

STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
DIVISION OF HEALTH PROFESSIONS

Board of Medicine
7 Eagle Square
Concord, N.H. 03301
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June 4, 2021

By Certified Mail and E-Mail

Arthur Philip Fine, MD
1915 Marquette Avenue
Point Pleasant, WV 25550

RE: Docket #: 21-MED-003

Dear Dr. Fine:

Enclosed is the "Final Decision and Order" in the above matter, approved by the Board on June 2, 2021 and issued on June 4, 2021.

Please feel free to contact me if you should have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Christine Senko".

Christine Senko,
Administrator, NH Office of Professional Licensure
and Certification

Enclosure

cc: Laura Lombardi, Esquire,
Board Counsel

Non Public
June 2
VI.A

**STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL
LICENSURE AND CERTIFICATION**

BOARD OF MEDICINE

**In Re: Arthur Philip Fine, MD
Med. License #20233 (multi-state compact)**

Docket No.: 21-MED-0003

**FINAL DECISION AND
REPRIMAND - 05/13/21**

I. ATTENDEES:

- David Conway, M.D. Board President
- Nina Gardner, Board Member
- Donald LeBrun, Board Member
- Richard Kardell, DO. Board Member
- Linda Tatarczuch, Board Member
- Emily Baker, M.D. Board Member
- Gilbert Fanciullo, M.D. Board Member
- Johnathan Ballard, M.D. Board Member
- Attorney Laura Lombardi, Board Counsel
- Christine Senko, Administrator
- Todd H. Prevett, OPLC Hearings Examiner and Presiding Officer

II. CASE SUMMARY/PROCEDURAL HISTORY:

On or about 10/05/20, the Board received a report from the Physician Data Center alleging Dr. Arthur Fine ("Licensee") had been reprimand by the West Virginia Board of Medicine on 09/04/20 for prescribing controlled substances for two patients without maintaining proper records or treatment plans. After investigation, the Board voted on or about 04/05/21 to commence an adjudicative reciprocal disciplinary proceeding and a final adjudicative hearing was held on 05/05/21. Pursuant to N.H. Code Admin. R. Med 207.01(b) ("Rules"), Todd H. Prevett, Esq., (Hearings Examiner) was appointed as presiding officer.

III. SUMMARY OF THE EVIDENCE:

The Board received the following evidence pursuant to RSA 541-A:33 and Rule 206.09:

a. Exhibits were submitted by the Board, numbered as follows:

1. Notice of Hearing, dated 04/05/20 (*sic*, 04/05/21)
2. Consent Order from West Virginia Board of Medicine, dated 09/04/20
3. Licensee's Response to Complaint

IV. CONDUCT OF THE HEARING AND EVIDENCE PRESENTED:

After receiving the complaint and ordering an investigation, the Board conducted this adjudicative disciplinary hearing pursuant to RSA 329:17-c on 05/05/21. Licensee failed to appear, but did provide an email, dated 05/05/20 indicating that he was aware of the hearing and that he was voluntarily choosing not to appear, due to feeling emotionally exhausted by the process. Pursuant to RSA 329:17-c, the Board may issue any disciplinary sanction or take any action with regard to the Licensee otherwise permitted under RSA 329:17(VII), including sanctions or actions that are more stringent than those imposed by the foreign jurisdiction. Licensee has the opportunity to demonstrate why a lesser sanction should be imposed instead.

The credible evidence presented at the hearing allows the Board to find the following facts. Licensee has had a compact medical license in New Hampshire since 2010. He had been practicing predominantly in Pennsylvania and then West Virginia. Licensee prescribed benzodiazepines for a patient, without proper examination and without maintaining proper medical records. Licensee also prescribed benzodiazepines and opioids for a separate patient, without maintaining proper medical records for this patient's treatment. Licensee does not contest the facts or the West Virginia disciplinary decision.

V. DISCUSSION AND FINDINGS OF FACTS / CONCLUSIONS OF LAW:

After reviewing all of the uncontested evidence, the Board clearly finds by a preponderance of the evidence that the Respondent has committed misconduct. The central facts in this case are clear. Licensee prescribed opioids to a patient and did not keep the proper records, especially considering the nature of such a drug. Licensee also prescribed opioids and benzodiazepines to a separate patient, and

did not keep the proper records. The Board notes that this second patient became Licensee's wife later on, and the Board construes this as underscoring the requirement that Licensee keep proper records, as to address any appearance of impropriety. The Board considered harsher discipline in this case, and will certainly consider such sanctions if any further misconduct come to light. However, the Board ultimately concludes that instituting reciprocal discipline is appropriate in this matter. As part of this decision, the Board makes the following findings of fact and conclusions of law:

- A. On or about September 2020 to the present, Licensee was a physician, licensed through the interstate compact in the State of New Hampshire.
- B. On or about 10/05/20, the Board received an administrative final order from the licensing authority of West Virginia, reprimanding Licensee and subjecting him to further discipline for the same alleged transaction or occurrence, pursuant to RSA 329:17-a.
- C. Pursuant to RSA 329:17-a, Licensee was given the opportunity to appear and show cause why similar disciplinary sanctions should not be imposed by the Board. Licensee failed to appear on 05/05/21.
- D. Pursuant to RSA 329:17(VI)(k), Licensee has committed professional misconduct by failing to maintain adequate medical record documentation on diagnostic and therapeutic treatment provided to two separate patients.
- E. Pursuant to RSA 329:17-a and RSA 329:17(VII)(a), and upon a finding of professional misconduct under section RSA 329:17(VI), the Board orders that Licensee is hereby reprimanded.
- F. Pursuant to RSA 329:17(VII)(g), the Board elects *not* to subject Licensee to assessment of additional fines or costs of investigation and enforcement, based on the Licensee's personal circumstances.
- G. Pursuant to RSA 329:24(III)(b) and Rules 408.03 and 411.02, and upon a finding of professional misconduct, the Board finds that the above-referenced reprimand is appropriate and is the minimum sanction required in order to punish and/or deter said conduct. The Board considered the following factors in coming to this conclusion: the mild nature of the offense, the Licensee's negligent mind at the time of the offense, the Licensee's moderate acknowledgment of his wrongdoing, the Licensee's moderate willingness to cooperate with the Board, the purpose of RSA 329:17 in preventing further misconduct, the potential harm to patients and the public health/safety, the strong deterrent message the Board wishes to send to other violators, and the moderate extent of enforcement activities required for this case.

VI. CONCLUSION AND DECISION:

Pursuant to RSA 329:17, the Board hereby orders that Licensee be REPRIMANDED, and subjects him to further discipline as outlined above.

DATED: 05/13/21

_____/s/ Todd H. Prevett, Esq._____
Todd H. Prevett, Esq., Hearings Examiner
Authorized Representative of the
Board of Medicine-
New Hampshire Office of
Professional Licensure & Certification
7 Eagle Square
Concord, NH 03301