

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF HEALTHCARE SYSTEMS

In re: Bernard Raxlen, M.D.

Petition No. 2003-0129-001-027

CONSENT ORDER

WHEREAS, Bernard Raxlen, M.D. of Stamford, Connecticut (hereinafter "respondent") has been issued license number 016443 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 and respondent admits that:

1. At various times in 2002 and 2003, respondent refused to provide copies of records to Oxford Health Plan ("Oxford") for a total of fifteen patients, even though each patient had supplied a valid release. Respondent claimed at first that Oxford had no right to the records; then claimed that the patient's releases were invalid as they were involuntary, having been required by the insurance contract; then claimed he would give the records to the patients, who could decide whether to give them to Oxford. He never gave the records to the patients.
2. When the Department ordered respondent to supply the records, he provided records for 13 of the 15 patients.
3. Respondent lost the records of patient M.G.
4. Respondent sent Oxford the records for a patient who was not a member of Oxford and for whom neither the patient nor Oxford had provided a release.
5. 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, on April 23, 2002, in Petition No. 980108-001-001, the Connecticut Medical Examining Board ordered respondent to pay a \$10,000 civil penalty for having refused to

provide a patient's records to her insurer and to the Department, and for having deliberately sent them to another state where the Connecticut Superior Court could not obtain them for review;

WHEREAS, respondent, in consideration of this Consent Order, and while maintaining that he relied on the advice of counsel, 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 016443 to practice as a physician and surgeon in the State of Connecticut is hereby reprimanded.
3. Respondent shall pay a civil penalty of fifteen thousand dollars (\$15,000.00) by certified or cashier's checks payable to "Treasurer, State of Connecticut." The checks shall reference the Petition Number on the face of the check. A check in the amount of \$7,500 (seven thousand five hundred dollars) shall be paid prior to May 17, 2005 and a check for the remaining \$7,500 (seven thousand five hundred dollars) shall be paid prior to July 1, 2005.
4. Respondent shall give each patient the following written notice in addition to any other writings he may give to patients regarding their records: Health insurers, Medicaid, or Medicare, may request part or all of your medical records, according to the terms of your health insurance contract and applicable statutes, and the Connecticut Department of Public Health may request part or all of your medical records. This office is obligated by law to honor such requests and will honor them." Respondent shall give this notice to

each new patient at the time of the patient's initial examination. Respondent shall give this to all current patients within one month of the effective date of this consent order. Respondent shall keep a copy of said notice, signed and dated by the patient, in each patient's chart. The Department may investigate compliance with this provision by requests for charts or by unannounced inspection of charts at any time during the first year after the effective date of this consent order.

5. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

6. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
7. Respondent shall pay all costs necessary to comply with this Consent Order.
8. 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 8.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.

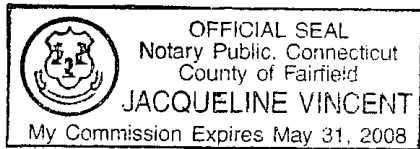
- d. If respondent does not demonstrate compliance or cure the violation by the limited fifteen (15) day date certain contained in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Board which shall make a final determination of the disciplinary 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.
9. In the event respondent violates any 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. 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 constitute an admission that his conduct constitutes a clear and immediate danger as required pursuant to the General Statutes of Connecticut, sections 4-182(c) and 19a-17(c).
 10. 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.
 11. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Office of Practitioner Licensing and Certification of the Bureau of Healthcare Systems of the Department.
 12. 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.

13. Respondent understands this Consent Order may be considered as a public document and evidence of the above admitted violations in any 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 unless the only discipline imposed by this Consent Order is a civil penalty, this action will be reported to the National Practitioner Data Bank and that all disciplinary actions will appear on his physician profile pursuant to Connecticut General Statutes 20-13j.
14. 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. 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.
15. 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.
16. Respondent permits a representative of the Legal Office of the Bureau of Healthcare Systems 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.
17. Respondent understands and agrees that he is responsible for satisfying all of the terms of this Consent Order during vacations and other periods in which he is away from his residence.
18. Respondent has consulted with an attorney prior to signing this document.
19. 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 Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau.

I, Bernard Raxlen, 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.

Bernard D Raxlen M.D.
Bernard Raxlen, M.D.

Subscribed and sworn to before me this 28th day of April 2005.



Jacqueline Vincent
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 9th day of May 2005, it is hereby accepted.

Marianne Horn
Marianne Horn, Director
Division of Health Systems Regulation
Bureau of Healthcare Systems

The above Consent Order having been presented to the duly appointed agent of the Connecticut Medical Examining Board on the 17th day of May 2005, it is hereby ordered and accepted.

Dr. G. Vincent
Connecticut Medical Examining Board