



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

RICK SNYDER
GOVERNOR

SHELLY EDGERTON
DIRECTOR

MEMORANDUM

DATE: July 12, 2018

TO: Stephanie Rosenthal, Manager
Complaint Intake Section

FROM: Forrest Pasanski, Director
Enforcement Division

Dan Moraniec, Lead Worker *DM 11/17*
Regulation Section

Matthew Casby, Analyst *MC*
Regulation Section

SUBJECT: REQUEST FOR NEW FILE
Jonathan Todd Foster, MD
License Numbers: 53-15-089082 and 53-15-089083

In February 2018, a file was opened against the Licensee's medical license (#43-01-113642) based on allegations and evidence that Licensee failed to disclose prior discipline on his application for a medical license, thereby obtaining his license through fraud or deceit. A review of the file indicates that Licensee also failed to disclose his prior disciplinary action when submitting his applications for a controlled substance license and a drug control location license.

It is requested that a file be opened against the Licensee's controlled substance license and drug control location license to address any potential violations of the Public Health Code or other issues. Additional investigation is likely not necessary. Attached is a copy of file number 43-18-149407.

Approved:

Forrest Pasanski

Forrest Pasanski, Director
Enforcement Division

7-13-18

Date

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
BOARD OF MEDICINE
DISCIPLINARY SUBCOMMITTEE

In the Matter of

JONATHAN TODD FOSTER, M.D.
License No. 43-01-113642,
Respondent.

File No. 43-18-149407

ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs, by Cheryl Wykoff Pezon, Director, Bureau of Professional Licensing, complains against Respondent as follows:

1. The Michigan Board of Medicine is an administrative agency established by the Public Health Code, MCL 333.1101 *et seq.* Pursuant to MCL 333.16226, the Board's Disciplinary Subcommittee is empowered to discipline persons for violations of the Public Health Code.

2. Respondent is currently licensed to practice medicine in the state of Michigan.

3. On August 18, 2015, the State of Connecticut Department of Public Health issued a Consent Order which ordered Respondent to pay a fine of \$5,000.00. The Consent Order was based on Respondent's failure to detect a patient's pregnancy

prior to performing a laparoscopic hysterectomy. A copy of the Consent Order, marked Exhibit A, is attached and incorporated.

4. On or about August 26, 2017, Respondent submitted an application for a license to practice as a medical doctor in Michigan. In response to questions 18 and 19 on the application regarding whether Respondent had ever had sanctions imposed against his license in any other state, Respondent indicated "No" and "N/A."¹

5. On June 18, 2018, in an interview with a Department investigator, Respondent acknowledged having had sanctions imposed against his medical license in Connecticut. In addition, Respondent indicated that he was aware he omitted this information from the application noted above.

COUNT I

Respondent's conduct, as set forth above, evidences a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for the health profession, whether or not actual injury to an individual occurs, in violation of MCL 333.16221(b)(i).

¹ Also, on or about August 26, 2017, Respondent submitted a Controlled Substance License Application and a Drug Control License Application for the state of Michigan and answered the questions regarding sanctions in the same manner as he had for his medical license as stated above. An Administrative Complaint has also been filed under Respondent's pharmacy licenses.

COUNT II

Respondent's conduct, as set forth above, demonstrates Respondent's lack of a "propensity . . . to serve the public in the licensed area in a fair, honest, and open manner," MCL 338.41(1), and accordingly a lack of "good moral character," in violation of MCL 333.16221(b)(vi).

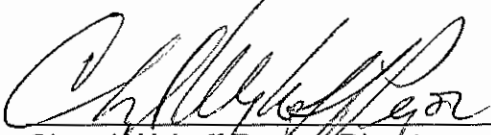
COUNT III

Respondent's conduct, as set forth above, evidences fraud or deceit in obtaining a license, in violation of MCL 333.16221(c)(i).

RESPONDENT IS NOTIFIED that, pursuant to MCL 333.16231(8), Respondent has 30 days from the date of receipt of this Complaint to answer this Complaint in writing and to show compliance with all lawful requirements for licensure. Respondent shall submit the response to the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909.

Respondent's failure to submit an answer within 30 days is an admission of the allegations in this Complaint. If Respondent fails to answer, the Department shall transmit this Complaint directly to the Board's Disciplinary Subcommittee to impose a sanction, pursuant to MCL 333.16231(9).

Dated: 02/11/19


Cheryl Wykoff Pezon, Director
Bureau of Professional Licensing

Attachment

MWC/CW

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
HEALTHCARE QUALITY AND SAFETY BRANCH
CONNECTICUT MEDICAL EXAMINING BOARD**

In re: Jonathan Foster, M.D.

Petition No. 2011-1168

CONSENT ORDER

WHEREAS, Jonathan Foster, M.D., of Waterbury, Connecticut (hereinafter "respondent"), has been issued license number 033753 to practice as a physician and surgeon by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 370 of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. Respondent provided care to a female patient on or about January 20, 2011 through on or about January 25, 2011, performing a laparoscopic hysterectomy and pre-operative and post-operative care. Respondent's care for the patient failed to meet the standard of care in one or more of the following ways:
 - a. respondent failed to detect the patient's pregnancy pre-operatively;
 - b. pre-operatively, respondent failed to follow up an equivocal urine pregnancy test with an hCG (human chorionic gonadotropin) blood test and/or an ultrasound study; and/or
 - c. after obtaining the equivocal urine test, relied on the patient's belief that she was not pregnant.
2. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-13c, including, but not limited to §20-13c(4).

WHEREAS, subsequent to the events at issue, respondent has successfully completed the American College of Obstetrics and Gynecology decennial maintenance of certification process.

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.

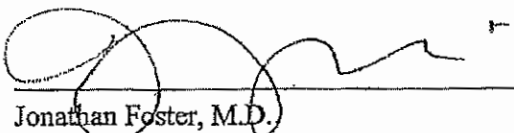
NOW THEREFORE, pursuant to §§19a-14, 19a-17 and 20-13c of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent's license number 033753 is hereby reprimanded.
3. Respondent shall pay a civil penalty of five thousand dollars (\$5,000.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable at the time respondent submits the executed Consent Order to the Department.
4. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
5. Respondent shall pay all costs necessary to comply with this Consent Order.
6. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Practitioner Licensing and Investigations Section of the Healthcare Quality and Safety Branch of the Department.
7. This Consent Order is effective on the day it is accepted and ordered by the Board.
8. This Consent Order is a public document. Respondent agrees that 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. Further, respondent understands that any discipline imposed by this Consent Order shall be reported to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank maintained by the United States Department of Health and Human Service and that all disciplinary actions will appear on [his/her]physician profile pursuant to Connecticut General Statutes 20-13j.
9. 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. Respondent understands that this Consent Order shall not be subject to modification as a result of any claim that the terms contained herein may result in action by third parties, including, but not limited to, healthcare facilities and/or credentialing or licensure boards. Respondent assumes all

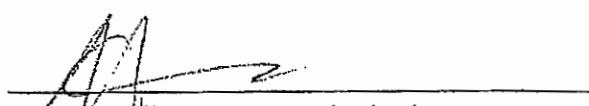
responsibility for assessing such actions prior to the execution of this document. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.

10. 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.
11. Respondent permits a representative of the Department 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. Respondent hereby waives any claim of error that could be raised that is related to or arises during the course of the Board's discussions regarding whether to approve or reject this Consent Order and/or a Board member's participation during this process, through the Board member's review or comments, including but not limited to bias or reliance on evidence outside the administrative record if this matter proceeds to a hearing on a statement of charges resulting in a proposed decision by the Board and/or a panel of the Board and a final decision by the Board.
12. Respondent has consulted with an attorney prior to signing this document.
13. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the State's Attorney's Office where the allegation occurred or Bureau Chief of the applicable unit in the Chief State's Attorney's Office. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.
14. This Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this consent order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

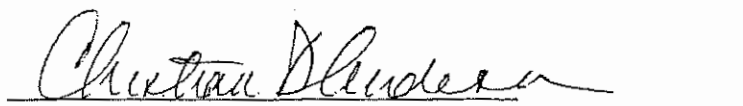
I, Jonathan Foster, M.D., have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.


Jonathan Foster, M.D.

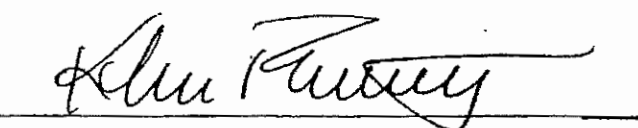
Subscribed and sworn to before me this 15th day of July 2015.


Notary Public or person authorized
by law to administer an oath or affirmation

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 18th day of August 2015, it is hereby accepted.


~~Kathleen Boulware, RN, Public Health Services Manager~~
Practitioner Licensing and Investigations Section
Healthcare Quality and Safety Branch
Christian D. Andresen, Section Chief

The above Consent Order having been presented to the duly appointed agent of the Connecticut Medical Examining Board on the 18th day of August 2015, it is hereby ordered and accepted.


Kathryn Emmett, Esq. Chairperson
Connecticut Medical Examining Board

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
BOARD OF PHARMACY
DISCIPLINARY SUBCOMMITTEE

In the Matter of

JONATHAN TODD FOSTER, M.D.

License Nos. 53-15-089082

53-15-089083

Respondent.

File No. 53-18-152142

ADMINISTRATIVE COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs, by Cheryl Wykoff Pezon, Director, Bureau of Professional Licensing, complains against Respondent as follows:

1. The Michigan Board of Pharmacy is an administrative agency established by the Public Health Code, MCL 333.1101 *et seq.* Pursuant to MCL 333.16226, the Board's Disciplinary Subcommittee is empowered to discipline persons for violations of the Public Health Code.

2. Respondent currently holds a controlled substance license and a drug control location license in the state of Michigan.

3. On August 18, 2015, the State of Connecticut Department of Public Health issued a Consent Order which ordered Respondent to pay a fine of \$5,000.00. The Consent Order was based on Respondent's failure to detect a patient's pregnancy

prior to performing a laparoscopic hysterectomy. A copy of the Consent Order, marked Exhibit A, is attached and incorporated.

4. On or about August 26, 2017, Respondent submitted a Controlled Substance License Application and a Drug Control License Application. In response to questions regarding whether Respondent had been sanctioned in another state, Respondent indicated "No" on both applications.¹

5. On June 18, 2018, in an interview with a Department investigator, Respondent acknowledged having had sanctions imposed against his medical license in Connecticut. In addition, Respondent indicated that he was aware he omitted this information from the applications noted above.

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COUNT II

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COUNT III

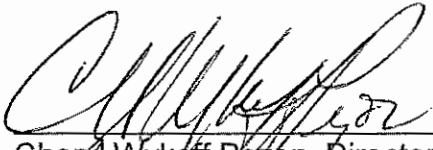
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Dated: 02/11/19


Cheryl Wykoff Pezon, Director
Bureau of Professional Licensing

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MWC/CW

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WHEREAS, subsequent to the events at issue, respondent has successfully completed the American College of Obstetrics and Gynecology decennial maintenance of certification process.

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

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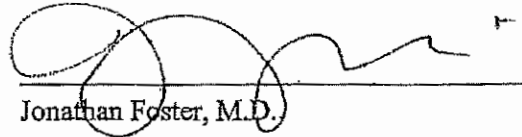
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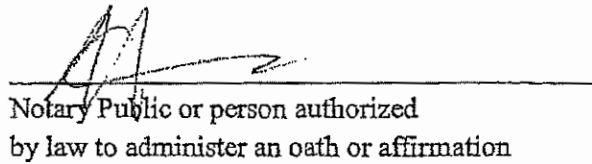
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12. Respondent has consulted with an attorney prior to signing this document.
13. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the State's Attorney's Office where the allegation occurred or Bureau Chief of the applicable unit in the Chief State's Attorney's Office. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.
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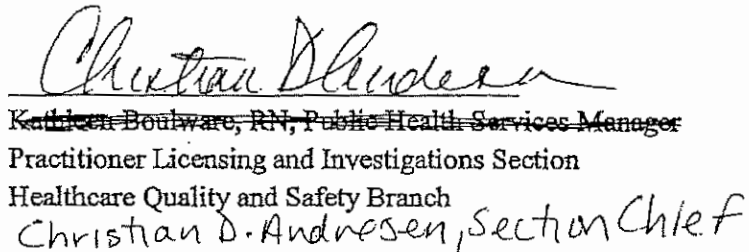
I, Jonathan Foster, M.D., have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.


Jonathan Foster, M.D.

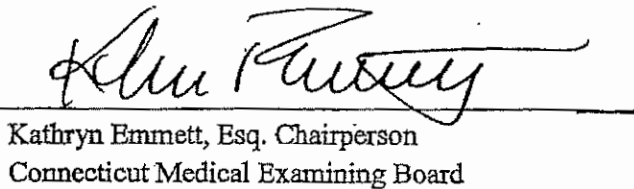
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Notary Public or person authorized
by law to administer an oath or affirmation

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~~Kathleen Boulware, RN, Public Health Services Manager~~
Practitioner Licensing and Investigations Section
Healthcare Quality and Safety Branch
Christian D. Andresen, Section Chief

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Kathryn Emmett, Esq. Chairperson
Connecticut Medical Examining Board