

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE</b>
<b>PHILIP J. RUZBARSKY, M.D.</b>	*	<b>MARYLAND STATE</b>
<b>Respondent</b>	*	<b>BOARD OF PHYSICIANS</b>
<b>License Number: D33599</b>	*	<b>Case Number: 2223-0031A</b>

\* \* \* \* \*

**CONSENT ORDER**

On February 28, 2024, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) charged **PHILIP J. RUZBARSKY, M.D.** (the “Respondent”), License Number D33599, with violating the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2021 Repl. Vol. & 2023 Supp.).

Specifically, Panel A charged the Respondent with violating the following provisions of the Act under Health Occ. § 14-404:

**§ 14-404. Denials, reprimands, probation, suspensions, and revocations.**

(a) *In general.* -- 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:

...

(22) Fails to meet 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; [and]

...

(40) Fails to keep adequate medical records as determined by appropriate peer review[.]

On May 8, 2024, Panel A was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, Order, and Consent.

## **FINDINGS OF FACT**

Panel A finds:

### **I. BACKGROUND**

1. At all relevant times, the Respondent was and is licensed to practice medicine in the State of Maryland. The Board initially issued the Respondent a license to practice medicine in the State of Maryland on May 8, 1986. His license is active through September 30, 2025.

2. The Respondent is the sole owner of a general medical practice located in Westminster, Maryland.

### **II. COMPLAINTS**

3. On or about November 9, 2022, the Board received two anonymous complaints (“Complaint 1” and “Complaint 2” respectively):

- (a) Complaint 1 alleged that the Respondent had prescribed one of his patients (“Patient 2”)<sup>1</sup> an anxiolytic<sup>2</sup> when Patient 2 had already been prescribed one by another treating physician. Complaint 1 further

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<sup>1</sup> For confidentiality reasons, the names of individuals referenced herein, will not be disclosed in this Consent Order.

<sup>2</sup> An anxiolytic is a medication or other intervention that reduces anxiety.

stated that if Patient 2 had taken both medications, Patient 2 “could have died!”.

- (b) Complaint 2 alleged that the Respondent had been prescribing oxycodone to another of his patients (“Patient 1”) for over seventeen (17) years. Patient 1 currently receives 180 30mg pills per month and has been sharing the pills with another family member for years. Complaint 2 stated that Patient 1 “sleeps half the days away dozing off all the time on [the] pills” and that Patient 1 is “wasting away to nothing” due to having lost at least 40 pounds in the last year.

4. During the pendency of the Board’s investigation based on the two anonymous complaints, the Board also received a referral on or about April 24, 2023 from the Office of Controlled Substances Administration (“OCSA”). The OCSA referral stated that the Respondent’s patients frequently receive daily opioid dosages exceeding 90 MME<sup>3</sup>, the Respondent regularly prescribes opioids in combination with benzodiazepines, and the Respondent regularly prescribes Controlled Dangerous Substances (“CDS”) medications with abuse or diversion potential to his substance abuse patients.

### **III. BOARD INVESTIGATION**

5. By letter dated January 11, 2023, the Board notified the Respondent of the two anonymous complaints regarding his prescribing practices. The Board provided the

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<sup>3</sup> MME is an acronym for morphine milligram equivalents. The MME/day metric is often used as a gauge of the overdose potential of the amount of opioid that is being given at a particular time. High-dose opioids are typically defined as morphine equivalent daily doses of 91 or more milligrams. The current CDC Clinical Practice Guideline for Prescribing Opioids for Pain states that dosages of  $\geq 100$  MME/day were found to be associated with increased risks for overdose.

Respondent with copies of the complaints and requested that he address them in a written response within ten business days. The Board also enclosed a *subpoena duces tecum* (“SDT”) for ten named patient records, requiring production within ten business days along with corresponding summaries of care and records certification forms.

6. The Respondent did not provide a formal response to the complaints but said that he would be available to answer questions from the Board.

#### **IV. RESPONDENT’S INTERVIEW**

7. On or around May 4, 2023, the Board conducted an interview with the Respondent who stated that he sometimes does not reduce a patient's medication if the patient is doing well, even if the opioid dosage is over the 90 MME/day threshold.

#### **V. PEER REVIEW**

8. As part of its investigation, the Board referred ten (10) patient records obtained from the Respondent (referenced *infra* as “Patients 1-10”) and related materials for peer review. The review was performed by two physicians (“Peer Reviewer 1” and “Peer Reviewer 2,” respectively) who are board-certified in Physical Medicine and Rehabilitation. The reviewers submitted reports to the Board which addressed standard of care issues related to the Respondent’s treatment of the patients and the adequacy of the Respondent's medical records.

9. The reviewers independently concluded that in nine of the ten cases reviewed, the Respondent failed to meet appropriate standards for the delivery of quality medical care. Examples of deficiencies include but are not limited to the following:<sup>4</sup>

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<sup>4</sup> The deficiencies pertain to Patients 1 through 10 unless specifically indicated.

- (a) The Respondent inappropriately maintained a high-dose opioid regimen in excess of 90 MME/day (Patients 1, 4, 5, 6, 9, 10);
- (b) The Respondent failed to document a discussion of the risks of chronic opioid therapy (Patients 4, 6, 7, 8, 9, 10);
- (c) The Respondent inappropriately prescribed high-dose opioid medications in conjunction with benzodiazepines (Patients 1, 3, 4, 9, 10);
- (d) The Respondent failed to document a discussion of the risks of concurrent opioid and benzodiazepine use (Patients 1, 3, 4, 9, 10);
- (e) The Respondent failed to adequately document justification for the continuation of chronic opioid therapy and/or a high-dose opioid regimen (Patients 1, 3, 4, 5, 6, 8, 9, 10)
- (f) The Respondent failed to adequately prescribe medication intended to reverse an overdose such as Narcan or Naloxone (Patients 3, 5, 6, 7, 8, 9);
- (g) The Respondent failed to address inconsistent toxicology results (Patients 3, 5);
- (h) The Respondent made little or no effort at utilizing non-opioid therapies such as physical therapy to treat chronic pain (Patients 4, 5, 8);
- (i) The Respondent failed to consistently taper high-dose opioid regimen to 90 MME/day or less (Patients 1, 4, 5, 6, 7, 9, 10); and

(j) The Respondent failed to address violations of the opiate contract (Patient 5).

10. The peer reviewers concurred that the Respondent did not maintain adequate medical records for nine out of the ten patients whose charts were reviewed for reasons including, but not limited to: failure to document a complete history and physical examination, valid measures of treatment impact on function (e.g., pain scores), pain pathology and etiology, and opiate contracts and risk assessment where appropriate. (Patients 1, 2, 3, 4, 5, 6, 7, 8, 10).

11. Peer Reviewer 2 provided an addendum to his original report which emphasized the danger of the Respondent's prescribing practices. Peer Reviewer 2 opined that the Respondent's "medical records revealed a concerning trend of irresponsible prescribing of controlled substances and I therefore believe he should be restricted from prescribing controlled substances." For example, the Respondent failed to inform the patients of the risk of respiratory depression and death in those cases where the Respondent prescribed high dose opioids concurrently with benzodiazepines. Peer Reviewer 2 strongly recommended that the Respondent be prohibited from prescribing controlled substances.

### **CONCLUSIONS OF LAW**

Based on the foregoing findings of fact, Disciplinary Panel A concludes 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 performed in an outpatient surgical facility, office, hospital, or other location in this State, in violation of Health Occ. § 14-404(a)(22); and failed to keep adequate medical records as determined by appropriate peer review, in violation of Health Occ. § 14-404(a)(40).

## **ORDER**

It is, by Disciplinary Panel A of the Board, hereby:

**ORDERED** that the February 14, 2024 Amended Cease and Desist Order against the Respondent, is terminated as moot upon the issuance of this Consent Order; and it is further

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

**ORDERED** that the Respondent is **permanently prohibited** from prescribing and dispensing Schedule II CDS; and it is further

**ORDERED** that the Respondent is **permanently prohibited** from delegating to Physician Assistants prescribing or dispensing of Schedule II CDS; and it is further

**ORDERED** that on every January 31st thereafter if the Respondent holds a Maryland medical license, the Respondent shall provide the Board with an affidavit verifying that the Respondent: (1) has not prescribed or dispensed a Schedule II CDS in the past year; and (2) has not delegated to Physician Assistants prescribing or dispensing of a Schedule II CDS in the past year; and it is further

**ORDERED** that if the Respondent fails to provide the required annual verification of compliance with these conditions:

- (1) There is a presumption that the Respondent has violated these permanent conditions; and
- (2) The alleged violation will be adjudicated pursuant to the procedures of a

Show Cause Hearing; and it is further

**ORDERED** that the Respondent agrees that the Controlled Dangerous Substances (“CDS”) Registration issued by the Office of Controlled Substances Administration will be restricted to the Schedule II category of CDS as limited by this Order; and it is further

**ORDERED** that the Respondent is placed on probation until he fully complies with the following term and condition of probation:

The Respondent is required to take and successfully complete a course in medical recordkeeping. The following terms apply:

- (a) it is the Respondent’s responsibility to locate, enroll in and obtain the disciplinary panel’s approval of the course before the course has begun;
- (b) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;
- (c) the course may not be used to fulfill the continuing medical education credits required for license renewal;
- (d) the Respondent is responsible for the cost of the course;
- (e) The Respondent may not take and complete the course until this Consent Order has been executed; it is further

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

**ORDERED** that a violation of probation constitutes a violation of the Consent Order; and it is further

**ORDERED** that, after the Respondent has complied with all terms and conditions of probation, the Respondent may submit to the Board a written petition for termination of probation. After consideration of the petition, the Respondent’s probation may be



administratively terminated through an order of the Panel if the Respondent has complied with all probationary terms and conditions and there are no pending complaints relating to the charges; and it is further

**ORDERED** that, if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If the disciplinary panel determines 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 followed by an exceptions process before a disciplinary panel; and if the disciplinary panel determines there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

**ORDERED** that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend with appropriate terms and conditions, or revoke the Respondent's license to practice medicine in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on 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 the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive

Director or her designee signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order; and it is further

**ORDERED** that this Consent Order is a public document. See Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

05/23/2024  
Date

## *Signature On File*

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

**CONSENT**

I, Philip J. Ruzbarsky, M.D., acknowledge that I have consulted with counsel before signing this document.

By the Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. 14-405, and Md. Code Ann., State Gov't 10-201 *et seq.* concerning the pending charges. I waive this right and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered 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 behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order.

I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

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

5-22-2024

***Signature On File***

\_\_\_\_\_  
Date

Philip J. Ruzbarsky, M.D.

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**NOTARY**

STATE OF Maryland

CITY/COUNTY OF Baltimore City

I HEREBY CERTIFY that on this 22 day of May 2024, before me, a Notary Public of the foregoing State and City/County, personally appeared Philip J. Ruzbarsky, M.D., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Rachel Petty

Notary Public



My Commission expires: 10/20/25