

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF REGULATORY SERVICES

In re: Mark Blumenfeld, M.D.

Petition No. 981113-001-206

CONSENT ORDER

WHEREAS, Mark A. Blumenfeld of West Hartford (hereinafter "respondent") has been issued license number 01-017586 to practice as a physician surgeon by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 37C of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. During 1997, 1998 and 1999, respondent self prescribed Stadol nasal spray for diagnosed cluster migraine headaches.
2. During 1997 and 1998, respondent wrote over 90 prescriptions for the controlled substance Stadol to Connie Polomsky, an L.P.N. who worked for him.
3. During 1998 and 1999, respondent used an alias to write prescriptions for the controlled substance Stadol for his former wife, Karrie Ellis.
4. On approximately March 22, 1999, respondent wrote a prescription for the controlled substance Stadol for Ellen Markowitz at a fictitious address.
5. On approximately March 22, 1999, respondent picked up the prescription referred to in paragraph 4.
6. On approximately March 22, 1999, Ellen Markowitz was not a patient of respondent's.
7. On approximately March 29, 1999, respondent entered into an Agreement Concerning Connecticut Controlled Substance Certificate of Registration with the Connecticut

Department of Consumer Protection. The agreement provided that respondent would not dispense, administer or prescribe controlled substances to himself, members of his family or Connie Polomsky, except in the case of a medical emergency.

8. During the period from April through July of 1999, respondent self prescribed the controlled substance Stadol on at least nine occasions, in violation of the Agreement referenced to in paragraph 7.
9. On approximately August 19, 1999, respondent voluntarily surrendered his Connecticut controlled substance registration to the Department of Consumer Protection.
10. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-13c, including, but not limited to
 - a. §20-13c(3);
 - b. §20-13c(4); and/or
 - c. §20-13c(5).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest this matter and agrees that for purposes of this or any future proceedings before the Connecticut Medical Examining Board (hereinafter "the Board"), this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10, 19a-14 and 20-13c of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17 and 20-13c of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following

1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent's license shall be placed on probation for a period of five years under the following terms and conditions:
 - a. Respondent shall participate in regularly scheduled therapy at his own expense with a licensed psychiatrist or psychologist pre-approved by the Department (hereinafter "therapist")

- (1) Respondent shall provide a copy of this Consent Order to his therapist.
 - (2) Respondent's therapist shall furnish written confirmation to the Department of his or her engagement in that capacity and receipt of a copy of this Consent Order within fifteen (15) days of the effective date of this Consent Order.
 - (3) If the therapist determines that therapy is no longer necessary, that a reduction in frequency of therapy sessions is warranted, or that respondent should be transferred to another therapist, the therapist shall advise the Department, and the Department shall pre-approve said termination of therapy, reduction in frequency of therapy sessions, and/or respondent's transfer to another therapist.
 - (4) The therapist shall submit reports monthly for the duration of probation, which shall address, but not necessarily be limited to, respondent's ability to practice medicine in an alcohol and substance free state safely and competently. Said reports shall continue until the therapist determines that therapy is no longer necessary or the period of probation has terminated.
 - (5) The therapist shall immediately notify the Department in writing if the therapist believes respondent's continued practice poses a danger to the public, or if respondent discontinues therapy and/or terminates his or her services.
- b. During the entire five year probation, respondent shall refrain from the ingestion of alcohol in any form and the ingestion, inhalation, injection or other use of any controlled substance and/or legend drug unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications. In the event a medical condition arises requiring treatment utilizing controlled substances, legend drugs, or alcohol in any form, respondent

shall notify the Department and, upon request, provide such written documentation of the treatment as is deemed necessary by the Department

- (1) During the first two years of the probationary period, respondent shall submit to random observed urine screens for alcohol, controlled substances, and legend drugs at least twice per week; during the third, fourth and fifth years, he shall submit to such screens at least once each week. Respondent shall submit to such screens on a more frequent basis if requested to do so by the therapist or the Department. Said screens shall be administered by a facility approved by the Department. All such random screens shall be legally defensible in that the specimen number and chain of custody shall be identified throughout the screening process. All laboratory reports shall state that the chain of custody procedure has been followed
- (2) Respondent shall cause to have the facility provide monthly reports to the Department on the urine screens for alcohol, controlled substances and legend drugs. All such screens shall be negative for alcohol, controlled substances, and legend drugs except for medications prescribed by respondent's physician. If respondent has a positive urine screen, the facility shall immediately notify the Department. All positive random drug and alcohol screens shall be confirmed by gas chromatography/mass spectrometer testing.
- (3) Respondent understands and agrees that if he fails to submit a urine sample when requested by his monitor, such missed screen shall be deemed a positive screen.
- (4) Respondent shall notify each of his health care professionals of all medications prescribed for him by any and all other health care professionals.

(5) Respondent is hereby advised that the ingestion of poppy seeds and mouthwash has from time to time been raised as a defense to a positive screen result for morphine, opiates and/or alcohol. For that reason, respondent agrees to refrain from ingesting poppy seeds in any food substances, and mouthwash during the term of this Consent Order. In the event respondent has a positive screen for morphine, opiates and/or alcohol, respondent agrees that the ingestion of poppy seeds and/or mouthwash shall not constitute a defense to such a screen.

- c. Respondent shall provide his employer, partner and/or associate at any hospital, clinic, partnership and/or association at which he is employed or with which he is affiliated or has privileges at each place where respondent practices as a physician/surgeon throughout the probationary period with a copy of this Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment at a new facility. Respondent agrees to provide reports from such employer monthly for the duration of probation, stating that respondent is practicing with reasonable skill and safety and in an alcohol and substance-free state.
- d. During the period of probation, respondent shall only practice medicine in an office and practice setting that includes other physicians.
- e. Respondent hereby agrees that the Department may provide a copy of this Consent Order to (1) the Department of Consumer Protection, Drug Control Division and (2) the Federal Drug Enforcement Administration, so long as they each agree to maintain the confidentiality of this Consent Order. The Department shall secure such agreements, in writing, and provide a copy of such agreements to respondent prior to releasing this Order to such entities.



3. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

4. All reports required by the terms of this Consent Order shall be due according to a schedule to be established by the Department of Public Health.
5. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
6. Respondent shall pay all costs necessary to comply with this Consent Order.
7. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
- a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
 - b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.
 - c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 7a above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question.
 - d. If respondent does not demonstrate compliance or cure the violation by the limited fifteen (15) day date certain contained in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Board which shall make a final determination of the disciplinary action to be taken.

- e. Evidence presented to the Board by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.
8. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as a physician, upon request by the Department, with notice to the Board, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation, and to submit to and complete a medical, psychiatric and/or psychological evaluation, if requested to do so by the Department; and, that the results of the evaluation shall be submitted directly to the Department. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that his failure to cooperate with the Department's investigation shall constitute an admission that his conduct constitutes a clear and immediate danger as required pursuant to the General Statutes of Connecticut, sections 4-182(c) and 19a-17(c).
9. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Board.
10. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.
11. This Consent Order is effective on the first day of November 2000.

12. Respondent agrees that this Consent Order shall be deemed a public document, and the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Board in which his compliance with this Consent Order or with §20-13c of the General Statutes of Connecticut, as amended, is at issue.
13. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
14. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.
15. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
16. Respondent permits a representative of the Legal Office of the Bureau of Regulatory Services to present this Consent Order and the factual basis for this Consent Order to the Board. Respondent understands that the Board has complete and final discretion as to whether this executed Consent Order is approved or accepted.
17. Respondent understands and agrees that he is responsible for satisfying all of the terms of this Consent Order during vacations and other periods in which he is away from his residence.
18. Respondent has the right to consult with an attorney prior to signing this document.

*

I, Mark A. Blumenfeld, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

[Signature]
Mark A. Blumenfeld

Subscribed and sworn to before me this 18th day of SEPTEMBER 2000

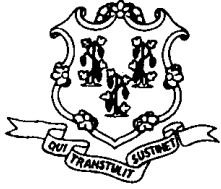
[Signature]
Notary Public or person authorized
by law to administer an Oath of Affirmation
DELORES A. ST. LOUIS
NOTARY PUBLIC
MY COMMISSION EXPIRES JUNE 30, 2002

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 19th day of September 2000, it is hereby accepted.

[Signature]
Kathleen Zarrella, Director
Division of Health Systems Regulation

The above Consent Order having been presented to the duly appointed agent of the Connecticut Medical Examining Board on the 19th day of September 2000 it is hereby ordered and accepted.

[Signature]
Connecticut Medical Examining Board



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

November 10, 2005

Mark Blumenfeld, MD
65 Pine Hill Road
Avon, CT 06001-2705

Re: Consent Order
Petition No. 981113-001-206
License No. 017586

Dear Dr. Blumenfeld:

Please accept this letter as notice that you have satisfied the terms of your license probation, effective November 1, 2005.

Notice will be sent to the Department's Licensure and Registration section to remove all restrictions from your license related to the above-referenced Consent Order.

Please be certain to retain this letter as documented proof that you have completed your license probation.

Thank you for your cooperation during this process.

Very truly yours,

Bonnie Pinkerton, RN, Nurse Consultant
Practitioner Licensing and Investigations Section

cc: J. Filippone



Phone: (860) 509-7400
Telephone Device for the Deaf (860) 509-7191
410 Capitol Avenue - MS # 12HSR
P.O. Box 340308 Hartford, CT 06134
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