

IN THE MATTER OF
ROBERT W. OLWINE, M.D.

Respondent

License Number: D36246

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Numbers: 2011-0723, 2012-
0269, 2012-0367 and 2012-0398

* * * * *

ORDER FOR SUMMARY SUSPENSION OF LICENSE TO PRACTICE MEDICINE

The Maryland State Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** the license of **ROBERT W. OLWINE, M.D.** (the "Respondent") (D.O.B., 10/15/1931), License Number D36246, to practice medicine in the State of Maryland. The Board takes such action pursuant to its authority under Md. State Gov't Code Ann. ("S.G.") § 10-226(c)(2009 Repl. Vol. and 2011 Supp.), concluding that the public health, safety or welfare imperatively requires emergency action.

INVESTIGATIVE FINDINGS

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true:¹

¹ The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the basis of the summary suspension. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

BACKGROUND FINDINGS

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on February 3, 1988, under License Number D36246. The Respondent's license is scheduled to expire on September 30, 2013.

2. The Respondent practices at several locations, including: Maryland Health Care Clinics, 6615 Reisterstown Road, Baltimore, Maryland 21215; and Southern Maryland Physical Therapy and Chiropractic, located at 12106 Old Line Center, Waldorf, Maryland 20602. The Respondent also provides medical care from his residence, located at 10611 St. Paul Avenue, Woodstock, Maryland 21163.

3. The Respondent is board-certified in general surgery.

4. The Respondent does not have any medical staff or admitting privileges at any hospitals in Maryland.

Prior disciplinary findings

5. In or around 1994, the Board (then known as the State Board of Physician Quality Assurance) charged the Respondent with failing to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical care, in violation of Md. Health Occ. Code ("H.O.") § 14-404(a)(22). In its charges, the Board alleged that the Respondent failed to meet quality medical standards in the assessment and treatment of six patients.

6. The Respondent resolved the Board's charges by entering into a Consent Order in which the Board found as a matter of law that the Respondent failed to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care, in violation of H.O. § 14-404(a)(22). Pursuant to the

Consent Order, the Board suspended the Respondent's license for 90 days, which it immediately suspended, and placed him on probation for three years, subject to a series of probationary terms and conditions, including peer review and 300 hours of community service.

7. By an Order, dated March 30, 1999, the Board terminated the Respondent's probation.

Current investigation

8. The Board initiated its current investigation of the Respondent based on a series of complaints that questioned the Respondent's professional competency and the legality of his prescribing practices involving narcotic medications.

9. As part of its investigation, Board investigators subpoenaed medical records from the Respondent, acquired pharmacy surveys, conducted a site visit at the Respondent's residence where he sees patients, and interviewed the Respondent and a family member who represented that he/she assisted the Respondent in providing medical care to patients.²

10. The Board also sought an opinion from a physician with a subspecialty in pain management (the "Expert"). The Board requested that the Expert provide an expert opinion regarding the Respondent's level of professional competence, his conduct in the practice of medicine, and the propriety of his prescribing practices.

11. The Expert submitted a report to the Board, dated April 4, 2012, in which he concluded that the Respondent engaged in unprofessional conduct in the practice of

² For confidentiality purposes, this Order for Summary Suspension will not disclose the names of any family members or other individuals referenced herein. The Respondent may obtain the identity of any family members or other referenced individuals by contacting the assigned administrative prosecutor.

medicine, was professionally incompetent, and prescribed drugs for illegal or illegitimate purposes.

12. After reviewing the Respondent's medical practice, the Board issues this Order for Summary Suspension pursuant to S.G. § 10-226(c)(2). The Board concludes that the Respondent's actions constitute a substantial likelihood of risk of serious harm to the public health, safety and welfare, which imperatively requires the immediate suspension of his license to practice medicine.

13. The Board's investigative findings are set forth *infra*.

BOARD INVESTIGATIVE FINDINGS

Complaint Number 2011-0723

14. On or about April 5, 2011, the Board received a complaint about the Respondent from a detective from the Baltimore County Police Department who investigated two individuals³ who presented prescriptions that the Respondent wrote to a Baltimore County pharmacy. The prescriptions were for large quantities of opiates and benzodiazepines. The detective stated that one of the individuals abruptly left the pharmacy after the pharmacist asked him for identification. The detective contacted the Respondent, who had difficulty in verifying the prescriptions. The detective then interviewed one of the Respondent's family members, who stated that the two individuals and a third individual, related to one of the two individuals, all come to the Respondent's home to receive prescriptions for narcotics. The detective stated that after conducting his investigation, he had concerns about the Respondent's mental competency, how he was conducting his medical practice, the individuals who were

³ Board investigation determined that these individuals are related to the Respondent.

facilitating his professional practices, the large counts of narcotic prescriptions he was writing, and the environment in which he was practicing.

Complaint Number 2012-0269

15. On or about October 11, 2011, the Board received a complaint from a Montgomery County pharmacist who reported concerns about a patient who was receiving multiple narcotic prescriptions from the Respondent. The pharmacist reported that when he called the Respondent to verify the prescriptions, the Respondent seemed to be “elderly and confused.”

Complaint Number 2012-0367

16. On or about December 6, 2011, the Board received a complaint from an officer from the Salisbury County Police Department, who reported the results of his investigation into possible prescription fraud involving an opiate prescription that was written by the Respondent. The officer stated that he contacted the Respondent on two occasions to verify the prescription and in both instances the Respondent’s speech was slurred, sluggish and confused. The officer reported that the Respondent directed him to one of his relatives who assisted him in his practice. This individual stated that at times, the Respondent writes prescriptions for patients but does not actually see or examine them.

Complaint Number 2012-0398

17. On or about November 7, 2011, the Board received a complaint that the Respondent has patients see him at a residential location that is not zoned for commercial use.

Investigative interviews

18. On or about March 1, 2012, Board investigators interviewed the Respondent and the relative who is actively involved in the Respondent's medical practice (see ¶ 9 above). The Respondent stated that he prescribes controlled dangerous substances ("CDS"), including narcotic medications and attention deficit hyperactivity disorder ("ADHD") drugs (e.g., Adderall), to patients based on his patients' representations that they were receiving the medications from other physicians. The Respondent does not verify that the patients were in fact receiving the medications from other physicians. The Respondent does not independently verify that his patients were seeing other physicians or were being treated by other physicians. When prescribing narcotics or ADHD medications, the Respondent does not require that his patients produce their prior medical records for continued treatment. The Respondent stated that he prescribes narcotic medications to patients based on "what they say they need" and upon their request. The Respondent performs limited to no medical examinations prior to prescribing narcotic medications to patients. The Respondent prescribes narcotic medications and ADHD drugs for family members, without maintaining medical records. The Respondent treats family members with ADHD drugs without examining them or obtaining their prior treatment records to verify their diagnoses. The Respondent did not maintain prescription logs for family members.

19. During the interview, the Respondent had episodes of confusion and at one point was unable to state what his specialty was. The Respondent was only able to identify his medical specialty after being prompted by a Board investigator. The Respondent stated that the relative who assists him in his practice manages his incoming patients and writes the prescriptions that he signs. He also stated that he has

no systems in place to guard against fraud or “doctor shopping.” The Respondent stated that he was under the care of another physician but writes refills for his medications. The Respondent acknowledged that it was “strange” not to maintain records on his family members for whom he was prescribing scheduled drugs, but did it “for their convenience.”

20. The Respondent’s family member stated that the Respondent: does not do physical examinations of patients prior to prescribing narcotic medications for them; has no formal training in pain management medicine; does not have a formal relationship with a physician for coverage purposes; does not have any equipment in his home office other than a blood pressure cuff; does not order tests on patients but refers them to their primary medical physician for such testing; writes prescriptions for himself; treats family member for a variety of significant medical conditions; writes prescriptions for other family members; and does not maintain prescription logs for his family members’ prescriptions. The Respondent’s family member stated that he/she has a significant involvement in the Respondent’s medical practice, which includes interviewing patients about their conditions and writing prescriptions for them, which he/she claims the Respondent then verifies.

Additional Board investigation

21. Board investigators reviewed medical records the Respondent provided, which revealed little to no objective or diagnostic information; terse notations; and prescriptions for patients for significant quantities of narcotic medications (e.g., 180 pills) on a weekly or bi-weekly basis. On February 6, 2012, Board investigators made a site visit to the Respondent’s residence, where he sees patients. Board investigators

observed that in the foyer of the Respondent's residence, where he stated he sees patients, he did not have an examining table or other medical equipment.

Expert Review

22. The Board requested an opinion from the Expert to determine if the Respondent engaged in unprofessional conduct in the practice of medicine, was professionally incompetent, and prescribed drugs for illegal or illegitimate medical purposes. The Expert reviewed a variety of Board investigative materials, including Board interviews with the Respondent and the relative who worked with him, patient medical records, pharmacy surveys, the Respondent's office charts and prescribing surveys.

23. The Expert found that the Respondent prescribed excessive quantities of narcotic medications to patients in a completely inappropriate manner, often prescribing 30-day supplies of potent narcotic medications and benzodiazepines to patients on a weekly basis or bi-weekly basis. The Respondent frequently prescribed such medications without appropriate indication, assessment, monitoring, documentation or evaluation for diversion or non-compliance.

24. The Expert concluded that the Respondent engaged in unprofessional conduct in the practice of medicine, was professionally incompetent, and prescribed drugs for illegal or illegitimate medical purposes. The Expert also expressed concern that the Respondent's relative's involvement with the Respondent's patients constitutes the unlawful practice of medicine.

Unprofessional conduct

25. The Expert found that the Respondent engaged in ongoing unprofessional conduct in the practice of medicine, which caused direct harm to patients and the public. In support of his opinion, the Expert stated the following:

After reviewing the records, it is my professional opinion that the Respondent did indeed participate in ongoing unprofessional conduct. He wrote prescriptions for himself ... [and several relatives] ... based solely on the patient's word what their doctor had given them in the past. He did not keep adequate medical records. He wrote potent opioids (oxycodone 30 mg, 15 mg and Percocet 10/325 mg) in high doses without taking a medical history, performing an examination, reviewing prior medical records, developing an assessment or treatment plan. He wrote these high doses of potent opioids without regard to patient medical need and without regard to any sense of how frequently they were being prescribed. In many cases he wrote a one month supply of high dose opioids and alprazolam every week or two. He essentially allowed ...[a relative] ... to practice medicine by seeing the patient, taking a history and even writing prescriptions that he then signed although many of the photocopies of prescriptions appear to be signed by another person (with a few not matching at all). He did not recognize or act on common drug related aberrant behaviors. He failed to see the necessity of performing a physical examination on patients prior to writing them potent CDS as noted by his comment, "It doesn't—the motion of the back or neck, or arms or lower extremities ... Well, the deep tendon reflexes, I may check those." The Respondent failed to document and substantiate the medical diagnoses for which these medications were being prescribed. The Respondent's documentation was negligent. Most of his records were unsigned and at least one was undated.

The Respondent never obtained urine drug screenings. Because the Respondent failed to recognize aberrant drug-related behaviors, he did not make any referrals for substance abuse counseling or mental health services.

Professional incompetence

26. The Expert found that the Respondent was professionally incompetent. In support of his opinion, the Expert stated the following:

The Respondent is not professionally competent to practice medicine. The Respondent's medical decision process was grossly incompetent.

He appears to need ... [a relative] ... to be an aide to interact with the patients that he treated. The Respondent did not integrate historical items, physical exam findings, and laboratory findings to develop an appropriate assessment or plan of care that considered the risks and benefits of his treatment with narcotics and other potent sedative hypnotics. The Respondent did not adequately search for clues as to the patient's complaints, motivation or compliance. A complete assessment and plan based on relevant information was never developed. It appears that he is mentally incompetent to practice medicine. He totally lacks insight into the motivations of his patients and as ... [the Respondent] ... stated in the interview, "because they told me that they had this condition" he uses as his justification to write a prescription. It also appears that his employers were using him to provide CDS mediations to patients seen in the chiropractic clinics treating auto/work comp patients.

Prescribing drugs for illegal or illegitimate medical purposes

27. The Expert found that the Respondent prescribed drugs for illegal or illegitimate medical purposes. In support of his opinion, the Expert stated the following:

The Respondent did prescribe drugs that were being used for illegal and illegitimate medical purposes. In some cases, the Respondent would continue to prescribe high dose narcotics to patients despite clear evidence of diversion—he wrote prescriptions every week or two that, even in the high doses that he was providing, would last a month. He would ignore or fail to recognize clear aberrant drug-related behavior. One possible explanation is that he did not see or even write many of the prescriptions but rather ... [one or more relatives] ...with access to his prescription pads in his home wrote some of them.

It is clear that the Respondent had ... [a] ... lack of adequate training in pain management, which is evident by his overall opioid prescribing practices, his failure to provide medical necessity and therapeutic rationale for his limited treatment protocols, and his lack of essential documentation in the medical record.

28. After reviewing the Respondent's professional activities and level of professional and mental competence, the Board issues this Order for Summary Suspension pursuant to S.G. § 10-226(c)(2). The Board concludes that the Respondent's actions constitute a substantial likelihood of risk of serious harm to the

public health, safety and welfare, which imperatively requires the immediate suspension of his license to practice medicine.

29. Based on its investigation, the Board has a basis to charge the Respondent under the following provisions of the Act under H.O. § 14-404(a):

- (3) Is guilty of: (i) immoral conduct in the practice of medicine; or (ii) unprofessional conduct in the practice of medicine;
- (4) Is professionally, physically or mentally incompetent;
- (18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine; [and]
- (27) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes.

CONCLUSIONS OF LAW

Based on the foregoing investigative facts, the Board concludes that the public health, safety or welfare imperatively require emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226(c)(2)(2009 Repl. Vol. and 2011 Supp.).

ORDER

It is this 18th day of May, 2012, by a majority of the quorum of the Board:

ORDERED that pursuant to the authority vested by Md. State Gov't Code Ann. §10-226(c)(2), the Respondent's license to practice medicine in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that a post-deprivation hearing in accordance with Code of Maryland Regulations tit. 10, § 32.02.05.B(7), C and E on the Summary Suspension has been scheduled for **Wednesday, May 9, 2012 at 9:30 a.m.**, at the Maryland State Board of

Physicians, 4201 Patterson Avenue, Room 108, Baltimore, Maryland 21215-0095; and it is further

ORDERED that at the conclusion of the **SUMMARY SUSPENSION** hearing held before the Board, the Respondent, if dissatisfied with the result of the hearing, may, within ten (10) days, request an evidentiary hearing, such hearing to be held within thirty (30) days of the request, before an administrative law judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and it is further

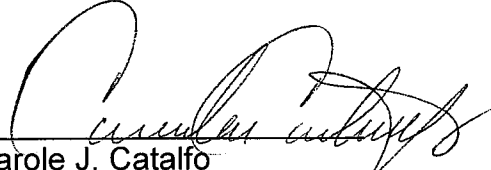
ORDERED that on presentation of this Order, the Respondent **SHALL SURRENDER** to the Board's investigator the following items:

- (1) his original Maryland License D36246;
- (2) his current renewal certificate;
- (3) DEA Certificate of Registration, # F01268184 (exp. 12/31/2014);
- (4) Maryland Controlled Dangerous Substance Registration, # M27421 (exp. 01/31/2013);
- (5) All controlled dangerous substances in his possession and/or practice;
- (6) All Medical Assistance prescription forms;
- (7) All prescription forms and pads in his possession and/or practice; and
- (8) Any and all prescription pads on which his name and DEA number are imprinted.

AND IT IS FURTHER ORDERED that a copy of this Order of Summary Suspension shall be filed with the Board in accordance with Md. Health Occ. Code Ann. § 14-407 (2009 Repl. Vol. and 2011 Supp.); and it is further

ORDERED that this is a Final Order of the Board and, as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.* (2009 Repl. Vol. and 2011 Supp.)

5-1-12
Date



Carole J. Catalfo
Executive Director
Maryland State Board of Physicians