board or its designee as often as the Board deems necessary but in any event at least once every three months. Copies of these attendance reports shall be part of the quarterly report that PHS submits to the Board. The health care professional shall immediately notify the Board by telephone whenever, in her professional judgment, the Respondent poses a potential danger to the health, safety and welfare of the Respondent's patients. In addition, the health care professional shall immediately notify the Board by telephone and in writing in the event that the Respondent terminates treatment, or is non-compliant with the treatment plan. In the event that the health care professional notifies the Board that the Respondent poses a danger to the health, safety or welfare of the Respondent's patients, or terminates treatment, the Board may obtain any and all information, reports and records for a period not to exceed ninety (90) days prior to the date of said notification from the health care provider concerning the Respondent. The Respondent hereby waives any privileges concerning such information, reports, records and disclosures to the Board. The health care professional shall confirm in writing, within ten (10) days of the Board's accepting this agreement, her agreement and undertaking with respect to the obligations set forth in this Agreement, and shall notify the Board if the Respondent withdraws any waiver filed in connection with this Agreement. The Respondent may not terminate treatment with, or change the identity of the health care professional without prior Board approval. The Respondent has chosen Fiona Kaul-Connolly, LCSW, and Louis Velazquez, M.D. as the healthcare professionals who shall fulfill the monitoring requirements of this paragraph. See letters from providers herewith.

I. The Respondent shall participate at least weekly in a group-counseling program for persons with substance use disorders, approved in advance by the PHS. The Respondent shall keep a diary of her attendance at such meetings. The Respondent shall submit this diary to PHS for periodic verification and PHS shall submit current copies of the diary in its quarterly report to the Board.

J. The Respondent shall file, within thirty (30) days of the execution of this Probation Agreement, written releases and authorizations sufficiently broad in scope so as to allow the Board to obtain any and all medical and laboratory reports, treating physicians' reports and records concerning the Respondent's treatment during the probationary period. PHS may retain as confidential the identity of informants who have disclosed suspected or known substance misuse to those programs under the promise of confidentiality.

K. All agreements whereby third parties are to provide written reports, releases, records or any other information to the Board under this Probation Agreement shall be submitted to the Board for approval within thirty (30) days after the Probation Agreement is approved by the Board. All such releases and agreements must, in addition to waiving any relevant state law privileges or immunities, provide the Board with access to all material covered by 42 CFR, Part 2, and the Criminal Offender Records Information (CORI) Act, so-called, M.G.L. c. 6, ss. 167-178; all such releases and agreements must provide that the released party shall notify the Board if any waiver is withdrawn. In the event that any such releases or waivers are not sufficient to obtain access to any information which the Board in its discretion considers relevant, the Respondent agrees to obtain personally such information and furnish it to the Board, to the extent permitted by law.

L. In the event that the Respondent seeks licensure to practice medicine in another state,
~~the Respondent shall notify the Board of such fact and shall disclose to the licensing authority in~~

such state his status with this Board. The Respondent shall submit to the Board copies of all correspondence and application materials submitted to another states' licensing authority.

M. In the event the Respondent should leave Massachusetts to reside or practice out of the state, the Respondent shall promptly notify the Board in writing of the new location as well as the dates of departure and return. Periods of residency or practice outside Massachusetts will not apply to the reduction of any period of the Respondent's probationary licensure, unless the Respondent enters into a monitoring agreement, approved by the Board, in the new location.

N. The Respondent shall appear before the Board or a committee of its members at such times as the Board may request, upon reasonable advance notice, commensurate with the gravity or urgency of the need for such meeting as determined by the Board or such committee.

O. The Respondent shall provide a complete copy of this Probation Agreement, with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any in- or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; the Drug Enforcement Agency, Boston Diversion Group; Department of Public Health, Bureau of Health Care Safety and Quality, and the state licensing boards of all states in which he has any kind of license to practice medicine. The Respondent shall also provide this notification to any such ~~designated entities with which she becomes associated for the duration of this Agreement. The~~

Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive. The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.

P. The Respondent may engage in the practice of medicine under such conditions as the Board may impose. The Respondent is not currently practicing medicine in the Commonwealth and cannot practice medicine in the Commonwealth until such time as the Board approves a practice plan.

Q. The Respondent shall be monitored in the practice of medicine by a Board-approved monitor. The Respondent shall, upon petition for approval of a practice plan, submit the name of a proposed monitor(s) for each worksite.

R. The Respondent, and not the Board, shall be responsible for the payment of any fee or charge occasioned by the Respondent's compliance with this Probation Agreement.

S. The Respondent may request that the Board modify any of the conditions set forth above. The Board may, in its discretion, grant such modification. Except for requests for modifications related to the identity of the health care professionals referenced in Paragraphs H, and the Respondent's employment, the Respondent may make such a request not more than once in any one year period, nor any sooner than one year from the date of this Probation Agreement.

V. TERMINATION OF PROBATION

A. If the Respondent complies with his obligations as set forth above, the Board, at the expiration of the five-year period, shall, upon petition by the Respondent, terminate the

Respondent's probationary period and probation with the Board, unless the Respondent's probation is extended in accordance with paragraph IV(A).

B. If the Respondent fails to comply with his obligations as set forth above, the Respondent's license to practice medicine may be immediately suspended, as agreed in Section I.

2/3/2016

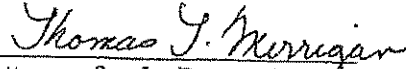
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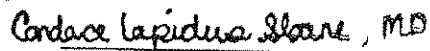
Respondent, Stephen H. Fox, M.D.



Attorney for the Respondent

Thomas T. Merrigan

Accepted this 24th day of March 2016, by the Board of Registration in Medicine.



Candace Lapidus Sloane M.D.,

Chair

EXHIBIT D

RECEIVED

JUL 29 2016

VERMONT BOARD OF
MEDICAL PRACTICE

PRACTICE MONITORING AGREEMENT

Vermont Board of Medical Practice

Stephen H. Fox, M.D. Licensing Matter

1. Pursuant to a Stipulation and Consent Order entered into by Dr. Stephen H. Fox and the Vermont Board of Medical Practice (“the Board”), Dr. Fox has retained a practice monitor to monitor his medical practice. The purpose of this Practice Monitoring Agreement is to set forth the terms of the practice monitoring component of Dr. Fox’s Stipulation and Consent Order. This Agreement will be signed by the practice monitor approved by the assigned Committee (“the Committee”) and Dr. Fox.
2. The practice monitoring shall continue for two (2) years from the date of approval of the Stipulation and Consent Order. At the end of the two (2) year monitoring period, Dr. Fox shall submit a written request to the Committee to end the requirement for monitoring. Such a request shall not be considered by the Committee until Dr. Fox has provided two (2) complete years of favorable and timely monitoring reports. The practice monitoring requirement will not cease until the Committee has approved, in writing, Dr. Fox’s request to end the monitoring.
3. In the event that the practice monitor can no longer monitor Dr. Fox’s practice, Dr. Fox shall immediately notify the Committee in writing. Dr. Fox shall retain the services of a new practice monitor, subject to preapproval by the Committee. Within thirty (30) days of providing written notice to the Committee that the practice monitor can no longer monitor his practice, Dr. Fox shall provide the Committee with the name and curriculum vitae of the proposed new practice monitor. The Committee

will provide written notification to Dr. Fox indicating whether it approves of the new proposed practice monitor.

4. Dr. Fox shall provide the practice monitor with a copy of the fully executed Stipulation and Consent Order.
5. Dr. Fox shall be responsible for ensuring that the practice monitor does the following:
 - a. The practice monitor shall report his/her findings in writing to the Committee on a quarterly basis. The practice monitor's first report shall be submitted to the Committee no later than ninety (90) days after Dr. Fox's first day of work at Brattleboro Memorial Hospital.
 - b. On a quarterly basis, the practice monitor shall review the treatment records of five (5) randomly selected patients of Dr. Fox from the Wound Care Unit and the operative notes of five (5) randomly selected patients in which Dr. Fox was the First Assistant for the patients' surgery. The review of the records and the operative notes is to determine whether Dr. Fox's treatment meets the applicable standard of care. The practice monitor shall select the five (5) patients' records and five (5) operative notes to be reviewed from a list prepared by Dr. Fox that identifies all patients for whom Dr. Fox provided care in the Wound Unit or as the first assistant in surgery.
 - c. The following shall be reviewed by the practice monitor and discussed in the practice monitoring reports to determine whether Dr. Fox's treatment and documentation meets the applicable standard of care: (1) Whether Dr. Fox's patient charts are understandable and contain all necessary components. (2) Whether the operative notes indicate any issues with Dr. Fox during surgery

- (3) Whether Dr. Fox's treatment practices and his work as a first assistant meet the applicable standard of care. The practice monitor is expected to review any other documents, records, files, logs, etc. that will provide the requisite information needed to prepare written monitoring reports.
- d. After each quarterly review, Dr. Fox shall meet with the practice monitor to discuss the quality of his treatment and medical records.
- e. The quarterly monitoring reports shall include: (1) Specific findings identifying the documents that were reviewed, as well as the practices observed. (2) Whether Dr. Fox's treatment, and medical records meet the applicable standards of care, and a comprehensive explanation for such opinion. (3) Copies of examples of records that correspond to the practice monitor's opinions and findings. (4) If applicable, recommended improvements to be made to Dr. Fox's practice. (5) Confirmation of the date and the length of time that he/she met with Dr. Fox to discuss the quality of his treatment and medical records that were reviewed for each quarterly review.
6. Dr. Fox and the practice monitor agree that the practice monitor shall discuss applicant's recovery progress or lack thereof and his observations regarding Dr. Fox's ability to practice upon request by a Board member, investigators for the Board or an Assistant Attorney General.
7. Dr. Fox and the practice monitor agree that the practice monitor will immediately notify the Board if the Applicant relapses or if there is any indication that the Applicant has engaged in practice that does not meet the standard of care.

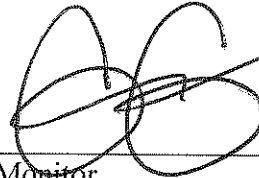
8. Dr. Fox and the practice monitor agree that they have both read this Agreement in its entirety, and agree to all of the terms and obligations set forth herein.
9. Dr. Fox and the practice monitor agree that the terms of this Agreement cannot be amended or modified in any way without written approval of the Committee.

DATED at Brattleboro, Vermont, this 28 day of July, 2016.



Stephen H. Fox, M.D.
Respondent

DATED at Brattleboro, Vermont, this 28 day of July, 2016.



Practice Monitor