BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **ROBERT SCOTT FOX, M.D.** Physician and Surgeon's Certificate No. G78351 Respondent.	**Case No.16-2003-147427** **DEFAULT DECISION**

On or about August 14, 2003, an employee of the Medical Board of California (hereinafter "Board") sent by certified mail a copy of Accusation No. 16-2003-147427, Statement to Respondent, Notice of Defense in blank, copies of the relevant sections of the California Administrative Procedure Act as required by sections 11503 and 11505 of the Government Code, and a request for discovery, to Robert Scott Fox, M.D. (hereinafter "respondent") at his address of record with the Board, P.O. Box 2254, Seward, AK 99664-2254. The envelope was returned to the Board by the Post Office, with notations showing that it was "unclaimed" after three delivery attempts. (Attached hereto as Exhibit 1 are copies of the documents served, the declaration of service by certified mail, and returned envelope.)

Respondent failed to file a Notice of Defense within 15 days after service of the accusation as allowed by section 11506 of the Government Code. On October 6, 2003, an employee of the Attorney General's Office sent by certified and regular mail addressed to respondent at his address of record (P.O. Box 2254, Seward, AK 99664-2254) as well as to two other addresses obtained from the Alaska State Medical Board (P.O. Box 2445, Seward, AK 99664 and P.O. Box 2447, Seward, AK 99664), a courtesy Notice of Default, advising respondent of the service of the Accusation, and providing him with an opportunity to request relief from default. The green certified mail receipt for all three envelopes was returned with

receipt acknowledged by a Debra Dunno. (Attached hereto as Exhibit 2 are copies of the Notice of Default, the declaration of service thereof and the certified mail receipts.)

Respondent has not filed a Notice of Defense. As a result, respondent has waived his right to a hearing on the merits to contest the allegations contained in the Accusation. The Division of Medical Quality now proceeds to take action based upon the Accusation, declarations and documentary evidence on file in accordance with Government Code sections 11505(a) and 11520.

FINDINGS OF FACT

I.

Ronald Joseph is the Executive Director of the Medical Board of California and brought the charges and allegations in the accusation solely in his official capacity.

II.

On or about February 9, 1994, Physician and Surgeon's Certificate No. G78351 was issued by the Board to respondent. Said certificate is renewed and current with an expiration date of February 29, 2004.

III.

On August 14, 2003, an Accusation was filed by the Board alleging causes for discipline against respondent. Exhibit 1 hereto is a true and correct copy of the Accusation. The Accusation and accompanying documents were duly served on respondent. Respondent failed to file a Notice of Defense.

IV.

The allegations of the accusation are true as follows: On or about May 20, 2003 the State Medical Board of Alaska issued an Order adopting a Voluntary Agreement to Suspension of Physician License with regard to respondent's license to practice medicine in Alaska. The basis for the Voluntary Agreement was that respondent was under investigation regarding allegations that he inappropriately prescribed controlled substances for patients, diverted controlled substances for his own use, falsified records, inappropriately borrowed money from a patient, and was impaired due to his use of controlled substances. Respondent's Alaska

license will remain suspended until he has completed psychiatric and medical evaluations and the Alaska Board has determined that he is competent and safe to practice medicine.

Copies of the Order and the Voluntary Agreement to Suspension of Physician License of the State Medical Board of Alaska are attached to the Accusation, Exhibit 1 hereto.

V.

The Board finds that pursuant to Business and Professions Code section 125.3 , the costs of investigation and enforcement of the case prayed for in the Accusation total $336.00, based on the Certification of Costs, attached hereto as Exhibit 3.

DETERMINATION OF ISSUES

I.

Pursuant to the foregoing Findings of Fact, respondent's conduct constitutes unprofessional conduct within the meaning of Business and Processions Code section 2305 and is conduct subject to discipline within the meaning of section 141(a).

II.

Pursuant to the foregoing Findings of Fact, the costs of investigation and enforcement of this action total $336.00. Said costs are reasonable.

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DISCIPLINARY ORDER

Physician and Surgeon's certificate No.G78351 issued to Robert Scott Fox, M. D. is hereby **REVOKED.**

Respondent shall not be deprived of making a request for relief from default as set forth in Government Code section 11520(c) for good cause shown. However, such showing must be made in writing by way of a motion to vacate the default decision and directed to the Division of Medical Quality, Medical Board of California at 1426 Howe Avenue, Sacramento, CA 95825 within seven (7) days of the service of this Decision.

This Decision will be come effective January 5, 2004.

DATED: December 5, 2003

MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
LORIE G. RICE, CHAIR, PANEL A
Division of Medical Quality

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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 14 20 03
BY Valerie Moore ANALYST

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **ROBERT SCOTT FOX, M.D.,** P. O. Box 2254 Seward, AK 99664-2254 Physician and Surgeon's Certificate No. G78351 Respondent.	Case No. **16-2003-147427** **ACCUSATION**

The Complainant alleges:

PARTIES

1. Complainant, Ronald Joseph, is the Executive Director of the Medical Board of California (hereinafter the "Board") and brings this accusation solely in his official capacity.

2. On or about February 9, 1994 Physician and Surgeon's Certificate No. G78351 was issued by the Board to Robert Scott Fox, M.D. (hereinafter "respondent"). Said certificate is renewed and current and will expire on February 29, 2004.

JURISDICTION

3. This Accusation is brought before the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs (hereinafter the "Division"), under the authority of the following sections of the California Business and Professions Code (hereinafter "Code") and/or other relevant statutory enactment:

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period of not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring if probation is imposed.

B. Section 125.3 of the Code provides, in part, that the Board may request the administrative law judge to direct any licentiate found to have committed a violation or violations of the licensing act, to pay the Board a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

C. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

D. Section 141 of the Code provides:

"(a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, by another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a

specific statutory provision in the licensing act administered by the board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

E. Section 14124.12(a) of the Welfare & Institutions Code provides in pertinent part that upon written notice of the Medical Board of California a physician and surgeon's medical license has been placed on probation as a result of a disciplinary action, no Medi-Cal claim for the type of surgical service or invasive procedure giving rise to the probationary order and performed on or after the effective date of said probationary order or during the period of probation shall be reimbursed, except upon a prior determination that compelling circumstances warrant the continuance of reimbursement during the probationary period for procedures other than those giving rise to the probationary order.

4. Respondent is subject to discipline within the meaning of section 141 and is guilty of unprofessional conduct within the meaning of section 2305 as more particularly set forth herein below.

FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed by Another State)

5. On or about May 20, 2003 the State Medical Board of Alaska issued an Order adopting a Voluntary Agreement to Suspension of Physician License with regard to respondent's license to practice medicine in Alaska. The basis for the Voluntary Agreement was that respondent was under investigation regarding allegations that he inappropriately prescribed controlled substances for patients, diverted controlled substances for his own use, falsified records, inappropriately borrowed money from a patient, and was impaired due to his use of controlled substances. Respondent's Alaska license will remain suspended until he has completed psychiatric and medical evaluations and the Alaska Board has determined that he is competent and safe to practice medicine.

Attached as Exhibit A and incorporated by reference are true and correct copies of

the Order and the Voluntary Agreement to Suspension of Physician License of the State Medical Board of Alaska.

6. The action of the Alaska State Medical Board constitutes a violation of section 141 and constitutes unprofessional conduct and/or a basis for the imposition of discipline within the meaning of Code section 2305.

PRAYER

WHEREFORE, the complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Division issue a decision:

1. Revoking or suspending Physician and Surgeon's Certificate Number G78351, heretofore issued to respondent Robert Scott Fox, M.D.

2. Revoking, suspending or denying approval of the respondent's authority to supervise physician assistants;

3. Ordering respondent to pay the Division the actual and reasonable costs of the investigation and enforcement of this case and to pay the costs of probation monitoring upon order of the Division; and

4. Taking such other and further action as the Division deems necessary and proper.

DATED: August 14, 2003.

RONALD JOSEPH
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

Exhibit A

STATE OF ALASKA
DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BEFORE THE STATE MEDICAL BOARD

In the matter of:)
)
Robert S. Fox, M.D.)
)
Respondent)
Case No: 2800-03-012 and 2800.03.32

ORDER

The Medical Board for the State of Alaska, having examined the Voluntary Agreement to Suspension of Physician License and Order, Case No 2800.03.12 and 2800.03.32, adopted the Voluntary Agreement to Suspension of Physician License and Order in this matter on May 20, 2003.

Dated this 20th day of May, 2003, at Anchorage, Alaska.

State Medical Board

By: Martha T Cotten, MD
Chairperson

550 West 7th Avenue, Suite 1500
Anchorage, Alaska 99501-3567
Telephone 907-269-8160 Fax 907-269-8195

ORIGINAL

STATE OF ALASKA
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BEFORE THE STATE MEDICAL BOARD

VOLUNTARY AGREEMENT TO SUSPENSION OF PHYSICIAN LICENSE

I, Robert S. Fox, M.D., voluntarily agree to a temporary suspension of my Alaska Physician License, Number #3462, which was first issued to me on May 3, 1995 and which will expire December 31, 2004.

I am agreeing to the voluntary suspension of my physician license at this time with the understanding the Division of Occupational Licensing (Division) is conducting active investigations under case numbers 2800-03-012 and 2800-03-032 on behalf of the Alaska State Medical Board (Board) concerning that I have inappropriately prescribed controlled substance medications, as defined by federal law for patient G.S.(2800.03.12), and allegations I have inappropriately prescribed controlled substance medications for patient V.C. and former patient L.F., that I have diverted those drugs for my personal use, that I have falsified records, and that I have violated the physician-patient relationship by borrowing money from V.C. I also understand the investigations also pertain to concerns that I am impaired because of my use of controlled substance medications.

I understand that my license will remain suspended until I have completed a psychiatric/psychological evaluation and medical evaluation, including the submission of biological specimens as deemed appropriate to determine my ability to practice medicine in a manner consistent with public safety in Alaska. The evaluations shall be conducted by physicians or other practitioners designated by the Board's agent at a time, date, and location determined by the Division and at the Board's expense. My license will remain suspended until such time as the Board reviews the results of the evaluation and examination and determines that I am competent and able to safely practice medicine and that I am in compliance with all licensing requirements. If I make a request for reinstatement and I am denied by the Board, I have the right to a hearing pursuant to AS 44.62 of the Administrative Procedures Act (APA).

I understand that as a result of this voluntary suspension, I can not practice as a physician in Alaska, and will not be able to do so until I have the approval of the Board I agree at this time to provide urinalysis and blood specimens in connection with these investigations, and I agree the specimens can be drawn by hospital staff at the Providence Seward Medical Center, Seward, Alaska.

I am not taking any medications at this time which impair my ability to understand this document, the nature of the investigations, and the ramifications of my signing this suspension. No promises or threats have been made by anyone to induce me to sign this surrender document.

Robert Fox MD
Signed

Witness

5/15/03
Date

5.15.03
Date

State of Alaska
Department of Community & Economic Development
Division of Occupational Licensing
550 West 7th Avenue, Suite 1500
Anchorage, Alaska 99501
907-269-8160 Fax 907-269-8195