

Grace E. Ziem, M.D.

3 31, 2016

Suresh K. Gupta, M.D., Vice Chair
Maryland State Board of Physicians
4201 Patterson Avenue, 4th Floor
Baltimore, MD 21215

RE: Permanent Surrender of License to Practice Medicine
Grace E. Ziem, M.D.
License Number: D18732
MBP Case Number: 2015-0695 B

Dear Dr. Gupta and Members of Disciplinary Panel B,

Please be advised that I have decided to **PERMANENTLY SURRENDER** my license to practice medicine in the State of Maryland, License Number D18732, effective immediately. I understand that upon the surrender of my license, I may not give medical advice or treatment to any individual, with or without compensation, and cannot prescribe medications or otherwise engage in the practice of medicine in the State of Maryland as it is defined in the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. II (Health Occ. II"), §§ 14-101 *et seq.* (2014 Repl. Vol. and 2015 Supp.) and other applicable laws. In other words, as of the effective date of this Permanent Letter of Surrender, I understand that the surrender of my license means that I am in the same position as an unlicensed individual in the State of Maryland.

I understand that this Permanent Letter of Surrender is a **PUBLIC DOCUMENT** and on Disciplinary Panel B's ("Panel B") acceptance, becomes a **FINAL ORDER** of Panel B of the Maryland State Board of Physicians (the "Board").

I have decided to permanently surrender my license to practice medicine in the State of Maryland to avoid further prosecution of the December 18, 2015 disciplinary charges and the March 28, 2016 amended charges alleging that I violated Health Occ. II § 14-404(a)(3)(ii)(unprofessional conduct) and due to personal and medical issues which have adversely affected my ability to practice medicine. A copy of the amended charges is attached as Attachment 1.

I wish to make it clear that I have voluntarily, knowingly and freely chosen to submit this Permanent Letter of Surrender to avoid prosecution of the aforementioned disciplinary charges under the Act and in order to resolve this matter. I acknowledge that if the case proceeded to a hearing, the State would be able to prove the charges by a

Dr. Gupta and Members of Disciplinary Panel B
RE: Grace E. Ziem, M.D.
Permanent Letter of Surrender
Lic. No. D18732

Page 2

preponderance of the evidence. I acknowledge that for all purposes relevant to medical licensure, the investigative allegations in the disciplinary charges will be treated as if proven.

Prior to the issuance of the December 18, 2015 disciplinary charges, Panel B summarily suspended my license to practice medicine in Maryland. I filed a timely appeal. I understand that by executing this Permanent Letter of Surrender I am foregoing the opportunity to continue my appeal of the summary suspension, which is now pending at the Office of Administrative Hearings ("OAH"). I am also waiving my right to contest the December 18, 2015 disciplinary charges and the amended charges at a formal evidentiary hearing. In waiving my right to a formal evidentiary hearing, I am also waiving the right to be represented by counsel at the hearing, to confront witnesses, to give testimony, to call witnesses on my own behalf, and all other substantive and procedural protections provided by law, including the right to appeal to a circuit court. I do not wish to continue my appeal of the summary suspension or contest the disciplinary charges.

I understand that the Board will advise the Federation of State Medical Boards, the National Practitioners' Data Bank, and the Healthcare Integrity and Protection Databank of this Letter of Surrender, and in response to any inquiry, that I have permanently surrendered my license in lieu of further disciplinary action under the Act. I also understand that in the event I would apply for licensure in any form in any other state or jurisdiction, that this Permanent Letter of Surrender may be released or published by the Board to the same extent as a Final Order that would result from disciplinary action, pursuant to Md. Code Ann. Gen. Pro. § 4-101 *et seq.* (2014 and 2015 Supp.), and that this Permanent Letter of Surrender shall constitute a disciplinary action by Panel B.

I affirm that as of the date of this Permanent Letter of Surrender, I will present to the Board my original Maryland medical license, number D18732, and my most recent wallet-sized renewal card. I will also provide my patients with access to and copies of medical records, upon request, and I acknowledge that I have a continuing duty, on proper request, to provide a patient's medical record to the patient, another physician or hospital in accordance with Title 4, subtitle 3 of the Health General article.

I further recognize and agree that by tendering this Permanent Letter of Surrender, my license in Maryland will remain permanently surrendered. In other words, I agree that I have no right to reapply and will not reapply for a license to practice medicine in the State of Maryland. I further acknowledge that the Board is not obligated to consider any application for licensure or reinstatement that I might file at a future date and that I waive any hearing rights regarding any such application.

Dr. Gupta and Members of Disciplinary Panel B
RE: Grace E. Ziem, M.D.
Permanent Letter of Surrender
Lic. No. D18732

Page 3

I acknowledge that I may not rescind this Permanent Letter of Surrender in part or in its entirety for any reason whatsoever. Finally, I wish to make clear that I have been represented by an attorney throughout the proceedings before Panel B, including prior to signing this Permanent Letter of Surrender. I understand both the nature of Panel B's actions and this Permanent Letter of Surrender fully. I acknowledge that I understand and comprehend the language, meaning, terms, and effect of this Permanent Letter of Surrender. I voluntarily choose to surrender my Maryland license to practice medicine permanently pursuant to the terms and conditions set out herein. I make this decision knowingly and voluntarily.

Very truly yours,

Grace E. Ziem M.D.
Grace E. Ziem, M.D.

NOTARY

STATE OF Maryland

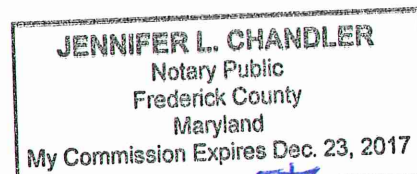
CITY/COUNTY OF Frederick

I HEREBY CERTIFY that on this 3rd day of March, 2016 before me, a Notary Public of the City/County aforesaid, personally appeared Grace E. Ziem, M.D., and declared and affirmed under the penalties of perjury that the signing of this Permanent Letter of Surrender was her voluntary act and deed.

AS WITNESS my hand and Notarial seal.

Jennifer L. Chandler *commissioned as*
Jennifer L. Chandler
Notary Public

My commission expires: Dec. 23, 2017.



ACCEPTANCE

On behalf of the Panel B of Maryland Board of Physicians, on this 5th day of April, 2016, I, Christine A. Farrelly, accept Grace E. Ziem, M.D.'s **PERMANENT SURRENDER** of her license to practice medicine in the State of Maryland.

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

IN THE MATTER OF

GRACE EDITH ZIEM, M.D.

Respondent

License Number: D18732

*

*

*

*

BEFORE THE

MARYLAND STATE

BOARD OF PHYSICIANS

Case Numbers: 2015-0695B

* * * * *

AMENDED CHARGES UNDER THE MARYLAND MEDICAL PRACTICE ACT

Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") hereby charges Grace Edith Ziem, M.D. (the "Respondent"), License Number D18732, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 14-101 *et seq.* (2014 Repl. Vol.).

The pertinent provision of the Act under Health Occ. II § 14-404 provides the following:

- (a) Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

- (3) Is guilty of:

....

- (ii) unprofessional conduct in the practice of medicine;

The following provision of the American Medical Association Code of Medical Ethics is pertinent in part to the charge of unprofessional conduct in the practice of medicine:

Opinion 8.19 – Self-treatment or Treatment of Immediate Family Members (June 1993)

Physicians generally should not treat themselves or members of their immediate families. Professional objectivity may be compromised when an immediate family member or the physician is the patient; the physician's personal feelings may unduly influence his or her professional medical judgment, thereby

ATTACHMENT #1

interfering with the care being delivered. Physicians may fail to probe sensitive areas when taking the medical history or may fail to perform intimate parts of the physical examination...When treating themselves or immediate family members, physicians may be inclined to treat problems that are beyond their expertise or training.

...Concerns regarding patient autonomy and informed consent are also relevant when physicians attempt to treat members of their immediate family. Family members may be reluctant to state their preferences for another physician or decline a recommendation for fear of offending the physician...

...Except in emergencies, it is not appropriate for physicians to write prescriptions for controlled substances for themselves or immediate family members. (I, II, IV)

ALLEGATIONS OF FACT¹

Panel B bases its charges on the following facts that Panel B has reason to believe are true:

I. Background

1. At all times relevant hereto, Respondent was and is licensed to practice medicine in the State of Maryland. Respondent was originally licensed to practice medicine in Maryland in 1975. Respondent last renewed her license in or about September 2015, which will expire on September 30, 2017.

2. Since 1997, Respondent has maintained an office for the solo practice of medicine in Emmitsburg, Maryland. The office is located on the lower level of her split level residence in a rural part of northern Frederick County.

3. Respondent's self-designated specialty is "occupational medicine and toxicology." Respondent specializes in "outpatient care of patients with chronic illness

¹ The allegations set forth in these charges are intended to provide Respondent with notice of the alleged charges. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against Respondent in connection with these charges.

following toxic exposure.” Respondent sees two or three patients a month for face-to-face office visits. Many of her patients are from out-of-state. Respondent has teleconference consultations with four or five patients a day. Respondent practices medicine 3 and ½ days a week.

4. Respondent is not board-certified by any of the specialty boards of the American Board of Medical Specialties.

5. Respondent does not hold any hospital privileges.

II. Complaints

A. 2014 Incident Report

6. On March 31, 2015, the Board received an Incident Report from the Frederick County Sheriff's Office (the "Sheriff's Office") describing an incident that occurred on August 12, 2014 at 10:55 p.m. at Respondent's residence.

B. 2015 Incident Report

7. On May 13, 2015, the Board received a second Incident Report from the Sheriff's Office describing an incident that occurred on March 19, 2015 at Respondent's residence.

III. Investigation of Complaints

A. Interview of Corporal and Respondent

8. On May 15, 2015, Board staff interviewed the Corporal under oath.

9. On June 3, 2015, Respondent submitted to the Board a written response to the reports. Respondent stated that Family Member A's medical care is very complex, including the necessity for pain control.

10. On June 4, 2015, Board staff interviewed Respondent under oath.

Respondent testified to the following:

- a. She is Family Member A's treating physician which involves coordinating his care since he has many medical problems. His former physician is now retired.² She follows the former physician's "pain control regimen." She prescribes medications, such as oxycodone,³ diazepam,⁴ and Propranolol⁵ and she also uses natural approaches. She treats Family Member A for joint discomfort and she prescribed physical therapy. Family Member A has had a spinal fusion by a neurosurgeon.

11. On June 4, 2015, at the conclusion of the interview, Respondent was hand delivered correspondence from the Board directing her to present to a designated laboratory for a series of drug and alcohol tests.

12. On June 9, 2015, Respondent called the Board staff person stating that she forgot to mention something during her interview on June 4. She stated that on the evening of June 3, she took a 5 mg tablet of Valium that was prescribed for Family Member A. She took the Valium because she had a nightmare and needed help going back to sleep. She stated that she suffers from nightmares related to being in Vietnam from 1968 to 1970 when she was employed as a volunteer.

B. Laboratory Testing

13. On June 15, 2015, the Board received a facsimile of the reports from a laboratory on June 5, 2015. The reports revealed the following:

- a. Positive urine for Oxazepam, Nordiazepam, and Temazepam;⁶

² This physician is in Indiana. Family Member A last saw him prior to 1999 when Family Member A moved to Maryland.

³ Oxycodone is a Schedule II Controlled Dangerous substance ("CDS").

⁴ Diazepam is a Schedule IV CDS.

⁵ Propranolol is a beta-blocker that is used to treat tremors, angina (chest pain), hypertension (high blood pressure), heart rhythm disorders, and other heart or circulatory conditions.

⁶ Oxazepam, Nordiazepam, and Temazepam are metabolites of diazepam (Valium).

b. Positive urine for Ethyl Glucuronide;⁷ and

c. Positive urine for Ethyl Sulfate.⁸

C. Neuropsychological Testing

14. On June 19, 2015, the Board sent correspondence to Respondent directing her to undergo a neuropsychological evaluation on July 2, 2015.

15. On June 30, 2015, the Board sent the following documents to the psychologist:

- a. Complaint from the Frederick County Sheriff's Office, March 31, 2015;
- b. Respondent's written response to complaint with photographs;
- c. Transcript of Interview of Corporal McCutcheon, May 15, 2015;
- d. Transcript of the interview of Respondent, June 4, 2015;
- e. Board memo regarding a telephone call received from Respondent, June 9, 2015; and
- f. Toxicology report from Friends Laboratory, June 23, 2015.

16. On July 9, 2015, the Board received the psychologist's neuropsychological test report.

D. Interviews with Family Member A

17. On November 23, 2015 and November 30, 2015, Board staff interviewed Family Member A under oath.

E. Interviews with Office Staff

18. Respondent employs two individuals in her practice. On December 3, 2015, Board staff interviewed Employee A, under oath; and on December 4, 2015,

⁷ Ethyl Glucuronide (EtG) is a urine alcohol test to check for the presence of the Ethyl (drinking) Alcohol metabolite, Ethyl Glucuronide. The detection period is generally up to 80 hours after ingestion.

⁸ Ethyl Sulfate (EtS) is a second specific metabolite or biomarker of ethanol. EtS is tested and reported in conjunction with EtG, to confirm recent ethanol ingestion or exposure. The detection of EtG and EtS offers greater sensitivity and accuracy for determination of recent ethanol ingestion, than by detection of either biomarker alone.

Board staff interviewed Employee B under oath.

F. Respondent's Medical Records of Treatment of Family Member A

19. In response to a Board subpoena, Respondent produced the following records of her care and treatment of Family Member A:

- a. Clinical Notes on the following dates: October 29, 2009, July 23, 2012, January 5 and 23, March 1 and 11, July 6, August 16, September 24, October 25, November 22, December 6, 2013, January 21, May 24, July 1, November 24, 2014, January 8 and 29, March 16, and April 8, 2015.
- b. Handwritten prescriptions for:
 - i. "Ulcer cream" July 7, 2006 and Wound Care cream, January 18, 2008;⁹
 - ii. Morphine 504 1 mg/0.1 ml #30, January 18, 2008;
 - iii. Diazepam¹⁰ 5 mg one every 4 to 6 hours #180, July 6, 2013, January 24, and July 1, 2014;
 - iv. Oxycodone¹¹ 5 mg ½ tab every 4 to 6 hrs, #90, July 6, September 20, October 25, 2013; January 22, April 4, May 24, July 1, November 24, 2014; January 8, and April 8, 2015;
 - v. Propranolol¹² 40 mg. 1 tab two times a day, September 20, 2013;
 - vi. Sonata¹³ 10 mg #60, October 25, 2013
 - vii. Hydrocortisone¹⁴ 10 mg, one q am #90 October 25, 2013 and January 21, 2014;
 - viii. Ciprodex otic¹⁵ 7.5 ml bottle, March 4, July 31, and November 24, 2014;
 - ix. Ranitidine¹⁶ 300 mg #60, July 1, 2014;

⁹ Sent by facsimile to a compounding center in Kent, Washington.

¹⁰ Diazepam, a benzodiazepine, used to treat anxiety disorders, alcohol withdrawal symptoms, or muscle spasms, is a Schedule IV CDS.

¹¹ Oxycodone, an opioid, used to treat moderate to severe pain, is a Schedule II CDS.

¹² Propranolol is a beta blocker used to treat high blood pressure, angina (chest pain), irregular heartbeat, migraine headaches, tremors, and lowers the risk of repeated heart attacks. Propranolol is also used to treat anxiety.

¹³ Sonata is a non benzodiazepine Schedule IV sleep aid.

¹⁴ Hydrocortisone is a corticosteroid hormone.

¹⁵ Ciprodex is a combination antibiotic and anti-inflammatory corticosteroid.

¹⁶ Ranitidine is used to treat stomach acid.

- x. Avelox¹⁷ 400 mg #14, October 27, 2014;
 - xi. Azithromycin¹⁸ 500 mg #5, November 1, 2014; and
 - xii. "Physical Therapist Expert Consultation," April 8, 2015;
- c. Laboratory reports of testing that Respondent ordered between April 2006 and February 2015;
 - d. Reports and referrals for evaluation of medical and orthopedic conditions; and
 - e. Reports to Medicare in support of recommended services.

G. Pharmacy Records

20. Pursuant to a Board subpoena to area pharmacies, a computer printout from one of the pharmacies confirmed that Respondent wrote at least a total of 64 prescriptions for Family Member A between January 1, 2014 and November 24, 2015.

21. The computer printout also revealed that between January 1, 2014 and November 24, 2015, Respondent wrote additional prescriptions for Family Member A for Diazepam 5mg #180 tablets, every four to six weeks that were not documented in her medical record. On only a couple of occasions the span between prescriptions was approximately 8 weeks.

H. Mail Order Pharmacy Records

22. Pursuant to a subpoena to two mail order pharmacies, invoices revealed that from January 1, 2013 to December 1, 2015, Respondent ordered, and was shipped, the following CDS:

- a. May 2013 - Zaleplon¹⁹ 10 mg – two bottles of 100 tablets each
- b. May 2103 - Amitriptyline²⁰ 75 mg. – three bottles of 100 tablets each

¹⁷ Avelox is used to treat acute bacterial sinusitis or chronic bronchitis.

¹⁸ Azithromycin is an antibiotic used to treat a variety of bacterial infections.

¹⁹ Zaleplon, marketed under the brand name of Sonata, is a sedative-hypnotic used for the management/treatment of insomnia.

- c. May 2013 - Diazepam 5 mg – one bottle of 1000 tablets
- d. June 2013 - Clonazepam 2 mg - one bottle of 500 tablets
- e. January 2014 - Amitriptyline 75 mg – five bottles of 100 tablets
- a. April 2014 – Diazepam 10 mg – two bottles of 500 tablets
- b. July 2014- Amitriptyline 75 mg – one bottle of 100 tablets
- c. May 2015 - Diazepam 10 mg - two bottles of 100 tablets each

23. Respondent does not hold a dispensing permit.

IV. Allegations of Unprofessional Conduct in the Practice of Medicine

24. Respondent engaged in unprofessional conduct in the practice of medicine by:

- a. Ordering CDS for her personal use; and/or for dispensing to family, friends, or patients, without a permit to dispense prescription drugs;
- b. Treating Family Member A as his primary care physician, for conditions which are outside her expertise and training on an ongoing basis at least since 2009;
- c. Prescribing medications for Family Member A since at least 2006 and prescribing medications, including controlled substances, for Family Member A on an ongoing basis since at least 2013;
- d. Ordering laboratory tests, requesting referrals, and submitting summary reports of Family Member A's medical condition; and
- e. Taking benzodiazepine (Valium) which she had prescribed for Family Member A (her patient).

NOTICE OF DISCIPLINARY COMMITTEE FOR CASE RESOLUTION SETTLEMENT

Pursuant to the Notice provided in the original charging document issued on December 18, 2015, the Respondent appeared before Panel B at a Disciplinary Committee for Case Resolution ("DCCR") conference on **Wednesday, February 24, 2016** at the Board's office, 4201 Patterson Avenue, Baltimore, Maryland 21215. As discussed at the DCCR conference, Panel B agreed to amend the charges in this case in exchange for the Respondent executing a permanent letter of surrender.

²⁰ Amitriptyline, a tricyclic antidepressant, also known as Elavil, is used to treat symptoms of depression.

If this case is not resolved through a permanent letter of surrender, a prehearing conference and hearing will be scheduled at the Office of Administrative hearings on the December 18, 2015 charges. The Notice of Possible Sanctions from the December 18, 2015 charging document is incorporated into this document.

BRIAN E. FROSH
Attorney General of Maryland

March 28, 2016
Date

Janet Klein Brown
Janet Klein Brown
Assistant Attorney General
Health Occupations Prosecution and Litigation Division
Office of the Attorney General
300 West Preston Street, Suite 201
Baltimore, Maryland 21201