

IN THE MATTER OF	*	BEFORE THE
MARNIE (HARGROVE) BERNARD, PA-C	*	MARYLAND STATE BOARD OF
Respondent	*	PHYSICIANS
License Number: C03225	*	Case Number: 2016-0968A
* * * * *		

CONSENT ORDER

On March 13, 2018, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged **MARNIE (HARGROVE) BERNARD**,¹ PA-C (the "Respondent"), License Number C03225, under the Maryland Physician Assistants Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 15-101 *et seq.* (2014 Repl. Vol. & 2017 Supp.)

The pertinent provisions of the Act under H.O. § 15-314(a) provide as follows:

(a) *Grounds.* - Subject to the hearing provisions of § 15-315 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum, may reprimand any physician assistant, place any physician assistant on probation, or suspend or revoke a license if the physician assistant:

...
(3) Is guilty of:

...
(ii) Unprofessional conduct in the practice of medicine;

...
(41) Performs delegated medical acts beyond the scope of the delegation agreement filed with the Board or after notification from the Board that an advanced duty has been approved;

(42) Performs delegated medical acts without the supervision of a physician[.]

On May 9, 2018, a conference with regard to this matter was held before a panel of the Board's Disciplinary Committee for Case Resolution ("DCCR"). As a

¹ The Respondent had listed her last name as "Hargrove" on her Board Physician Assistant profile when the Board's investigation began. The Respondent has subsequently changed her last name to "Bernard."

result of the DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. The Respondent was initially licensed in Maryland as a physician assistant ("PA") on November 1, 2005. Her license is scheduled to expire on June 30, 2019.

Prior Disciplinary History

2. On October 5, 2015, the Respondent entered into a public Consent Order with the Board to resolve charges that she had practiced as a physician assistant without a license during the period from June 30, 2015, the date her license had expired, until July 29, 2015, the date her license was reinstated, in violation of Md. Code Ann., Health Occ. § 15-401.
3. Under the terms of the Consent Order, the Respondent was ordered to pay a civil fine in the amount of \$500.00

Current Allegations

4. On or about May 26, 2016, the Respondent's former supervising physician ("Physician 1")² notified the Board that the Respondent's Delegation Agreement had been terminated "due to disagreements over patient care and prescribing practices."
5. Physician 1 is the owner of a medical practice ("Practice 1") which is located in Rockville, Maryland.

² Names of individuals and facilities are confidential.

6. On or about July 6, 2016, the Board received a complaint from the Respondent's estranged husband.³
7. Thereafter, the Board initiated an investigation the pertinent findings of which are summarized below.
8. In furtherance of its investigation, Board staff subpoenaed the Respondent's employment file from Practice 1 and interviewed Physician 1, the Practice 1 administrator and the Respondent, among others.
9. The Board's investigation revealed that in April and May 2016, the Respondent prescribed quantities of Controlled Dangerous Substances ("CDS") to two individuals ("Person A" and "Person B"). Person A and Person B are related.
10. Neither Person A nor Person B was a patient at Practice 1 when the Respondent prescribed them quantities of CDS.
11. The Respondent had not examined Person A or Person B prior to prescribing CDS to each. The Respondent did not maintain a medical record for either Person A or Person B.
12. On April 22, 2016, the Respondent prescribed to Person A 60 tablets of Adderall 30 mg. and 120 tablets of Oxycodone 30 mg.
13. Adderall and Oxycodone are Schedule II CDS.
14. On May 9, 2016, the Respondent prescribed to Person B 120 tablets of Oxycodone 30 mg.
15. On May 20, 2016, the Respondent prescribed to Person A 60 tablets of Adderall 30 mg. and 120 tablets of Oxycodone 30 mg.

⁴ Subsequent Board investigation was unable to confirm the legal sufficiency of the allegations contained in that complaint.

16. Review of the Respondent's employment file revealed that in May 2016, Physician 1 and the Practice administrator discussed with the Respondent why she had prescribed CDS to Person A without having examined him. The Respondent stated that Person A was the son of a friend of hers who was transferring his care. When asked why Person A, who did not live near Practice 1, would transfer his care to her, the Respondent stated, "because it's me."
17. On November 17, 2016, in furtherance of its investigation, Board staff interviewed the Respondent under oath.
18. With regard to Person A, the Respondent stated that she was aware that he had been previously treated by a nurse practitioner who had become too ill to practice.
19. The Respondent stated that she had written one prescription for CDS to Person A as a "professional courtesy" to Person A, who thereafter had not appeared for his first appointment.
20. The Respondent further stated that she had written only one prescription for Person A.
21. When Board staff questioned the Respondent about Person B, the Respondent stated that she did not recall him and had never met him.
22. In her written response to the complaints, the Respondent stated that she had written the prescription (to Person A) as a "professional courtesy on an urgent basis." The Respondent acknowledged that she "may have made a bad judgment decision as a clinician."

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, Disciplinary Panel A concludes as a matter of law that the Respondent is guilty of unprofessional conduct in the practice of medicine, in violation of Health Occ. § 15-314(a)(3)(ii), performed delegated medical acts beyond the scope of her delegation agreement, in violation of Health Occ. § 15-314(a)(41) and performed delegated medical acts without the supervision of a physician, in violation of Health Occ. § 15-314(a)(42).

ORDER

It is, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel A, hereby

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED Respondent is placed on **PROBATION** for a minimum period of **ONE (1) YEAR**. During the probationary period, the Respondent shall comply with all of the following probationary terms and conditions:

1. The Respondent shall not prescribe Controlled Dangerous Substances (CDS) for the duration of probation;
2. Within the first six months of the probationary period, the Respondent shall successfully complete a Board disciplinary panel-approved course in CDS prescribing. The Board disciplinary panel will not accept a course taken over the Internet. The course may not be used to fulfill the continuing medical education credits required for license renewal. The Respondent must provide documentation to the Board that the Respondent has successfully completed the course;
3. Within the first six months of the probationary period, the Respondent shall successfully complete a Board disciplinary panel-approved course in professional ethics. The Board disciplinary panel will not accept a course taken over the Internet. The course may not be used to fulfill the continuing medical education credits required for license renewal. The Respondent must provide documentation to the Board that the Respondent has successfully completed the course;

4. The Respondent shall enroll in the Maryland Professional Rehabilitation Program ("MPRP") for an evaluation. Within **5 business days**, the Respondent shall contact MPRP to schedule an initial consultation for evaluation and, if necessary, enrollment. **Within 15 business days**, the Respondent shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP;
5. The Respondent shall fully and timely cooperate and comply with all of MPRP's referrals, rules, and requirements, including but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered into with MPRP;
6. The Respondent shall sign and update the written release/consent forms requested by the Board and MPRP. The Respondent shall sign the release/consent forms to authorize MPRP to make verbal and written disclosures to the Board, including disclosure of any and all MPRP records and files possessed by MPRP. The Respondent shall also sign any written release/consent forms to authorize MPRP to exchange with (i.e., disclose to and receive from) outside entities (including all of the Respondent's current therapists and treatment providers) verbal and written information concerning the Respondent and to ensure that MPRP is authorized to receive the medical records of the Respondent; and
7. The Respondent shall comply with the Maryland Physician Assistants Act, Md. Code Ann., Health Occ. §§ 15-101 – 15-502, and all laws and regulations governing practice as a physician assistant in Maryland; and it is further

ORDERED that the Respondent shall not apply for the early termination of probation; and it is further

ORDERED that, after one year, the Respondent may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated through an order of the Board or disciplinary panel. The Respondent may be required to appear before the Board or disciplinary panel to discuss her petition for termination. The Board or disciplinary panel will grant the petition to terminate the probation if the Respondent has complied with all of the probationary terms and conditions and there are no pending complaints related to the charges; and it is further

ORDERED that a violation of any term or condition of MPRP's Rehabilitation Agreement or Rehabilitation Plan may constitute a violation of the probation imposed under this Order; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition of probation or this Consent Order, the Respondent shall be given notice and

an opportunity for a hearing. If there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings. If there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board or disciplinary panel; and it is further

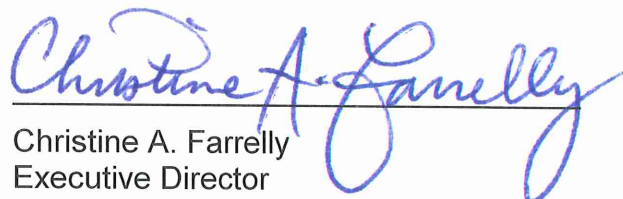
ORDERED that, after the appropriate hearing, if the Board or Disciplinary Panel determines that the Respondent has failed to comply with any term or condition of probation or this Consent Order, the Board or disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice in Maryland. The Board or disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon the Respondent; and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that, unless stated otherwise in the order, any time prescribed in this order begins when the Consent Order goes into effect. The Consent Order goes into effect upon the signature of the Board's Executive Director, who signs on behalf of the disciplinary panel; and it is further

ORDERED that this Consent Order is a public document pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.*

May 24, 2018
Date


Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Marnie Bernard, PA-C, acknowledge that I have had the opportunity to consult with counsel before signing this Consent Order and I have knowingly and voluntarily elected not to consult with counsel. By this Consent and for the purpose of resolving the issues raised by Disciplinary Panel A, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of Disciplinary Panel A to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of a disciplinary panel of the Board that I might have filed after any such hearing.

I sign this Consent Order voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of the Consent Order.

Signature on File

5/22/18
Date

Marnie Bernard, PA-C
Respondent

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on this 22 day of MAY 2018, before me, a Notary Public of the foregoing State and City/County, personally appeared Marnie Barnard, PA-C., and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.



Notary Public

My commission expires: 05/19/2019

<p>NATALIA WINFFEL NOTARY PUBLIC MONTGOMERY COUNTY MARYLAND MY COMMISSION EXPIRES 05-19-2019</p>
--