

**AGENDA**  
**CONNECTICUT MEDICAL EXAMINING BOARD**  
**Tuesday, September 20, 2022 at 1:30 PM**

**Department of Public Health**  
**410 Capitol Avenue, Hartford Connecticut**

**CALL TO ORDER**

**I. OPEN FORUM**

Remarks from Manisha Juthani, MD, Commissioner, Department of Public Health

**II. UPDATES**

- A. Chair Updates
  - Board Issues
- B. DPH Updates

**III. NEW BUSINESS**

Discussion regarding Civil Penalties

**IV. NEW BUSINESS**

Proposed Memorandum Of Decision  
Ryan Smith, MD - Petition No. 2020-673

**V. OFFICE OF LEGAL COMPLAINEE**

- A. Sushil Gupta, MD – Partition No. 2022-337  
*Presentation of Motion for Summary Suspension – Craig Sullivan, Staff Attorney, DPH*
- B. Jeffrey Stern, MD – Partition No. 2022-384  
*Motion to Withdraw Statement of Charges based on Voluntary Surrender*  
*Joelle Newton, Staff Attorney, DPH*
- C. Duane F. Austin, M.D. - Petition No. 2021-1012  
*Presentation of Consent Order – Linda Fazzina, Staff Attorney, DPH*

**VI 120 DAY EXTENSIONS**

**ADJOURN**

**Connecticut Medical Examining Board - Monthly Meeting via Microsoft Teams**

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# STATE OF CONNECTICUT

## DEPARTMENT OF PUBLIC HEALTH



Manisha Juthani, MD  
Commissioner

Ned Lamont  
Governor  
Susan Bysiewicz  
Lt. Governor

### CONNECTICUT MEDICAL EXAMINING BOARD

August 12, 2022

Cody Guarnieri  
Brown, Paindiris & Scott  
2252 Main Street  
Glastonbury, CT 06033

**VIA EMAIL ONLY (cody@bpslawyers.com)**

Barbara Cass, RN, Bureau Chief  
Healthcare Quality & Safety Branch  
Department of Public Health  
410 Capitol Avenue, MS #12HSR  
PO Box 340308  
Hartford, CT 06134-0308

**VIA EMAIL ONLY**

**RE: Ryan Smith, MD - Petition No. 2020-673**

### PROPOSED MEMORANDUM OF DECISION

Attached is the proposed Memorandum of Decision in the above referenced matter. Pursuant to § 4-179 of the Connecticut General Statutes, both parties will be afforded the opportunity to present oral argument before the Connecticut Medical Examining Board. The Board will consider this proposed Memorandum of Decision at its meeting scheduled for **September 20, 2022 at 1:30 p.m.**

If you wish to exercise this opportunity to present oral argument, please notify this office no later than **September 1, 2022**. The time allowed for argument is not to exceed ten (10) minutes for each party. There will not be a court stenographer present for these proceedings.

Any briefs or exceptions must be filed no later than **September 7, 2022**.

**FOR: CONNECTICUT MEDICAL EXAMINING BOARD**

**BY:** /s/ Jeffrey A. Kardys

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**STATE OF CONNECTICUT  
CONNECTICUT MEDICAL EXAMINING BOARD**

Ryan Smith, M.D.  
Residency Training Permit No. 060414-RES

Petition No. 2020-673

**MEMORANDUM OF DECISION**

***Procedural Background***

On September 7, 2021, the Department of Public Health (“Department”) filed a Statement of Charges (“Charges”) with the Connecticut Medical Examining Board (“Board”) against residency training permit number 060414-RES of Ryan Smith, M.D. (“Respondent”). Board (“Bd.”) Exhibit (“Ex.”) 1. The Charges allege that Respondent’s residency training permit is subject to disciplinary action pursuant to §§ 19a-17 and 20-13c of the Connecticut General Statutes (“Statutes”). The Notice of Hearing and the Charges were sent to Respondent, in care of his attorney Cody Guarnieri, Esq., by certified mail, return receipt requested, and by e-mail. *Id.* The Notice of Hearing scheduled the hearing for January 7, 2022. Bd. Ex. 2.

On January 4, 2022, Respondent filed his Answer to the Charges. Bd. Ex. 3.

On January 4, 2022, Respondent requested a continuance of the hearing. The Department did not object. The continuance was granted. Bd. Exs. 4 and 6. On January 10, 2022, a hearing was scheduled for February 8, 2022. Bd. Ex. 5.

On February 8, 2022, a hearing was held before a duly authorized panel of the Board (“Panel”) comprised of Robert Green, M.D., Harold Sauer, M.D., and Raymond Andrews, J.D. Bd. Ex. 2.

The Panel conducted the hearing in accordance with Chapter 54 of the Statutes, the Uniform Administrative Procedure Act, and §§ 19a-9-1 et seq. of the Regulations of Connecticut State Agencies (“Regulations”). Respondent was represented by Attorney Cody Guarnieri; Attorney Aden Baume represented the Department. Transcript (“Tr.”) p. 3. Both parties were afforded the opportunity to present witnesses and evidence, examine and cross-examine witnesses, and provide argument on all issues.

All Panel members involved in this Memorandum of Decision (“Decision”) attest that they have heard the case or read the record in its entirety. The Board reviewed the Panel’s proposed final decision in accordance with the provisions of § 4-179 of the Statutes.

In rendering its Decision, the Board considered whether Respondent poses a threat, in the practice of medicine, to the health and safety of any person. To the extent the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc. v. S & H Computer Systems, Inc.*, 605 F. Supp. 816 (Md. Tenn. 1985).

*Allegations*

1. In paragraph 1 of the Charges, the Department alleges that Respondent of New Haven, Connecticut is, and has been at all times referenced in the Charges, the holder of Connecticut residency training permit number 060414-RES from July 1, 2020 to June 30, 2021.
2. In paragraph 2 of the Charges, the Department alleges that from approximately February 2020 to the present, Respondent has or had emotional disorders and/or mental illness that does, and or/may affect his practice of medicine.
3. In paragraph 3 of the Charges, the Department alleges that during approximately February, March 2020, and/or January 2021, Respondent abused and/or used to excess amphetamines and/or methamphetamines.
4. In paragraph 4 of the Charges, the Department alleges that during approximately June 2020, Respondent abused and/or used to excess alcohol.
5. In paragraph 5 of the Charges, the Department alleges that Respondent's abuse and/or excess use of amphetamines, methamphetamines and/or alcohol does, and/or may, affect his practice of medicine.
6. In paragraph 6 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to §§ 20-13c(2), 20-13c(3), 20-13c(4) and/or 20-11a(a) of the Statutes.

*Findings of Fact*

1. Respondent of New Haven, Connecticut is, and has been at all times referenced in the Charges, the holder of Connecticut residency training permit number 060414-RES from July 1, 2020 to June 30, 2021, when it expired. Bd. Ex. 3; Dept. Ex. 1E, p. 9.
2. From approximately February 2020 to the present, Respondent has or had suffered from emotional disorders and a mental illness. Bd. Ex. 3.
3. At all relevant times, Respondent was a resident of the Yale Primary Care Internal Medicine Residency Program. Dept. Ex. 1A.
4. From approximately February 2020 to the present, Respondent's emotional disorder and mental illness has been affecting his practice of medicine. Dept. Ex. 1A, pp. 3-5, 9; Dept. Exs. 1E and 1F.
5. On February 14, 2020, Respondent tested positive for amphetamines and methamphetamine and, in an interview, admitted to using crystal methamphetamine. On March 10 and June 22, 2020, Respondent tested positive for alcohol. Dept. Ex. 1F.
6. During approximately February and March 2020, and/or January 2021, Respondent abused and used to excess amphetamines and methamphetamines. Bd. Ex. 3; Dept. Ex. 1F.

7. During approximately June 2020, Respondent abused and used to excess alcohol. Bd. Ex. 3; Dept. Ex. 1F.
8. At all relevant times, Respondent's abuse and excess use of amphetamines, methamphetamines, and alcohol does and may affect his practice of medicine in that he arrives late to his assigned duties and is unable to complete his assignments timely, efficiently, and accurately. Dept. Ex. 1A, pp. 3-5, 9. Respondent's conduct at work resulted in his suspension from the residency program. Dept. Ex. 1A, p. 8.

### *Discussion and Conclusions of Law*

Section 20-13c of the Statutes provides, in pertinent part, that:

The board is authorized to restrict, suspend or revoke the license or limit the right to practice of a physician or take any other action in accordance with section 19a-17, for any of the following reasons: ... (2) emotional disorder or mental illness; (3) abuse or excessive use of drugs, including alcohol, narcotics or chemicals; . . . (4) illegal, incompetent or negligent conduct in the practice of medicine .... In each case, the board shall consider whether the physician poses a threat, in the practice of medicine, to the health and safety of any person. If the board finds that the physician poses a threat, the board shall include such finding in its final decision and act to suspend or revoke the license of said physician.

Section 20-11a(a) of the Statutes provides, in pertinent part, that:

No person shall participate in an intern or resident physician program or United States medical officer candidate training program until such person has received a permit issued by the Department of Public Health. The permit shall be issued solely for purposes of participation in graduate education as an intern, resident or medical officer candidate in a hospital or hospital-based program. No person shall receive a permit until a statement has been filed with the department on the applicant's behalf by the hospital administrator certifying that the applicant is to be appointed an intern, resident or medical officer candidate in the hospital or hospital-based program and that the applicant has received the degree of doctor of medicine, osteopathic medicine or its equivalent and, if educated outside the United States or Canada (1) has successfully completed all components of a "fifth pathway program" conducted by an American medical school accredited by the Liaison Committee on Medical Education or the American Osteopathic Association, (2) received certification from the Educational Commission for Foreign Medical Graduates, (3) has successfully completed the examination for licensure prescribed by the department pursuant to section 20-10, or (4) holds a current valid license in another state or territory. Upon termination from an internship or medical residency program, a person's privileges under this subsection shall cease, such person's permit shall be automatically revoked and, if

such person acts in violation of this chapter, such person shall be subject to disciplinary action pursuant to section 19a-17.

Section 19a-14a of the Statutes provides, in pertinent part, that:

Any person who is the subject of . . . disciplinary action pursuant to section 19a-17, while holding a professional license<sup>1</sup> issued by the Department of Public Health or having held such a license within eighteen months of the commencement of such . . . disciplinary action shall be considered to hold a valid license for purposes of such . . . disciplinary action.

The Department bears the burden of proof by preponderance of the evidence in this matter. *Jones v. Connecticut Medical Examining Board*, 309 Conn. 727, 739-40 (2013).

The Department did not present any witnesses and relied on its investigation and supporting documents to present its case. The Department sustained its burden of proof with regard to all of the allegations contained in the Charges.

With regard to the allegations contained in Paragraph 1 of the Charges, Respondent admits that he is from New Haven, Connecticut, and has been at all times referenced in the Charges, the holder of Connecticut residency training permit number 060414-RES from July 1, 2020 to June 30, 2021. Bd. Ex. 3.

With regard to the allegations contained in paragraph 2 of the Charges, Respondent admits that from approximately February 2020 to the present, he has suffered from an emotional disorder and/or mental illness. Respondent, however, denies that his emotional disorder and mental illness does and/or may affect his practice of medicine. Bd. Ex. 3.

The preponderance of the evidence establishes that at all relevant times, Respondent was a resident of the Yale Primary Care Internal Medicine Residency Program. Dept. Ex. 1A. On February 14, 2020, Respondent tested positive for amphetamine and methamphetamine, and, in an interview, Respondent admitted to using crystal methamphetamine. On March 10, 2020, Respondent tested positive for amphetamine and methamphetamine. On June 22, 2020, Respondent tested positive for alcohol.

The evidence further establishes that Respondent's emotional disorder and mental illness affect his practice of medicine. On July 1, 2020, Dr. John Moriarty, Associate Professor Program Director, Primary Care Internal Medicine Residency Program, expressed concerns about Respondent's

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<sup>1</sup> Section 19a-13(c) defines "License" as including "the whole or part of any Department of Public Health permit, approval or similar form of permission required by the general statutes and which further requires: (A) Practice of the profession by licensed persons only; (B) that a person demonstrate competence to practice through an examination or other means and meet certain minimum standards; (C) enforcement of standards by the department or regulatory board or commission . . . ."

performance in the residency program and stated that he was pulled from his clinical duties for not meeting the standards for employment, including for failing to practice in a safe and skillful manner. Dept. Ex. 1A, p. 5. Also, in June 2020, Respondent arrived late to his assigned duties as a Yale Hospital resident, and he was unable to complete his assignments timely, efficiently, and accurately. Dept. Ex. 1A, pp. 3-5, 9. At the end of June 2020, he was assigned to one week of knowledge acquisition and an independent study, when he was given different tasks which he failed to meet the completion deadlines. Dept. Ex. 1A, p. 5. On October 15, 2020, Dr. Moriarty expressed concerns for Respondent's lack of engagement with two faculty members who were meeting with Respondent to go over clinical reasoning and medical knowledge. Dept. Ex. 1A, p. 6. Respondent's conduct at work resulted in his suspension from his residency program. Dept. Ex. 1A, p. 8. Therefore, the Department sustained its burden of proof regarding all of the allegations contained in paragraph 2 of the Charges.

With regard to the allegations contained in paragraph 3 of the Charges, Respondent admits that during approximately February, March 2020, and January 2021, Respondent abused and/or used to excess amphetamines and methamphetamines. Bd. Ex. 3. Therefore, the Department sustained its burden of proof.

With regard to the allegations contained in paragraph 4 of the Charges, Respondent admits that during approximately June 2020, Respondent abused and/or used to excess alcohol. Bd. Ex. 3. Therefore, the Department sustained its burden of proof.

With regard to the allegations contained in paragraph 5 of the Charges, the Department sustained its burden of proof. The preponderance of the evidence establishes that Respondent's abuse and excess use of amphetamine, methamphetamines, and alcohol does and may affect his practice of medicine in that he arrives late to his assigned duties, and is unable to complete his assignments timely, efficiently, and inaccurately. Dept. Ex. 1A, pp. 3-5, 9. Respondent's conduct at work resulted in his suspension from his residency program. Dept. Ex. 1A, p. 8.

Respondent testified on his own behalf that he currently does not have any personal issues that may impact on his profession. Tr. pp. 27-28. He also testified that he has community support and an emergency contact in case he needs it. Tr. pp. 30-31. He is considering reapplying to the Yale School of Medicine Residency Program, where he hopes he will be placed on a monitoring and a return-to-work program and in which he hopes to be successful. Tr. pp. 28-30. On February 6, 2022, Dr. Moriarty wrote a letter indicating that the Yale Residency Program is willing to accept Respondent back to the training program if he can meet the clinical and professional responsibilities. Rt. Ex. E.

Respondent showed negative drug screening results from June 23, 2021 to January 28, 2022, group therapy logs from April 2021 to January 2022, and a letter from his treating psychologist. Rt. Ex. B.

### *Conclusion*

In conclusion, the Department sustained its burden of proof with regard to all of the allegations in the Charges. As indicated above Respondent held Connecticut residency training permit number 060414-RES, which expired on June 30, 2021. In accordance with Conn. Gen. Stat. § 19a-14a, the Board is authorized to impose a disciplinary action on Respondent's permit because he "held such a license within eighteen months of the commencement of such investigation or disciplinary action" and, therefore, Respondent "shall be considered to hold a valid license for purposes of such investigation or disciplinary action." Conn. Gen. Stat. § 19a-14a. The Department issued the Charges on September 7, 2021, within the required eighteen months of Respondent's residency training permit expiring. Accordingly, the Board concludes that there is an adequate basis upon which to impose discipline on Respondent's residency training permit pursuant to §§ 19a-14a, 19a-17, 20-13c(2), 20-13c(4) and/or 20-11a(a) of the Statutes.

### *Order*

Based upon the record in this case, the above findings of fact, and the conclusions of law, and pursuant to the authority vested in it by §§ 19a-17 and 20-13c of the Statutes, the Board finds that the misconduct alleged and proven in Petition No. 2014-562 warrants the disciplinary action imposed by this Order, and orders the following:

1. Respondent's Connecticut residency training permit number 060414-RES is hereby placed on probation for a period of two (2) years under the under the following terms and conditions:
  - a. Within two (2) weeks of the commencement of probation, Respondent shall submit to the Department for its pre-approval, the name of a licensed psychiatrist or psychologist ("therapist") who has agreed to provide therapy to Respondent, and Respondent shall participate in regularly scheduled therapy with the therapist at his own expense.
    - (1) Respondent shall provide a copy of this Decision to the therapist.
    - (2) The therapist shall furnish written confirmation to the Department of his or her engagement in that capacity and receipt of a copy of this Decision within fifteen (15) days of receipt.
    - (3) If the therapist determines that therapy is no longer necessary, that a reduction in frequency of therapy sessions is warranted, or that Respondent should be transferred to another therapist, the therapist shall advise the Department, and the Department shall pre-approve said termination of therapy, reduction in frequency of therapy sessions, and/or Respondent's transfer to another therapist.

- (4) The therapist shall submit monthly reports for the entire period of probation. The monthly reports shall address, but not necessarily be limited to, respondent's ability to practice medicine in an alcohol and substance free state safely and competently. Said reports shall continue until the therapist determines that therapy is no longer necessary or the period of probation has terminated.
  - (5) The therapist shall immediately notify the Department in writing if the therapist believes respondent's continued practice poses a danger to the public, or if respondent discontinues therapy and/or terminates his or her services.
- b. Commencing no later than fifteen (15) days after the effective day of this Decision, and during the entire probationary period, Respondent shall refrain from the ingestion of illegal substances and alcohol in any form, and the ingestion, inhalation, injection or other use of any controlled substance and/or legend drug unless prescribed or recommended for a legitimate purpose by a licensed health care professional authorized to prescribe medications. In the event a medical condition arises requiring treatment utilizing controlled substances, legend drugs, or alcohol in any form, respondent shall notify the Department and, upon request, provide such written documentation of the treatment as is deemed necessary by the Department.
- (1) During the two (2) years of the probationary period, Respondent shall submit to two (2) random observed urine screens weekly for alcohol, illegal drugs, controlled substances, and legend drugs. Respondent shall submit to such screens on a more frequent basis if requested to do so by the therapist, the Department, or the Board. Said screens shall be administered by a facility approved by the Department. All such random screens shall be legally defensible in that the specimen donor and chain of custody shall be identified throughout the screening process. All laboratory reports shall state that the chain of custody procedure has been followed.
  - (2) Respondent shall cause to have the facility provide monthly reports to the Department on the urine screens for alcohol, illegal substances, controlled substances, and legend drugs. All such screens shall be negative for alcohol, controlled substances, and legend drugs, except for medications prescribed by respondent's physician. If Respondent has a positive urine screen, the facility shall immediately notify the Department. All positive random drug and alcohol screens shall be confirmed by gas chromatograph/mass spectrometer testing.
  - (3) Respondent agrees that if Respondent fails to submit a urine sample when requested to do so, such missed screen shall be deemed a positive screen.
  - (4) Respondent shall notify each of his or her health care professionals of all medications prescribed for him by any and all other health care professionals.
  - (5) The Department shall immediately notify the Board if Respondent fails to comply with the screening requirements or has a positive screen.
- c. Respondent shall provide the Program Director for the Primary Care Internal Medicine Residency ("Director") with a copy of this Decision within fifteen (15) days of its effective date, and Respondent shall cause to have his Director to provide confirmation to

the Department of receipt of the Decision within fifteen (15) days thereafter. If Respondent changes residency at any time during the probationary period, Respondent shall provide his new director as described herein with a copy of this Decision within fifteen (15) days of commencement of such residency, and shall cause the new director to provide the Department with confirmation of his/her receipt of the Decision within fifteen (15) days thereafter. Respondent agrees to provide his Director's reports from any and all of his time as a resident for the entire period of probation, stating that Respondent is practicing with reasonable skill and safety and in an alcohol and substance-free state.

2. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
3. Legal notice shall be sufficient if sent to Respondent's last known address of record reported to the Office of Practitioner Licensing and Investigations of the Department.
4. This Decision 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.
5. All correspondence related to this Decision must be mailed to:

Department of Public Health  
Division of Health Systems Regulation  
P.O. Box 340308  
Hartford, CT 06134-0308
6. This Decision is effective on the first day of the month after it is signed by the Board.

Dated at Stamford, Connecticut this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CONNECTICUT MEDICAL EXAMINING BOARD

By \_\_\_\_\_  
Kathryn Emmett, Esq., Chair

## SUMMARY SUSPENSION COVER SHEET

In re: Sushil K. Gupta, M.D.

Petition No. 2022-337

1. Sushil K. Gupta, M.D., of Woodbridge, Connecticut (hereinafter "respondent") is, and has been, at all times referenced herein, the holder of Connecticut physician and surgeon license number 036095.
2. On more than one occasion, from in or about 2019 through in or about 2022, respondent performed unnecessary and sexually inappropriate examinations of Female Patient # 1 and/or Female Patient # 2.
3. The respondent herein was also the respondent in Petition No. 2013-416 wherein the Connecticut Medical Examining Board (hereinafter "the Board"), on or about November 21, 2013, issued a Memorandum of Decision (hereinafter "the 2013 MOD") in which the Board concluded that the respondent was able to return to the practice of medicine with reasonable skill and safety under the provisions of the 2013 MOD and it reinstated respondent's physician and surgeon license.
4. The terms of the 2013 MOD included, inter alia, a permanent restriction on the respondent's physician and surgeon license requiring respondent to have a female employee present as a chaperone during any examination of, or treatment of, a female patient; a requirement that respondent was to maintain, as part of each female patient's medical record, the name of the chaperone who was present during each examination or treatment of such patient, and the patient's and the chaperone's respective signatures attesting to the chaperone's presence; and a requirement that respondent develop a female patient questionnaire that was to be provided to, and signed by, each female patient, and which was to be made a part of such patient's medical record.
5. On more than one occasion, from in or about 2019 through in or about 2022, respondent examined and/or treated Female Patient # 1 and/or Female Patient # 2 and, in doing so, respondent violated the terms of the 2013 MOD in that he failed: (a) to have a female employee present as a chaperone during the examinations and/or treatments of either Female Patient # 1 or Female Patient # 2; (b) to maintain, as part of the medical record of either Female Patient # 1 or Female Patient # 2, the name of the chaperone present during the examinations and/or treatments of Female Patient # 1 and/or Female Patient # 2; (c) to maintain, as part of the medical record of either Female Patient # 1 or Female Patient # 2, the respective signatures of the patient and/or the chaperone attesting to the chaperone's presence during the examinations and/or treatments of the respective patient; (d) to provide either Female Patient # 1 or Female Patient # 2 with the required female patient questionnaire; (e) to obtain the signature of either Female Patient # 1 or Female Patient # 2 on the required female patient questionnaire; and (f) to maintain, as part of the medical record of either Female Patient # 1 or Female Patient # 2, the required female patient questionnaire.
6. The above cited facts evidence circumstances, and conduct of the respondent, that fail to conform to the accepted standards of the profession of physician and surgeon, they represent a

clear and immediate danger to the public health and safety if respondent is allowed to continue to practice, and they constitute grounds for disciplinary action pursuant to Conn. Gen. Stat. §§ 19a-17 and 20-13c, including, but not necessarily limited to:

- a. §19a-17(a),
- b. §19a-17(c), and
- c. §20-13c(4).

7. For the foregoing reasons, the Department believes that respondent's continued practice as a physician and surgeon represents a clear and immediate danger to the public health and safety and the Department respectfully requests that the Board summarily suspend respondent's license until a full hearing on the merits can be held.

***CONFIDENTIALITY NOTICE: This document and all attachments may contain information that is confidential or privileged. Please do not disseminate, distribute, or copy the contents or discuss with parties who are not directly involved in this petition. Thank you.***

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

In re: Sushil K. Gupta, M.D.

Petition No. 2022-337

MOTION FOR SUMMARY SUSPENSION

The Department of Public Health (hereinafter "the Department") hereby moves, in accordance with the Connecticut General Statutes §§4-182(c) and 19a-17(c), that the Connecticut Medical Examining Board summarily suspend the license of Sushil K. Gupta, M.D. to practice as a physician and surgeon in Connecticut. This motion is based on the attached Statement of Charges, duly verified and acknowledged report, and on the Department's information and belief that the continued practice as a physician and surgeon represents a clear and immediate danger to the public health and safety.

Dated at Hartford, Connecticut this 2nd day of September 2022.



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

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

In re: Sushil K. Gupta, M.D.

Petition No. 2022-337

**STATEMENT OF CHARGES**

Pursuant to the Connecticut General Statutes, §§19a-10 and 19a-14, the Department of Public Health (hereinafter "the Department") brings the following charges against Sushil K. Gupta, M.D.:

**COUNT ONE**

1. Sushil K. Gupta, M.D., of Woodbridge, Connecticut (hereinafter "respondent") is, and has been, at all times referenced herein, the holder of Connecticut physician and surgeon license number 036095.
2. On more than one occasion, from in or about 2019 through in or about 2022, respondent performed unnecessary and sexually inappropriate examinations of Female Patient # 1 and/or Female Patient # 2.
3. The above cited facts evidence conduct of the respondent failing to conform to the accepted standards of the profession of physician and surgeon, they represent a clear and immediate danger to the public health and safety if respondent is allowed to continue to practice, and they constitute grounds for disciplinary action pursuant to Conn. Gen. Stat. §§ 19a-17 and 20-13c, including, but not necessarily limited to:
  - a. §19a-17(a),
  - b. §19a-17(c), and
  - c. §20-13c(4).
4. For the foregoing reasons, the Department believes that respondent's continued practice as a physician and surgeon represents a clear and immediate danger to the public health and safety.

**COUNT TWO**

5. Paragraphs one and two of Count One is incorporated herein by reference as if set forth in full.
6. The respondent herein was also the respondent in Petition No. 2013-416 wherein the Connecticut Medical Examining Board (hereinafter "the Board"), on or about November 21, 2013, issued a Memorandum of Decision (hereinafter "the 2013 MOD") in which the Board concluded that the respondent was able to return to the practice of medicine with reasonable skill

and safety under the provisions of the 2013 MOD and it reinstated respondent's physician and surgeon license.

7. The terms of the 2013 MOD included, inter alia, a permanent restriction on the respondent's physician and surgeon license requiring respondent to have a female employee present as a chaperone during any examination of, or treatment of, a female patient; a requirement that respondent was to maintain, as part of each female patient's medical record, the name of the chaperone who was present during each examination or treatment of such patient, and the patient's and the chaperone's respective signatures attesting to the chaperone's presence; and a requirement that respondent develop a female patient questionnaire that was to be provided to, and signed by, each female patient, and which was to be made a part of such patient's medical record.

8. On more than one occasion, from in or about 2019 through in or about 2022, respondent examined and/or treated Female Patient # 1 and/or Female Patient # 2 and, in doing so, respondent violated the terms of the 2013 MOD in that he failed: (a) to have a female employee present as a chaperone during the examinations and/or treatments of either Female Patient # 1 or Female Patient # 2; (b) to maintain, as part of the medical record of either Female Patient # 1 or Female Patient # 2, the name of the chaperone present during the examinations and/or treatments of Female Patient # 1 and/or Female Patient # 2; (c) to maintain, as part of the medical record of either Female Patient # 1 or Female Patient # 2, the respective signatures of the patient and/or the chaperone attesting to the chaperone's presence during the examinations and/or treatments of the respective patient; (d) to provide either Female Patient # 1 or Female Patient # 2 with the required female patient questionnaire; (e) to obtain the signature of either Female Patient # 1 or Female Patient # 2 on the required female patient questionnaire; and (f) to maintain, as part of the medical record of either Female Patient # 1 or Female Patient # 2, the required female patient questionnaire.

9. The above cited facts evidence circumstances that fail to conform to the accepted standards of the profession of physician and surgeon, they represent a clear and immediate danger to the public health and safety if respondent is allowed to continue to practice, and they constitute grounds for disciplinary action pursuant to Conn. Gen. Stat. §§ 19a-17 and 20-13c, including, but not necessarily limited to:

- a. §19a-17(a),
- b. §19a-17(c), and
- c. §20-13c(4).

10. For the foregoing reasons, the Department believes that respondent's continued practice as a physician and surgeon represents a clear and immediate danger to the public health and safety.

THEREFORE, the Department prays that:

The Connecticut Medical Examining Board, as authorized by the Connecticut General Statutes, §§ 20-13c and 19a-17, summarily suspend the physician and surgeon license of Sushil K. Gupta,

M.D. until a full hearing on the merits can be held, and that it revoke or order other disciplinary action against the physician and surgeon license of Sushil K. Gupta, M.D. as it deems appropriate and consistent with law.

Dated at Hartford, Connecticut this 2nd day of September 2022.



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

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

In re: Jeffrey Stern, MD

Petition No. 2022-384

August 22, 2022

**MOTION TO WITHDRAW STATEMENT OF CHARGES**

The Department of Public Health moves the Connecticut Medical Examining Board to withdraw the Statement of Charges.

Respondent has voluntarily surrendered his Connecticut medical license with the Department's approval. For this reason, the continued prosecution of this case is unnecessary, and it is in the interests of administrative economy to terminate these proceedings.

Respectfully submitted,

THE DEPARTMENT OF PUBLIC HEALTH

*Joelle C. Newton*

Joelle C. Newton, Staff Attorney  
Office of Legal Compliance

**ORDER**

The foregoing motion having been duly considered by the Connecticut Medical Examining Board is hereby GRANTED/DENIED.

Dated at Hartford, Connecticut this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Connecticut Medical Examining Board

**CERTIFICATION**

This certifies that on August 22, 2022, this motion and the Voluntary Surrender Affidavit were emailed to the Department of Public Health, Public Health Hearing Office, phho.DPH@ct.gov, and to Attorney Darius A. Marzec, [dmarzec@MarzecLaw.com](mailto:dmarzec@MarzecLaw.com) and Attorney Jerome Noll, [jerome.noll@marzec.myfirm.pro](mailto:jerome.noll@marzec.myfirm.pro).

*Joelle C. Newton*

Joelle C. Newton, Staff Attorney  
Office of Legal Compliance

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

Re: Jeffrey Stern, MD  
Physician And Surgeon License Number: 065003

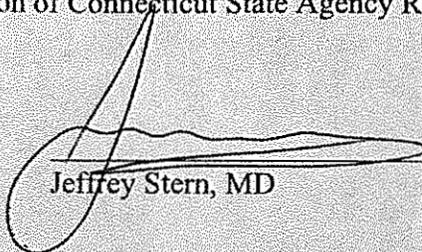
Petition Number: 2022-384

**VOLUNTARY SURRENDER OF LICENSE AFFIDAVIT**

Jeffrey Stern, being duly sworn, deposes and says:

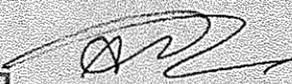
1. I am over the age of majority and agree to the obligations of an oath.
2. I make this affidavit on the basis of personal knowledge.
3. I am licensed by the Department of Public Health ("Department") to practice medicine. I presently hold physician and surgeon license number 065003 which license was summarily suspended on June 21, 2022.
4. I hereby voluntarily surrender my license to practice medicine in the State of Connecticut as provided pursuant to Connecticut General Statutes §19a-17(d).
5. I agree and acknowledge that if I seek a new license or to reinstate my license at any time in the future, the allegations contained in Petition Number 2022-384 shall be deemed true. I further agree and acknowledge that any such application must be made to the Department which shall have absolute discretion as to whether said license shall be issued or reinstated and, if so, whether said license shall be subject to conditions as provided pursuant to Connecticut General Statutes §19a-14(a)(6).
6. I hereby waive any right to a hearing I may have regarding any request that my license be reinstated or that a new license be issued and also waive any right that I may have to appeal or otherwise challenge the disposition of any such request.
7. I agree and acknowledge that this affidavit and the case file in Petition Number 2022-384 are public documents, and I am executing this affidavit in settlement of the allegations contained in the above-referenced petition.
8. I agree and acknowledge that this surrender of my license is an event that is reportable to the National Practitioner Data Bank maintained by the United States Department of Health and Human Services and will appear on my physician profile pursuant to Connecticut General Statutes §20-13j and is public information.
9. I have surrendered my state and federal Controlled Substance Registrations to the issuing authorities.

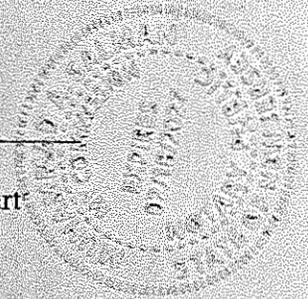
10. I agree and acknowledge that, upon execution of this document by the Department, the Department will present this document to the Connecticut Medical Examining Board and will move to withdraw the Statement of Charges in Petition Number 2022-384. I agree that this document is not effective unless and until the Department has executed it, and the Board either grants the Department's Motion to Withdraw or the charges are dismissed.
11. I consulted with my attorney prior to signing this affidavit.
12. I agree and acknowledge that 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.
13. I agree and acknowledge that the purpose of this agreement is to resolve the pending matter against my license and is not intended to affect any claim of civil or criminal liability that might be brought against me.
14. If applicable, I agree to comply with the provision of Connecticut State Agency Regulations §19a-14-44.

  
 \_\_\_\_\_  
 Jeffrey Stern, MD

Subscribed and sworn to before me this 19th day of August 2022.

MUHAMMAD A SALMAN  
 Notary Public, State of New Jersey  
 Comm. # 50186253  
 My Commission Expires 02/18/2027

  
 \_\_\_\_\_  
 Notary Public  
 Commissioner of Superior Court



Accepted:

  
 \_\_\_\_\_

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

August 22, 2022

Date

**CONNECTICUT MEDICAL EXAMINING BOARD  
CONSENT ORDER COVER SHEET**

Respondent: Duane F. Austin, M.D.

Petition No. 2021-1012

**BIOGRAPHICAL INFORMATION:**

Medical School: New York Medical College

Year of Graduation: 1984

07/01/1984-06/30/1985	Internal Medicine	<i>Intern</i>	Saint Francis Hospital, Hartford, CT
07/01/1985-06/30/1988	Ophthalmology	<i>Resident</i>	Nassau County Medical Center, NY

Current employment: Connecticut Eye Center

License: 029018                      Issued: 5/13/1988

Type of Practice: Ophthalmology

Board Certification: American Board of Ophthalmology

Malpractice History: None.

Past History with DPH: None.

Investigation Commenced: 10/26/2021

**THIS CONSENT ORDER DISCIPLINE:**

- Reprimand
- \$40,000 Civil Penalty

**DEPARTMENT SUMMARY OF THE CASE:**

The Department's Practitioner Licensing and Investigations Section opened this petition after receiving a referral from the Department's Facilities Licensing and Investigations Section.

On or about June 2, 2021, respondent performed cataract surgery on four patients and deviated from the standard of care in one or more of the following ways, in that respondent:

- (a) failed to ensure that the patients received the correct implant;
- (b) failed to comply with the surgical center's "time-out" protocol; and/or
- (c) failed to review the patient chart(s) prior to surgery to verify that the correct lens was selected and/or pulled for implant surgery.

**WILL THIS RESULT IN A REPORT TO THE N.P.D.B. BANK?**    Yes

Respondent has signed a Consent Order Review Agreement permitting the Connecticut Medical Examining Board to review the Investigative Report.

**CONFIDENTIALITY NOTICE:** *The documents attached may contain information that is confidential or privileged. Please do not disseminate, distribute or copy the contents or discuss with parties who are not directly involved in this petition.*

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

In re: Duane F. Austin, M.D.

Petition No. 2021-1012

**CONSENT ORDER**

WHEREAS, Duane F. Austin, M.D. of West Hartford, Connecticut ("respondent") has been issued license number 029018 to practice as a physician and surgeon by the Department of Public Health ("the Department") pursuant to Chapter 370 of the General Statutes of Connecticut, as amended; and,

WHEREAS, respondent admits that:

1. On or about June 2, 2021, respondent performed cataract surgery on four (4) patients. Respondent's care for the patient(s) deviated from the standard of care in one or more of the following ways, in that respondent:
  - a. failed to ensure that the patient(s) received the correct implant;
  - b. failed to comply with the surgical center's "time-out" protocol; and/or
  - c. failed to review the patient chart(s) prior to surgery to verify that the correct lens was selected and/or pulled for implant surgery.
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, 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 ("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 respondent's right to a hearing on the merits of this matter.
2. Respondent's license number 029018 to practice as a physician and surgeon in the State of Connecticut is hereby reprimanded.
3. Respondent shall pay a civil penalty of forty thousand dollars (\$40,000.00) 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 shall comply with all state and federal statutes and regulations applicable to respondent's licensure.
5. This Consent Order is effective on the date this Consent Order is accepted and ordered by the Board.
6. Respondent understands and agrees that this Consent Order is a public record.
7. Respondent understands and agrees that the above admitted violations shall be deemed true in any proceeding before the Board in which respondent's 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 respondent's physician profile pursuant to Connecticut General Statutes §20-13j.

8. 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 without the express consent and agreement of the Department. 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 respondent may have under the laws of the State of Connecticut or of the United States.
9. 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.
10. 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.

11. Respondent has been informed of the right to consult with an attorney prior to signing this Consent Order.
12. 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.
13. 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.

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I, Duane F. Austin, 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.

*Duane F. Austin MD*

Duane F. Austin, M.D.

Subscribed and sworn to before me this 5<sup>th</sup> day of August 2022.

*Beatriz Chacon*

Notary Public or person authorized by law to administer an oath or affirmation

**BEATRIZ CHACON**  
**NOTARY PUBLIC**  
My Commission Expires Apr. 30, 2027

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 29th day of August 2022, it is hereby accepted.

*Christian D. Andresen*

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

The above Consent Order having been presented to the Connecticut Medical Examining Board on the \_\_\_\_\_ day of \_\_\_\_\_ 2022, it is hereby ordered and accepted.

Kathryn Emmett, Esq., Chairperson  
Connecticut Medical Examining Board

## **VI. 120 DAY EXTENSIONS**

**Michael Smith, MD- Petition No. 2021-101**

Fact-finding completed, Decision being drafted

**Wayne Franco, MD- Petition No. 2018-1345**

Fact-finding completed, Decision being drafted

**Paul Willette, MD - Petition No. 2016-1305**

Hearing continued to December 6, 2022.

**Michael Kessler, MD - Petition No. 2021-681**

Hearing to be held November 2022.

**Sheikh Ahmed, MD - Petition Nos. 2017-184; 2018-133**

Hearing to be held November 2022.

**Prabhakar Reddy, MD - Petition No. 2019-384**

Hearing to be held November 2022.

**Anatoly Braylovsky, MD - Petition No. 2021-239**

Hearing to be held November 7, 2022.