

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)
)
Andrew John-Edward Cracker, MD,) CONSENT ORDER
)
Respondent.)

This matter is before the North Carolina Medical Board ("Board") regarding information provided to the Board concerning Andrew John-Edward Cracker, MD, ("Dr. Cracker"). Dr. Cracker makes the following admissions and the Board makes the following findings and conclusions:

STATUTORY AUTHORITY

The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes and the rules and regulations promulgated thereto.

FINDINGS OF FACT

Dr. Cracker was first issued a license to practice medicine and surgery by the Board on or about June 6, 1992, license number 35305.

During the times relevant herein, Dr. Cracker practiced medicine in Durham and Asheville, North Carolina.

Dr. Cracker works primarily as a gynecologist in Durham.

In early 2014, Dr. Cracker joined a business started and owned by Edward Stockhausen called Stability, LLC ("Stability"). Stability operates in Durham and Asheville and treats patients suffering from opioid addiction with Suboxone® (buprenorphine and naloxone) or Subutex® (buprenorphine). Dr. Cracker is an employee of Stability.

In North Carolina, as a general rule, it is unlawful for a private, non-physician owned, for-profit business to practice medicine. When a private, non-physician owned, for-profit business provides professional services that constitute the practice of medicine as defined by N.C. Gen. Stat. 90-1.1(a)(5), then such business is deemed to be engaged in what is called the unlawful "corporate practice of medicine." It is unethical for a physician to split his or her professional fees with a non-physician.

Stability charges patients \$200 for office visits in Durham and \$300 for office visits in Asheville. Dr. Cracker is paid \$50 for each office visit. Mr. Stockhausen retains the rest of the money. This arrangement constitutes unethical fee-splitting.

Dr. Cracker works for Stability part time. For his Durham patients, Dr. Cracker sees those patients in person. For his Asheville patients, Dr. Cracker sees those patients via Skype (a teleconference service). Dr. Cracker has never personally seen

or examined a patient in person in Asheville. Dr. Cracker does not perform any physical examinations on patients. He stated he does not believe a physical examination is necessary for treating addiction with Suboxone® or Subutex®.

Mr. Stockhausen has no medical training but does review a patient questionnaire with Dr. Cracker and decides, along with Dr. Cracker, whether Stability will accept a patient. Mr. Stockhausen also queries the North Carolina Controlled Substance Registry System (NCCSRS) on behalf of Dr. Cracker.

Patients A through D presented to Stability and Dr. Cracker for treatment. Dr. Cracker provided substandard care for all four patients.

The initial evaluations for all four patients are not adequate. The evaluation reveals little attention given to other aspects of the patients' drug use or mental health history other than their opioid use. There are no documented physical examinations for common signs of substance abuse, such as track marks or symptoms of withdrawal. Patients are moved quickly to high doses of buprenorphine demonstrating inadequate attention to titration and actual clinical needs.

Patient A increased his own daily dose of buprenorphine to 32 mg without informing or consulting with Dr. Cracker. Dr. Cracker continued Patient A on this dose without addressing signs of possible abuse, including Patient A reporting a lost

prescription and testing positive for non-prescribed drugs, such as opioids and benzodiazepines.

Patients A, B and D were monitored infrequently early in their treatment. From the onset of their treatment by Dr. Cracker, these patients were seen every four weeks and prescribed pills for that period of time. This level of monitoring early in treatment is substandard. When some patients did present back to the office, it was documented they saw Mr. Stockhausen and not Dr. Cracker. The frequency and content of these visits with Mr. Stockhausen are not well-documented.

Drug screens were typically used by Dr. Cracker. However, for all four patients, there was an absence of clinical response to screens indicating illicit drug use or use of non-prescribed opioids and benzodiazepines. There is no evidence in the patient charts that any of the problematic screens were responded to in any manner. Dr. Cracker documented no awareness of the problematic screens and did not adapt treatment, such as discussing the screens with the patients, increasing the frequency of monitoring, or referring the patient for additional care. In the setting of infrequent visits and monitoring, and follow up notes that were at times perfunctory, this lack of response implied little actual attention to the patients' clinical needs and was clearly substandard.

CONCLUSIONS OF LAW

Dr. Cracker's treatment of Patients A - D, as described above, constitutes unprofessional conduct, including but not limited to, a departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice within the meaning of N.C. General Statute §90-14(a)(6), which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition, or limit Dr. Cracker's license to practice medicine or to deny any application he may make in the future.

By splitting his professional fee with Mr. Stockhausen, Dr. Cracker engaged in unethical fee splitting, which constitutes unprofessional conduct, including, but not limited to, departure from, or the failure to conform to the ethics of the medical profession, within the meaning of N.C. General Statute §90-14(a)(6), which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition, or limit Dr. Cracker's license to practice medicine or to deny any application he may make in the future.

Dr. Cracker aided and abetted the unlicensed corporate practice of medicine by allowing Mr. Stockhausen to operate a medical practice in North Carolina in violation of North Carolina's Professional Corporation Act, N.C. General Statute §55B, *et. seq.*; North Carolina's Professional Limited Liability

Company Act, N.C. General Statute §57D-2-02, et. seq.; and N.C. General Statute §90-18. This conduct violates laws involving the practice of medicine within the meaning of N.C. General Statute §90-14(a)(7), which is grounds under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition, or limit Dr. Cracker's license to practice medicine or to deny any application he may make in the future.

PROCEDURAL STIPULATIONS

Dr. Cracker acknowledges and agrees that the Board has jurisdiction over him and over the subject matter of this case.

Dr. Cracker knowingly waives his right to any hearing and to any judicial review or appeal in this case.

Dr. Cracker acknowledges that he has read and understands this Consent Order and enters into it voluntarily.

Dr. Cracker desires to resolve this matter without the need for more formal proceedings.

The Board has determined that it is in the public interest to resolve this case as set forth below.

ORDER

NOW, THEREFORE, with Dr. Cracker's consent, it is ORDERED that:

1. Dr. Cracker be and hereby is REPRIMANDED.
2. Within thirty (30) days of the date of this Consent Order, Dr. Cracker shall cease treating patients for drug

addiction and shall surrender his Drug Addiction Treatment Act (DATA) waiver. Dr. Cracker shall provide evidence of his surrender to the Board's Compliance Coordinator within two (2) business days of the surrender.

3. Within sixty (60) days of the date of this Consent Order, Dr. Cracker shall pay a FINE of five thousand dollars (\$5,000).

4. Dr. Cracker shall obey all laws. Likewise, he shall obey all rules and regulations involving the practice of medicine.

5. Dr. Cracker shall notify the Board in writing of any change in his residence or practice addresses within ten (10) days of the change.

6. Dr. Cracker shall meet with the Board or members of the Board for an investigative interview at such times as requested by the Board.

7. If Dr. Cracker fails to comply with any of the terms of this Consent Order, that failure shall constitute unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and shall be grounds, after any required notice and hearing, for the Board to annul, suspend or revoke his physician assistant license and to deny any application he might make in the future or then have pending for a license.

8. This Consent Order shall take effect immediately upon

its execution by both Dr. Cracker and the Board and it shall continue in effect until specifically ordered otherwise by the Board.

9. Dr. Cracker hereby waives any requirement under any law or rule that this Consent Order be served on him.

10. Upon execution by Dr. Cracker and the Board, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof. Additionally, it will be reported to persons, entities, agencies and clearinghouses as required and permitted by law including, but not limited to, the Federation of State Medical Boards and the National Practitioner Data Bank.

By Order of the North Carolina Medical Board this the 5th day of December, 2016.

NORTH CAROLINA MEDICAL BOARD

By: Eleanor E. Greene, M.D.
Eleanor E. Greene, M.D.
President

Consented to, this the 23 day of November, 2016.

Andrew John-Edward Cracker, MD
Andrew John-Edward Cracker, M.D.

State of North Carolina
County of Orange Wake

I, Jonathan E. Smith Jr, a Notary Public for the above named County and State, do hereby certify that Andrew John-Edward Cracker, M.D. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal

This the 23 day of November, 2016.

Jonathan E. Smith Jr
Notary Public



My Commission Expires: 5/19/2016