

**STATE OF VERMONT
SECRETARY OF STATE, OFFICE OF PROFESSIONAL
REGULATION
BOARD OF OSTEOPATHIC PHYSICIANS AND SURGEONS**

**In re: Mark Rudolph Fantauzzi, DO
Docket No.: 2013-142
Appeal from Board's Order on Unprofessional Conduct
Charge**

ORDER ON BOARD'S MOTION TO DISMISS APPEAL

On January 14, 2014, Mark Rudolph Fantauzzi, DO, appealed from the December 16, 2013 Order of the VERMONT BOARD OF OSTEOPATHIC PHYSICIANS AND SURGEONS that revoked any right or privilege he may have to seek reinstatement of his occupational license, which had expired in Vermont. The license had remained in effect in the State of Ohio until that State permanently revoked it after Mr. Fantauzzi had surrendered it to the Ohio Board. Pennsylvania similarly revoked his license after Ohio did so.

I was appointed Appellate Officer in this matter on January 16, 2014.

Mr. Fantauzzi did not submit a statement of questions to be determined in the appeal with his notice of appeal, which came in the form of a letter. The Director of the Office of

Professional Regulation wrote to Mr. Fantauzzi on January 22, 2014 acknowledging receipt of the appeal and advising him that he must sent a **statement of questions** (his bold) within **ten** days (same) before the appeal can be scheduled. The objective of that statement of questions is to define the scope of issues to be determined in an appeal.

Nothing was forthcoming from Mr. Fantauzzi. On February 13, 2014 the State Prosecuting Attorney filed a motion to dismiss the appeal on the ground of non-compliance with OPR Rule 4.1(a) (the statement of questions requirement). Mr. Fantauzzi has not responded to that motion to dismiss. Under the circumstances, I have no choice but to grant the State's motion to dismiss.

THE APPEAL IS DISMISSED.

Dated: March 12, 2014

Michael H. Lipson
Appellate Officer

DATE ENTERED: 3/21/2014

APPEAL RIGHTS

This is a final administrative decision. A party may appeal this decision to the Superior Court in Washington County

by filing a written notice with the Director of the Office of Professional Regulation, Office of the Secretary of State, 89 Main Street, 3rd Floor, Montpelier, VT 05620-3402, within 30 days of the date this decision is entered.

**STATE OF VERMONT
BOARD OF OSTEOPATHIC PHYSICIANS AND SURGEONS**

In re: Mark Rudolph Fantauzzi, DO
License No. 032-407

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Docket No. 2013-142(DO)

**Decision on
UNPROFESSIONAL CONDUCT CHARGE**

Board Members Participating:

Daniel Wilson, D.O., Chair
William J. Cove, D.O.
John Peterson, D.O.
John Welch, Public Member, Vice Chair,
Mimi Kevan, Public Member, Secretary

Appearances:

Prosecuting the case: Edward G. Adrian
for Respondent: pro se, did not participate

Presiding Officer: Larry S. Novins

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER**

The Board of Osteopathic Physicians and Surgeons held a hearing in the above matter on December 16, 2013 at the Office of Professional Regulation conference room at the City Center in Montpelier, Vermont. Dr. Fantauzzi was provided notice of the hearing date by telephone in August and twice more via U.S. Postal Service mailings. He did not contact the office regarding his participation, or non-participation in the hearing.

The prosecution has the burden of proof in this matter. To prevail on any unprofessional conduct charge, it must prove the charge by a preponderance of the evidence.

Background

The prosecution alleges in its Specification of Charges that in violation of Vermont Statutes, Dr. Fantauzzi surrendered his license while unprofessional conduct allegations were pending against him giving the Board authority to take action against his license.

Findings of Fact

Based upon the evidence presented, the Board finds as follows:

1. Dr. Fantauzzi was licensed by this Board. His license expired on September 30, 2010.

He remains subject to the Board's disciplinary authority Board. 26 V.S.A. §§ 1842, 1843, 1855, 3 V.S.A. §§ 129, 129(a), 814(d), the Administrative Rules of the Board of Osteopathic Physicians and Surgeons, and the Rules of the Office of Professional Regulation.

2. On September 14, 2011 the Drug Enforcement Administration terminated Dr. Fantauzzi's DEA Certificate of Registration upon receipt of his surrender of that certificate.
3. On November 9, 2011 the State Medical Board of Ohio permanently revoked Dr. Fantauzzi's license following his surrender of it to them.
4. The surrenders followed allegations that Dr. Fantauzzi prescribed controlled substances other than for legitimate legal purposes, that he made false statements to the Ohio Board of Pharmacy in an application to become a terminal distributor of drugs, that one of his patients died from an overdose of drugs after he prescribed 112 dosage units of 15mg. and 30mg. oxycodone and 28 dosage units of alprazolam.
5. Dr. Fantauzzi's surrenders were knowingly and intelligently made with a full appreciation of their consequences at the time.
6. Dr. Fantauzzi's license was similarly revoked in Pennsylvania based on the Ohio conduct.

Conclusions of Law

1. The prosecution has proved by a preponderance of the evidence that the Board should act on the basis of the Ohio and DEA orders. The Board's authority to do so is set forth in 3 V.S.A. § 129(a)(5)(6) and 26 V.S.A. § 1842(3). Under 26 V.S.A. § 1842(3) Dr. Fantauzzi has committed unprofessional conduct.

Order

The seriousness of the allegations under which Dr. Fantauzzi surrendered his license and DEA certificate require the most serious sanction to protect the public. No lesser sanction is appropriate. Since Dr. Fantauzzi has no license at this time, any right or privilege he may have to seek reinstatement is hereby **revoked**.

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Osteopathic Physicians and Surgeons.

A party aggrieved by a final decision of a board may appeal this decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Vermont Secretary of State, 89 Main St., Fl. 3, Montpelier, VT 05620-3402 within 30 days of the entry of this order.

If an appeal is filed, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the

record, proof on that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.
To request a stay of the Board's decision, please refer to the attached stay instructions.

Vermont Board of Osteopathic Physicians and Surgeons

By: 
Daniel Wilson, D.O., Chair

Dated: December 16, 2013

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 12/16/13