

IN THE MATTER  
OF  
STEVE FANTO, M.D.

COMMISSIONER'S  
ORDER OF  
SUMMARY  
ACTION

TO: STEVE FANTO, M.D.  


The undersigned, Sally R. Dreslin, M.S., R.N., Executive Deputy Commissioner, pursuant to N.Y. Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, Arizona Medical Board, has made a finding substantially equivalent to a finding that the practice of medicine by STEVE FANTO, M.D. (the Respondent), New York license number 182746, in that jurisdiction constitutes an imminent danger to the health of its people, as is more fully set forth in the Arizona Medical Board, Interim Consent Agreement for Practice Restriction (henceforth: "predicate action"), attached hereto as Appendix "A" and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall not practice medicine in the State of New York.

Any practice of medicine in the State of New York in violation of this Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty days after the final conclusion of the disciplinary proceeding in the predicate action. The hearing will be held pursuant to the provisions of N.Y. Pub. Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be

conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Summary Hearing to be provided to the Respondent after the final conclusion of the proceeding in the predicate action. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

Respondent shall notify the Director of the Office of Professional Medical Conduct, New York State Department of Health, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719 via Certified Mail, Return Receipt Requested, of the final conclusion of the proceeding in the predicate action, immediately upon such conclusion.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York  
December 26, 2017

  
Sally Dreslin, M.S., R.N.  
Executive Deputy Commissioner of Health  
New York State Health Department

Inquiries should be directed to:

Pooja A. Rawal  
Senior Attorney  
2512 Corning Tower  
N.Y.S. Department of Health  
Division of Legal Affairs  
Albany, New York 12237

cc: Kraig J. Marton, Esq.  
Jaburg & Wilk, P.C.  
3200 North Central Avenue  
Suite 2000  
Phoenix, Arizona 85012

**APPENDIX "A"**

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **STEVE FANTO, M.D.**

4 Holder of License No. 21415  
5 For the Practice of Allopathic Medicine  
6 In the State of Arizona.

Case No. MD-16-1012A MD-16-1248A  
MD-17-0092A MD-17-0388A

**INTERIM CONSENT AGREEMENT  
FOR PRACTICE RESTRICTION**

7 **INTERIM CONSENT AGREEMENT**

8 Steve Fanto, M.D. ("Respondent"), elects to permanently waive any right to a  
9 hearing and appeal with respect to this Interim Consent Agreement for Practice Restriction  
10 and consents to the entry of this Order by the Arizona Medical Board ("Board").

11 **INTERIM FINDINGS OF FACT**

12 1. The Board is the duly constituted authority for the regulation and control of  
13 the practice of allopathic medicine in the State of Arizona.

14 2. Respondent is the holder of License No. 21415 for the practice of allopathic  
15 medicine in the State of Arizona.

16 3. The Board initiated case number MD-16-1012A after receiving a complaint  
17 from a Health Insurer's Special Investigations Unit, stating that Respondent had been  
18 identified as excessively prescribing controlled substances and prescribing inappropriate  
19 combinations of controlled substances.

20 4. The Board initiated case number MD-16-1248A after receiving a complaint  
21 from a second Health Insurer's Special Investigations Unit, stating that Respondent had  
22 been identified as improperly prescribing Subsys, an immediate release Fentanyl spray  
23 indicated for breakthrough pain of adult cancer patients, for two patients without cancer  
24 diagnoses.

25



1 Respondent subsequently prescribed Soma to and performed trigger point injections on  
2 MS without appropriate rationale.

3 12. The MC found unreasonable potential harm to all three patients in that MS,  
4 GH and SL were all at risk for potentially fatal arrhythmias from Respondent's manner of  
5 methadone prescribing, and at risk for the potential harms associated with long term opioid  
6 use including abuse, addiction, diversion and accidental overdose.

7 MD-16-1248A

8 13. In case MD-16-1248A, the MC reviewed Respondent's care and treatment of  
9 a 69 year-old female patient ("CC") and a 56 year-old female patient ("DK") for treatment  
10 beginning 2011 through 2016.

11 14. Both CC and DK were seen by Respondent for medication management of  
12 chronic pain complaints and treated with high-dose opioids, including Subsys. The MC  
13 identified deviations from the standard of care for opioid prescribing including that for both  
14 patients, Respondent deviated from the standard of care by initiating off-label Subsys  
15 treatment at the highest available dose of 800 mcg spray in contravention of manufacturer  
16 instructions to initiate treatment at 100 mcg strength.

17 15. For patient DK, the MC noted that Respondent prescribed 120 units of  
18 Subsys 800 mcg spray monthly for six months, during which time DK reported only using  
19 about 30 such units monthly.

20 16. For patient CC, the MC found that Respondent deviated from the standard of  
21 care by prescribing opioids, benzodiazepines and other central nervous system ("CNS")  
22 depressants to a patient with sleep apnea, and by failing to take into account an opinion of  
23 a pulmonologist who examined CC and expressed concerns regarding Respondent's  
24 treatment. The MC identified actual harm to CC, in that Respondent's treatment  
25 exacerbated her sleep apnea.





1 MD-17-0388A

2 20. In case MD-17-0388A, the MC reviewed Respondent's care and treatment of  
3 a 50 year-old male patient ("KV"), who initiated treatment with Respondent in 2012, for  
4 care beginning in 2014 through 2016. KV had a prior treatment history with another  
5 provider with medications in dosages up to 60 mg MED. Respondent initiated opioid  
6 treatment at 420 mg MED, and within two weeks, increased KV's dosage to 510 mg MED.

7 21. As of KV's May 15, 2014 visit, KV's listed medications included Dilaudid,  
8 Opana ER, tramadol, and Subsys 800 mcg, twice a day. However, the CSPMP records  
9 were negative for tramadol and Dilaudid, but did include Oxycodone 30 mg prescribed by  
10 Respondent. As dispensed, KV's medications were 1170 mg MED. On that date, KV's  
11 medications also included two benzodiazepines prescribed by a different provider and  
12 Nuvigil, a CNS stimulant, prescribed by Respondent.

13 22. The MC identified deviations from the standard of care with regard to  
14 Respondent's treatment of KV including that Respondent deviated from the standard of  
15 care by initiating off-label Subsys treatment at the highest available dose of 800 mcg spray  
16 in contravention of manufacturer instructions to initiate treatment at 100 mcg strength.  
17 Respondent also deviated from the standard of care by subsequently increasing KV's  
18 dosage of Subsys without proper indication. The MC identified other deviations including  
19 that Respondent initiated and escalated opioid medication management for chronic pain  
20 without appropriate indication or justification; by failing to appropriately address KV's non-  
21 compliant medication usage or sleep apnea; and by prescribing a CNS stimulant without  
22 an appropriate diagnosis.

23 23. The MC identified actual harm to KV, in that Respondent's treatment  
24 perpetuated ongoing iatrogenic physical and emotional dependence on ultra-high dose  
25

1 opioid medication. The MC stated that KV was at risk for the potential harms associated  
2 with long term opioid use including abuse, addiction, diversion and accidental overdose.

3 24. For all files reviewed, the MC noted that the records were often verbatim  
4 from visit to visit, with almost no new information for significant periods of time, and  
5 medications were adjusted and increased with little documented rationale regarding the  
6 medical necessity.

7 25. Respondent disputes the findings and conclusions of the MC.

8 26. The aforementioned information was presented to the investigative staff, the  
9 medical consultant and the lead Board member. All reviewed the information and concur  
10 that the interim consent agreement to restrict Respondent's practice is appropriate.

11 27. The investigation into this matter is pending and will be provided to the Board  
12 promptly upon completion for review and action.

13 **INTERIM CONCLUSIONS OF LAW**

14 1. The Board possesses jurisdiction over the subject matter hereof and over  
15 Respondent.

16 2. Pursuant to A.R.S. § 32-1405(C)(25) the Executive Director has authority to  
17 enter into a consent agreement when there is evidence of danger to the public health and  
18 safety.

19 3. Pursuant to A.A.C. R4-16-504, the Executive Director may enter into an  
20 interim consent agreement when there is evidence that a restriction is needed to mitigate  
21 imminent danger to the public's health and safety. Investigative staff, the Board's medical  
22 consultant and the lead Board member have reviewed the case and concur that an interim  
23 consent agreement is appropriate.

24

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1 **INTERIM ORDER**

2 IT IS HEREBY ORDERED THAT:

3 1. Respondent is prohibited from engaging in the practice of medicine in the  
4 State of Arizona as set forth in A.R.S. § 32-1401(22) until he applies to the Board and  
5 receives permission to do.

6 2. Respondent may request, in writing, release and/or modification of this  
7 Interim Consent Agreement. The Board has the discretion to determine whether it is  
8 appropriate to release Respondent from this Interim Consent Agreement based on the  
9 totality of information available to the Board at the time of the request. The Board may  
10 order any combination of assessments or examinations in order to determine whether  
11 Respondent is safe to practice medicine in Arizona prior to modification or release of this  
12 Interim Consent Agreement. Respondent shall be responsible for all costs associated with  
13 any assessments and/or examinations.

14 3. The Board retains jurisdiction and may initiate new action based upon any  
15 violation of this Interim Consent Agreement, including, but not limited to, summarily  
16 suspending Respondent's license or forwarding the matter to Formal Hearing for  
17 proceedings to revoke Respondent's license.

18 4. Because this is an Interim Consent Agreement and not a final decision by  
19 the Board regarding the pending investigation, it is subject to further consideration by the  
20 Board. Once the investigation is complete, it will be promptly provided to the Board for its  
21 review and appropriate action.

22 5. This Interim Consent Agreement shall be effective on the date signed by the  
23 Board's Executive Director.

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RECITALS

Respondent understands and agrees that:

1. The Board, through its Executive Director, may adopt this Interim Consent Agreement, or any part thereof, pursuant to A.R.S. § 32-1405(C)(25) and A.A.C. R4-16-504.

2. Respondent has read and understands this Interim Consent Agreement as set forth herein, and has had the opportunity to discuss this Interim Consent Agreement with an attorney or has waived the opportunity to discuss this Interim Consent Agreement with an attorney. Respondent voluntarily enters into this Interim Consent Agreement and by doing so agrees to abide by all of its terms and conditions.

3. By entering into this Interim Consent Agreement, Respondent freely and voluntarily relinquishes all rights to an administrative hearing on the matters set forth herein, as well as all rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action, concerning the matters related to the Interim Consent Agreement.

4. Respondent understands that this Interim Consent Agreement does not constitute a dismissal or resolution of this matter or any matters that may be currently pending before the Board and does not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction regarding this or any other pending or future investigations, actions, or proceedings. Respondent also understands that acceptance of this Interim Consent Agreement does not preclude any other agency, subdivision, or officer of this State from instituting civil or criminal proceedings with respect to the conduct that is the subject of this Interim Consent Agreement. Respondent further does not

1 relinquish his rights to an administrative hearing, rehearing, review, reconsideration,  
2 judicial review or any other administrative and/or judicial action, concerning the matters  
3 related to a final disposition of this matter, unless he affirmatively does so as part of the  
4 final resolution of this matter.

5 5. Respondent acknowledges and agrees that upon signing this Interim  
6 Consent Agreement and returning it to the Board's Executive Director, Respondent may  
7 not revoke his acceptance of this Interim Consent Agreement or make any modifications to  
8 it. Any modification of this original document is ineffective and void unless mutually  
9 approved by the parties in writing.

10 6. Respondent understands that this Interim Consent Agreement shall not  
11 become effective unless and until it is signed by the Board's Executive Director.

12 7. Respondent understands and agrees that if the Board's Executive Director  
13 does not adopt this Interim Consent Agreement, he will not assert in any future  
14 proceedings that the Board's consideration of this Interim Consent Agreement constitutes  
15 bias, prejudice, prejudgment, or other similar defense.

16 8. Respondent understands that this Interim Consent Agreement is a public  
17 record that may be publicly disseminated as a formal action of the Board, and that it shall  
18 be reported as required by law to the National Practitioner Data Bank.

19 9. Respondent understands that this Interim Consent Agreement does not  
20 alleviate his responsibility to comply with the applicable license-renewal statutes and rules.  
21 If this Interim Consent Agreement remains in effect at the time Respondent's allopathic  
22 medical license comes up for renewal, he must renew his license if Respondent wishes to  
23 retain his license. If Respondent elects not to renew his license as prescribed by statute  
24  
25

1 and rule, Respondent's license will not expire but rather, by operation of law (A.R.S. § 32-  
2 3202), become suspended until the Board takes final action in this matter. Once the  
3 Board takes final action, in order for Respondent to be licensed in the future, he must  
4 submit a new application for licensure and meet all of the requirements set forth in the  
5 statutes and rules at that time.

6 10. Respondent understands that any violation of this Interim Consent  
7 Agreement constitutes unprofessional conduct under A.R.S. § 32-1401(27)(r) ("[v]iolating a  
8 formal order, probation, consent agreement or stipulation issued or entered into by the  
9 board or its executive director under this chapter").

10 [Redacted]  
11 \_\_\_\_\_  
12 STEVE FANTO, M.D.

DATED: 7/11/17

13 DATED this 11 day of July, 2017.  
14 12  
per

ARIZONA MEDICAL BOARD  
By [Redacted]  
Patricia E. McSorley  
Executive Director

17 EXECUTED COPY of the foregoing e-mailed  
18 this 12<sup>th</sup> day of July, 2017 to:

19 Steve Fanto, M.D.  
Address of Record

20 ORIGINAL of the foregoing filed  
21 this 12<sup>th</sup> day of July, 2017 with:

22 Arizona Medical Board  
23 9545 E. Doubletree Ranch Road  
Scottsdale, AZ 85258

24 [Redacted]  
25 \_\_\_\_\_  
Board staff