

IN THE MATTER OF

*

BEFORE THE

C. THOMAS FOLKEMER, M.D.

*

MARYLAND STATE BOARD

Respondent

*

OF PHYSICIANS

License No.: D14751

*

Case No.: 2008-0868

* * * * *

ORDER AFTER SHOW CAUSE HEARING

On June 2, 2010, the Maryland State Board of Physicians (the "Board") charged C. Thomas Folkemer, M.D. with violating the Maryland Medical Practice Act, Md. Code Ann., Health Occ. §§ 14-101 – 14-702. On November 18, 2010, to resolve the charges, the Board and Dr. Folkemer entered into a Consent Order. Under the Consent Order, the Board found that Dr. Folkemer failed to meet the appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State, in violation of § 14-404(a)(22) of the Health Occupations Article; and failed to keep adequate medical records as determined by appropriate peer review, in violation of § 14-404(a)(40) of the Health Occupations Article. Based upon these findings, the Board and Dr. Folkemer agreed that his license to practice medicine in Maryland would be suspended for a minimum period of one year, with all but 90 days stayed, commencing on December 15, 2010. As agreed, after the 90 day period of active suspension, Dr. Folkemer would be placed on probation for a minimum period of three years, subject to certain probationary conditions. In March 2011, the suspension was lifted, and the minimum three year probationary period went into effect. Under the terms of the Consent Order, the Board would terminate the probation if, after three years from the commencement of the probation, Dr.

Folkemer petitioned for termination, Dr. Folkemer had complied with the terms of probation, and there were no complaints related to the charges.

Probationary condition three of the Consent Order provides:

The Respondent shall not practice pain management medicine and shall not dispense or prescribe any opiates or benzodiazepine medications to any patient or individual for longer than three (3) days and only in an emergency situation.

The Consent Order further provides:

ORDERED that if the Respondent violates any of the terms or conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before an administrative law judge at the Office of Administrative Hearings if there is a genuine dispute as to the underlying material facts, or an opportunity for a show cause hearing before the Board, may impose any other disciplinary sanction that the Board may have imposed, including a reprimand, probation, suspension, revocation and/or monetary fine, said violation being proven by a preponderance of the evidence.

On July 17, 2014, a Violation of Consent Order and Notice to Show Cause was issued.¹

The Violation of Consent Order and Notice to Show Cause charged Dr. Folkemer with violating probationary condition three of the Consent Order.

On September 10, 2014, a Show Cause Hearing was held before Board Disciplinary Panel A.² Dr. Folkemer appeared and was represented by counsel, Peter W. Sheehan, Jr., Esquire. The administrative prosecutor, Robert J. Gilbert, Assistant Attorney General, represented the State.

Based upon the information and material presented to Board Disciplinary Panel A, Board Disciplinary Panel A has determined, by the preponderance of the evidence, that Dr. Folkemer

¹ Consistent with the terms of the Consent Order, the probation had not been terminated.

² In 2013, under § 14-401 of the Health Occupations Article, the Board was divided into two disciplinary panels to resolve disciplinary cases. On September 9, 2014, Dr. Folkemer, through his legal counsel, consented to the Show Cause Hearing being held by a Board disciplinary panel, as opposed to the full Board.

violated the Consent Order. Dr. Folkemer violated condition 3 of the probationary terms of the Consent Order. There is no genuine dispute as to the underlying material facts. Dr. Folkemer acknowledges that prescriptions he wrote violated the Consent Order. Dr. Folkemer does not dispute that in December 2013, he prescribed opiates and benzodiazepine medications.³ Specifically, Dr. Folkemer, in December 2013, wrote 10 prescriptions for opiates and three prescriptions for Xanax (alprazolam), a benzodiazepine. The opiates and benzodiazepines were prescribed to be taken for longer than three days and were not in cases of emergencies. The facts were not disputed.

Dr. Folkemer has a long disciplinary history. In 1998, Dr. Folkemer and the Maryland medical licensing board⁴ entered into a Corrective Action Plan to resolve concerns with Dr. Folkemer's medical practice. In 1999, Dr. Folkemer was charged with violating the Corrective Action Plan. In 2000, Dr. Folkemer entered into a Consent Order with the licensing board to resolve the charges. He agreed to a stayed suspension and a three year probation. Dr. Folkemer complied with the terms of probation, and the probation was terminated in 2003. In 2010, Dr. Folkemer was again charged for failing to meet the appropriate standards of medical care and with keeping inadequate records. The Board's charges were based upon a complaint concerning Dr. Folkemer's prescribing practices, which involved his prescribing of Xanax, a benzodiazepine, in combination with the opioid, Methadone, a Schedule II controlled dangerous substance. As discussed above, Dr. Folkemer entered into a Consent Order with the Board,

³ The terms opiates and opioids are commonly interchanged. While technically they are different, in this case, the records have used them interchangeably to mean Schedule II controlled dangerous substances, such as oxycodone, OxyContin, hydromorphone, and Percocet. Thus, while understanding that they are different, Disciplinary Panel A has accepted that they have been used interchangeably in this case.

⁴ The medical licensing board at the time was called the Board of Physician Quality Assurance.

agreeing not to practice pain management and to not prescribe benzodiazepines or opiates in non-emergency situations, and, in an emergency, to prescribe for no more than three days.

In December 2013, however, while under the terms of the Consent Order, Dr. Folkemer started working at a pain management medical practice and immediately prescribed opiates and benzodiazepines. Dr. Folkemer has explained to the Board that he violated the Consent Order due to the “tremendous financial pressure that he was under,” which he attributes to the Consent Order. While Disciplinary Panel A is sympathetic to the hardships caused by financial distress, the panel does not accept that it justifies violating the Consent Order. Dr. Folkemer’s violation directly concerns his conduct that resulted in the Consent Order. With such a flagrant violation, Dr. Folkemer has demonstrated that he lacks the judgment necessary for a license to practice medicine in the State.

Based upon Dr. Folkemer’s violation of the Consent Order and pursuant to the terms of the Consent Order, it is, by Disciplinary Panel A, hereby

ORDERED that C. Thomas Folkemer, M.D.’s license to practice medicine in Maryland is **PERMANENTLY REVOKED**; and it is further

ORDERED that this is a public document.

10/23/2014
Date

Christine A. Farrelly
Christine A. Farrelly, Executive Director
Maryland State Board of Physicians