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BEFORE THE

JOAN SMITH, D.O.

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MARYLAND STATE

Respondent

BOARD OF PHYSICIANS

License Number: H48286

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Case Numbers: 2014-0741 & 7714-0061

* * * * *

CEASE AND DESIST ORDER

Pursuant to the authority granted to the Maryland State Board of Physicians (the “Board”) under Md. Code Ann., Health Occ. (“Health Occ.”) § 14-206(e)(2) (2014 Repl. Vol.), the Board hereby orders Joan Smith, D.O. (the “Respondent”), License Number H48286, to immediately **CEASE AND DESIST** from providing medical care to her family members, including but not limited to the prescribing of any medications.

INVESTIGATIVE FINDINGS¹

Based on investigatory information received by, made known to, and available to the Board, it has reason to believe that the following facts are true:

BACKGROUND

1. At all times relevant, the Respondent was licensed to practice medicine in the State of Maryland. The Respondent was originally licensed to practice medicine in Maryland on July 3, 1995, and her current license is scheduled to expire September 30, 2015.
2. The Respondent is board-certified in family medicine.
3. At all times relevant, the Respondent was a solo practitioner in family medicine in Salisbury, Maryland.

¹ The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the basis of the Cease and Desist Order. 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.

4. On October 23, 2013, the Board charged the Respondent with violating the standard of quality care pursuant to Health Occ. § 14-404(a)(22) and inadequate recordkeeping pursuant to Health Occ. § 14-404(a)(40).

5. On March 14, 2014, the Respondent entered into a Consent Order with the Board in order to resolve the charges noted in ¶ 4. The Consent Order imposed a reprimand, and ordered the Respondent within 30 days of the Consent Order to permanently cease prescribing controlled dangerous substances (“CDS”) for pain management purposes and buprenorphine, and placed her on probation for a minimum period of two years under terms and conditions.

6. At all times relevant, the Respondent was under the probationary terms and conditions imposed by the Board’s Consent Order.

CURRENT COMPLAINTS

7. On or about April 1, 2014, a pharmacist employed by Pharmacy A² in Salisbury, Maryland, filed a complaint with the Board alleging she had concerns the Respondent had been inappropriately prescribing medications to two family members (Patients A and B). Several of the medications that had been prescribed were alleged to have been “atypical” based on their respective ages.

8. The American Medical Association (“AMA”) Code of Medical Ethics provides in pertinent part:

Opinion 8.19 – Self-treatment or Treatment of Immediate Family Members

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

² In order to maintain confidentiality, facility, employee and patient names will not be used in this document, but will be provided to the Respondent on request.

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.

9. Shortly after receiving the April 1, 2014 complaint, the Board initiated an investigation.

10. By letter dated May 5, 2014, the Board notified the Respondent of its investigation and issued to the Respondent a subpoena for the medical records of Patients A and B. The Respondent stated she was unable to produce all the records in her possession for Patients A and B as her computer "server" was not functioning.

11. On or about May 8, 2014, a second complaint was filed by a physician (Dr. C) who had seen Patient A for medical care the day before. Dr. C alleged in her complaint that the Respondent had treated Patient A after inadequately evaluating him, and that her use of medications for Patient A was inappropriate.

12. On or about May 15, 2014, the Board's staff interviewed Dr. C, who stated that the Respondent acknowledged to her that she (the Respondent) had prescribed several medications for Patient A. According to Patient A's medical record and Dr. C's interview, the Respondent had been prescribing several medications to Patient A including a Schedule IV barbiturate, a Schedule IV benzodiazepine, blood pressure medications including a diuretic, Vitamin D supplementation, allergy medications and a

nonsteroidal anti-inflammatory medication. Additionally, according to Dr. C, the Respondent stated that she did not have experience stopping the benzodiazepines that she was prescribing to Patient A.³

13. By letter dated May 15, 2014, the Board sent a letter by facsimile and regular mail requesting the medical records for Patients A and B be provided on or before May 22, 2014, and notifying her that the Board may consider her failure to produce the records to constitute a failure to cooperate with a lawful investigation.

14. By letter dated May 19, 2014, the Board's staff reiterated that it was requesting the complete medical records of Patients A and B, as the Respondent had reported that she had not provided all of the records as requested, making clear that her submission to the Board had not been complete.

15. On May 20, 2014, the Board reissued a subpoena for complete copies of any and all medical and billing records for Patients A and B generated by the Respondent or any other health care entity in her possession or constructive possession.

16. On May 22, 2014, the Respondent sent by electronic mail additional patient records for Patients A and B in response to the Board's subpoena.

17. On May 22, 2014, the Respondent submitted a letter to the Board stating:

It is my intention to cease and desist from the [p]rovision of [m]edication [p]rescriptions for the following [i]ndividuals:

[Patient A and Patient B]...

18. On May 23, 2014, the Respondent sent by electronic mail additional patient records, stating, "please let me know if I have missed anything."

³ When stopping benzodiazepines, a patient must be appropriately weaned in order to prevent withdrawal symptoms from occurring.

19. On or about June 12, 2014, the Board's staff interviewed the Respondent under oath. During the interview, the Respondent acknowledged that she had treated both Patients A and B since they were toddlers.

20. In furtherance of its investigation, Disciplinary Panel A transmitted medical records and other relevant documents to two physicians board-certified in family medicine for a peer review (the "reviewers").

21. Based on their review of medical records and other relevant documents, the reviewers concurred that the Respondent failed to meet the appropriate standard of quality care for Patient A. Additionally, one of the reviewers opined based on his review of Patient A's records:

...this is a highly concerning case in which a physician is not only breaching the standard of medical care and documentation, but one in which she is treating [a family member] inappropriately and dangerously...

CONCLUSION OF LAW

Based on the foregoing Investigative Findings, the Board concludes as a matter of law that there is a preponderance of evidence that the Respondent's actions pose a serious risk to the health, safety and welfare of her family members.

ORDER

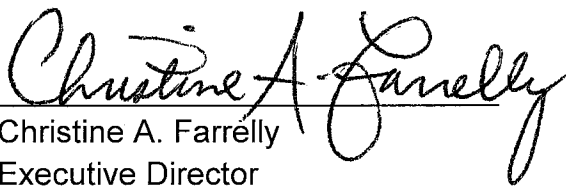
Based on the investigative findings and the Board's conclusion of law that the Respondent actions pose a serious risk to the health, safety and welfare of her family members, and pursuant to the Board's authority under Health Occ. § 14-206(e)(2), it is hereby:

ORDERED that, pursuant to the authority vested by the Maryland Medical Practice Act, Health Occ. § 14-206(e)(2), the Respondent shall **IMMEDIATELY CEASE AND DESIST** from treating her family members; and it is further

ORDERED that this order is **EFFECTIVE IMMEDIATELY** pursuant to Md. Code Regs. 10.32.02.13A (2), and it is further

ORDERED that this is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101-4-601 (2014).

11/24/2014
Date


Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

NOTICE OF OPPORTUNITY FOR A HEARING

The Respondent may challenge the factual or legal basis of this Order by filing a written opposition within 30 days of its issuance. The written opposition should be made to: Christine A. Farrelly, Executive Director, Maryland State Board of Physicians, 4201 Patterson Avenue, Baltimore, Maryland 21215, with a copy mailed to Dawn L. Rubin, Assistant Attorney General, Health Occupations Prosecution and Litigation Division, Office of the Attorney General, 300 West Preston Street, Suite 201, Baltimore, Maryland 21201. If the Respondent files a written opposition, a disciplinary panel of the Board shall consider that opposition and shall provide a hearing, if requested. If the Respondent does not file a written opposition, the Respondent will lose the right to challenge this Initial Order to Cease and Desist.