

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2020-001

_____)
 In the Matter of)
)
 DALE J. WALLINGTON, M.D.)
 _____)

STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine (Board) has determined that good cause exists to believe the following acts occurred and constitute a violation for which a licensee may be sanctioned by the Board. The Board therefore alleges that Dale J. Wallington, M.D. (Respondent) has practiced medicine in violation of law, regulations, or good and accepted medical practice as set forth herein. The investigative docket number associated with this order to show cause is Docket No. 19-245.

Biographical Information

1. The Respondent was born on October 14, 1959. He is a 1989 graduate of the University of Connecticut School of Medicine. The American Board of Preventive Medicine has certified him in Addiction Medicine and the American Board of Psychiatry and Neurology has certified him in Psychiatry. The Respondent has been licensed to practice medicine in Massachusetts since October 14, 1992 under certificate number 76818. His license in Massachusetts is currently inactive and has been in inactive status since 2003.

Factual Allegations

2. The Respondent holds an active license in the State of Connecticut.

3. On May 21, 2019, the Connecticut Medical Examining Board (CT Board) took disciplinary action against the Respondent's license due to his care and treatment of one patient (Patient 1).

4. The Respondent treated Patient 1 at various times between October 2008 and August 2017. The CT Board determined that the care he rendered to Patient 1 failed to meet the standard of care in several ways: he performed an inadequate and/or incomplete diagnostic evaluation upon intake and/or upon interim re-assessment; during the entire course of care, he failed to devise and/or implement strategies to prevent abuse of the prescribed medications; he initially and/or continuously prescribed an excessive dose and/or duration of Alprazolam and/or other benzodiazepine medications; and he failed to discern and/or mitigate Patient 1's substance abuse. See CT Board Order attached as Exhibit A and incorporated herein by reference.

Legal Basis for Proposed Relief

A. Pursuant to 243 CMR 1.03(5)(a)12, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in M.G.L. c. 112, § 5 or 243 CMR 1.03(5)—to wit:

1. Pursuant to Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979) and Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982), the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician lacks good moral character and has engaged in conduct that undermines the public confidence in the integrity of the medical profession;

2. M.G.L. c. 94C, § 19(a), which requires that physicians issue prescriptions for controlled substances for legitimate purpose and in the usual course of the physician's medical practice; and

3. Pursuant to M.G.L. c. 112, §5, eighth par. (c) and 243 CMR 1.03(5)(a)3, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician engaged in conduct that places into question the physician's competence to practice medicine, including but not limited to gross misconduct in the practice of medicine, or practicing medicine fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions.

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§ 5, 61 and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01.

Nature of Relief Sought

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure, reprimand, fine, the performance of uncompensated public service, a course of education or training or other restrictions upon the Respondent's practice of medicine.

Order

Wherefore, it is hereby **ORDERED** that the Respondent show cause why the Board should not discipline the Respondent for the conduct described herein.

By the Board of Registration in Medicine,

Candace Lapidus Sloane, MD

Candace Lapidus Sloane, M.D.
Board Chair

Date: January 9, 2020

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

In re: Dale Wallington, M.D.

Petition No. 2017-1155

CONSENT ORDER

WHEREAS, Dale Wallington, M.D. of West Hartford, Connecticut (hereinafter "respondent") has been issued license number 031694 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 practices psychiatry in an office-based practice. Respondent provided care to patient 1 at various times between on or about October 17, 2008 and on or about August 30, 2017. Respondent initially noted a history of addiction and a present use of illicit drugs. Respondent diagnosed anxiety, panic disorder, attention deficit disorder, and bipolar disorder. Respondent prescribed Xanax and Vyvanse. Respondent's care for Patient 1 failed to meet the standard of care in one or more of the following ways:
 - a. he performed an inadequate and/or incomplete diagnostic evaluation upon intake and/or upon interim re-assessment;
 - b. during the entire course of care, he failed to devise and/or implement strategies to prevent abuse of the prescribed medications;
 - c. initially and/or continuously, he prescribed an excessive dose and/or duration of alprazolam and/or other benzodiazepine medications; and/or
 - d. he failed to discern and/or mitigate Patient 1's substance abuse.
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, since the commencement of the Department's investigation, respondent has undertaken extensive re-training and education in the field of addiction diagnosis and treatment, and has become a diplomate of the American Board of Psychiatry and Neurology with a sub-board in Addiction Medicine.

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 031694 to practice as a physician and surgeon in the State of Connecticut is hereby reprimanded.
3. Respondent shall pay a civil penalty of seven thousand and five hundred dollars (\$7,500.00) 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's license shall be placed on probation for a period of eighteen months under the following terms and conditions:
 - a. Respondent shall obtain at his own expense, the services of a physician who is board certified in psychiatry and neurology, pre-approved by the Department (hereinafter "supervisor"), to conduct a random review of records of twenty percent (20%) or twenty (20) of respondent's current patients, whichever is the larger number. In the event respondent has twenty (20) or fewer patients, the supervisor shall review all of respondent's patient records.
 - (1) Respondent shall provide a copy of this Consent Order to his practice supervisor. Respondent's supervisor 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.

- (2) Respondent's supervisor shall conduct such review and meet with him not less than once every month for the first three months of his probationary period and not less than once every three months for the remainder of the probationary period.
 - (3) The supervisor shall have the right to monitor respondent's practice by any other reasonable means which he or she deems appropriate. Respondent shall fully cooperate with the supervisor in providing such monitoring.
 - (4) Respondent shall be responsible for providing written supervisor reports directly to the Department once every month for the first three of the probationary period and once every three months for the remainder of the probationary period. Such supervisor's reports shall include documentation of dates and duration of meetings with respondent, number and a general description of the patient records and patient medication orders and prescriptions reviewed, additional monitoring techniques utilized, and statement as to whether respondent is practicing with reasonable skill and safety. A supervisor report indicating that respondent is not practicing with reasonable skill and safety shall be deemed to be a violation of this Consent Order.
- b. Within the first four months of the probationary period, respondent shall attend and successfully complete coursework in prescribing practices, pre-approved by the Department. Within fifteen days of the completion of such coursework, respondent shall provide the Department with proof, to the Department's satisfaction, of the successful completion of such course(s).
5. All correspondence and reports are to be addressed to:
- Lavita Sookram, R.N., Nurse Consultant
Practitioner Compliance and Monitoring Unit
Department of Public Health
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308
6. 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.

7. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
8. Respondent shall pay all costs necessary to comply with this Consent Order.
9. 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 9.a. 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 within the fifteen (15) days specified 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.
10. In the event respondent does not practice as a physician and surgeon for periods of thirty (30) consecutive days or longer, respondent shall notify the Department in writing. Such periods of times shall not be counted in reducing the probationary period covered by this Consent Order and such terms shall be held in abeyance. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order. In the event respondent resumes practice as a physician and surgeon, respondent shall provide the Department with thirty (30) days prior written notice. Respondent shall not return to the practice as a physician and surgeon without written pre-approval from the Department. Respondent agrees that the Department, in its complete discretion, may require additional documentation from respondent and/or require respondent to satisfy other conditions or terms as a condition precedent to respondent's

return to practice. Respondent agrees that any return to the practice as a physician and surgeon without pre-approval from the Department shall constitute a violation of this Consent Order and may subject the respondent to further disciplinary action.

11. If, during the period of probation, respondent practices as a physician and surgeon outside Connecticut, he shall provide written notice to the Department concerning such practice. During such time period, respondent shall not be responsible for complying with the terms of probation of this Consent Order, and such time period shall not be counted in reducing the probationary period covered by this Consent Order. Respondent may comply with the terms of probation while practicing outside Connecticut if pre-approved by the Department. In the event respondent intends to return to the practice as a physician and surgeon in Connecticut, respondent shall provide the Department with thirty (30) days prior written notice and agrees to comply with all terms and conditions contained in paragraph 4 above.
12. 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.
13. 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.
14. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Board.
15. Respondent understands and 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. Further, respondent understands that any discipline imposed by this Consent Order shall be reported to the National Practitioner Data Bank maintained by the United States Department of Health and Human Services and that all disciplinary actions will appear on his physician profile pursuant to Connecticut General Statutes 20-13j.
16. In the event respondent violates a term of this Consent Order, respondent agrees immediately to refrain from practicing as a physician and surgeon, 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 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 failure to cooperate with the Department's investigation shall be considered by the Board and shall, as a matter of law, constitute a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c). The Department and respondent understand that the Board has complete and final discretion as to whether a summary suspension is ordered.

17. 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.
18. 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 agrees 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 and respondent waives any right to seek reconsideration or modification of this Consent Order pursuant to §4-181a of the General Statutes of Connecticut. Respondent assumes all responsibility for assessing such actions prior to the execution of this document. Further, this Consent 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.
19. 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.
20. 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.

21. Respondent has the right to consult with an attorney prior to signing this document.
22. 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.
23. 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, Dale Wallington, 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.

[Redacted Signature]

Dale Wallington, M.D.

Subscribed and sworn to before me this 10th day of April 2019.

[Redacted Signature]

[Redacted Signature]

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 15th day of May 2019, it is hereby accepted.

[Redacted Signature]

Christian D. Andresen, Section Chief
Practitioner Licensing and Investigations Section
Healthcare Quality and Safety Branch

The above Consent Order having been presented to the duly appointed agent of the Connecticut Medical Examining Board on the 21st day of May 2019, it is hereby ordered and accepted.

[Redacted Signature]

Kathryn Emmett, Esq., Chairperson
Connecticut Medical Examining Board