

IN THE MATTER OF	*	BEFORE THE
TONY P. KANNARKAT, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D20062	*	Case Number: 2218-0052B
* * * * *		

**CONSENT ORDER**

**PROCEDURAL BACKGROUND**

On February 6, 2019, Disciplinary Panel B (the “Panel”) of the Maryland State Board of Physicians (the “Board”) charged **TONY P. KANNARKAT, M.D.** (the “Respondent”), License Number D20062, under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-101 *et seq.* (2014 Repl. Vol. & 2018 Supp.) and Md. Code Regs. (“COMAR”) 10.13.01 *et seq.*

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

- (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:
  - (3) Is guilty of: (ii) Unprofessional conduct in the practice of medicine; [and]
  - (28) Fails to comply with the provisions of § 12-102 of this article[.]

Health Occ. § 12-102 provides, in pertinent part:

(c) *Preparing of prescriptions by licensed veterinarian, dentist, physician, etc.; exception.* –

(2) This title does not prohibit:

(ii) A licensed dentist, physician, or podiatrist from personally preparing and dispensing the dentist's, physician's, or podiatrist's prescriptions when:

1. The dentist, physician, or podiatrist:
  - A. Has applied to the board of licensure in this State which licensed the dentist, physician, or podiatrist;
  - B. Has demonstrated to the satisfaction of that board that the dispensing of prescription drugs or devices by the dentist, physician, or podiatrist is in the public interest;
  - C. Has received a written permit from that board to dispense prescription drugs or devices except that a written permit is not required in order to dispense starter dosages or samples without charge; and
  - D. Posts a sign conspicuously positioned and readable regarding the process for resolving incorrectly filled prescriptions or includes written information regarding the process with each prescription dispensed;
2. The person for whom the drugs or devices are prescribed is a patient of the prescribing dentist, physician, or podiatrist;
3. The dentist, physician, or podiatrist does not have a substantial financial interest in a pharmacy; and

4. The dentist, physician, or podiatrist:
- A. Complies with the dispensing labeling requirements of this title;
  - B. Records the dispensing of the prescription drug or device on the patient's chart;
  - C. Allows the Office of Controlled Substances Administration to enter and inspect the dentist's, physician's, or podiatrist's office at all reasonable hours and in accordance with § 12-102.1 of this subtitle;
  - D. On inspection by the Office of Controlled Substances Administration, signs and dates an acknowledgment form provided by the Office of Controlled Substances Administration relating to the requirements of this section;
  - E. Except for starter dosages or samples without charge, provides the patient with a written prescription, maintains prescription files in accordance with § 12-403(b)(13) of this title, and maintains a separate file for Schedule II prescriptions;
  - ....
  - J. Maintains biennial inventories and complies with any other federal and State record-keeping requirements relating to controlled dangerous substances;
  - L. Annually reports to the respective board of licensure whether the dentist, physician, or podiatrist has personally

prepared and dispensed prescription drugs within the previous year; and

- M. Completes ten continuing education credits over a 5-year period relating to the preparing and dispensing of prescription drugs, offered by the Accreditation Council for Pharmacy Education (ACPE) or as approved by the Secretary, in consultation with each respective board of licensure, as a condition of permit renewal[.]

Health Occ. § 12-505 provides, in pertinent part:

- (a) *Label required.* -- Except for a drug or device dispensed to an inpatient in a hospital or related institution, each container of a drug or device dispensed shall be labeled in accordance with this section.
- (b) *Required information.* -- In addition to any other information required by law, the label shall include:
  - (1) The date the prescription is filled; and
  - (2) Unless otherwise required by the prescriber:
    - (i) An expiration date of the drugs or devices which shall be the lesser of:
      - 1. 1 year from the date of dispensing;
      - 2. The month and year when the drugs or devices expire;
      - 3. The appropriate expiration date for repackaged drugs or devices; or
      - 4. A shorter period as determined by the pharmacist;
    - (ii) Any appropriate special handling instructions regarding proper storage of the drugs or devices; and

(iii) Subject to the provisions of subsection (c) of this section, the name and strength of the drugs or devices.

(c) *Name of medication.* – (1) Except as provided in paragraph (2) of this subsection, the label shall indicate the same name for the drug or device as that used by the authorized prescriber.

....

(d) *Medication dispensed by an authorized prescriber.* -- (1) Except as provided in this subsection, if an authorized prescriber dispenses a drug or device, the prescriber shall label each container of the drug or device.

(2) In addition to any other information required by law, the authorized prescriber shall include on the label:

- (i) The name and strength of the drug or device;
- (ii) The date the prescription is dispensed;
- (iii) An expiration date of the drug or device which shall be the lesser of:
  - 1. 1 year from the date of dispensing;
  - 2. The month and year when the drug or device expires; or
  - 3. A shorter period as determined by the authorized prescriber; and
- (iv) Any appropriate handling instructions regarding proper storage of the drug or device.

COMAR 10.13.01, Dispensing of Prescription Drugs by a Licensee, provides, in pertinent part:

.01 Scope.

This chapter defines the parameters under which a licensee may dispense prescription drugs in accordance with Health Occupations Article, § 12-102, annotated Code of Maryland.

.04 Dispensing Requirements.

....

- B. A licensee may not dispense prescription drugs until a written permit is received from the appropriate Board, except that a written permit is not required in order to dispense starter dosages or samples provided without charge.

On May 22, 2019, a hearing was held before the Panel, sitting as a Disciplinary Committee for Case Resolution. As a result of negotiations occurring before Panel B, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

### **FINDINGS OF FACT**

The Panel makes the following Findings of Fact:

#### **I. BACKGROUND**

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in Maryland. The Respondent was originally licensed to practice medicine in Maryland on January 20, 1977, under License Number D20062. The Respondent's latest license was given the expiration date of September 30, 2020.

2. The Respondent is not board-certified in any medical specialty. The Respondent does not have, nor has ever been issued, a permit to dispense medications by the Board.

3. At all times relevant hereto, the Respondent maintained a medical office at 8201 16<sup>th</sup> Street, Suite 121, Silver Spring, Maryland 20910.

## **II. COMPLAINTS/BOARD INVESTIGATION**

4. In or around 2017, the Board began receiving complaints involving the Respondent, which the Board subsequently investigated but could not substantiate.

5. During the course of its investigation of these complaints, Board staff made an unannounced visit to the Respondent's Silver Spring office on May 3, 2018. During the site visit, Board staff observed pharmaceutical samples and many prescription bottles that were labeled with various patient names in one of the examination rooms. The prescription bottles were from different pharmacies and were labeled as containing such medications as: simvastatin (a prescription-only lipid-lowering medication); Synthroid (a prescription-only thyroid hormone replacement medication); tamsulosin (a prescription-only prostate medication); amlodipine-valsartan (a prescription-only anti-hypertensive medication); chlorthalidone/clidinium (a prescription-only anti-spasmodic medication); gabapentin (a prescription-only neuropathic medication); and metoprolol (a prescription-only beta blocker).

6. Board staff conducted under-oath interviews of the Respondent in July and November 2018. During these interviews, Board staff questioned the Respondent about his practice of dispensing medications to patients, including those medications that

patients had returned to him. The Respondent admitted that he accepted used prescription drugs from his patients and also ordered prescription drugs from a specific pharmaceutical distributor and dispensed those medications to patients as a first dosage. For example, the Respondent admitted that he ordered Xanax (a benzodiazepine and Schedule IV medication) from the pharmaceutical distributor and dispensed it to patients. When asked about the circumstances, the Respondent stated, “[i]f somebody’s mother died, father died, they’re going to a funeral, they want two, three, or they’re going to cross the bridge, the tunnel bridge or this 50 bridge, they get shaky, they get—they don’t want to go on vacation, plane, for that reason I still have some left from a long time. I give three of them.”

7. The Respondent acknowledged dispensing returned Plavix (a prescription-only blood-thinner) to other patients within the last three-to-six months. He stated that sometimes pharmacies will give a patient 90 tablets, which the patient will return and say, “Doctor, give it to somebody else, I don’t want to throw it away.” The Respondent stated that in that instance, he will take back the medication and give it to another patient, telling the patient, “if you want to use it, use it.” The Respondent described other instances where he accepted returned metformin (a prescription-only diabetic medication) and Synthroid from patients and dispensed them to other patients. The Respondent stated that at times he receives as many as 360 pills from patients, which he re-dispenses.

8. The Respondent stated that when he dispenses medications returned by a patient, he uses the same prescription bottle that the patient returned, defaces or scratches off the original patient’s name from the label, and then explains to the patient that this is



an “order for somebody else.” The Respondent did not state that he otherwise relabels the prescription to indicate the new expiration date of the medication.

9. The Respondent further stated that the amount of the medication he dispenses depends on the amount left in the bottle by the patient who returned the medication. When recounting an example where a patient returned tamsulosin, he stated that if there are 24 capsules, “I tell them 24 is there. After that I give prescription.” The Respondent also stated that sometimes, he provides medications to patients in an envelope, where he will write instructions on the envelope and explain possible side effects to the patients.

10. The Respondent stated that he ordered one or more prescription-only medications for his use and to dispense to a family member and office staff.<sup>1</sup>

11. The Respondent also stated that he keeps ondansetron (Zofran) strips for patients experiencing gastroenteritis. He stated that he gives the first dosage in the office and gives the patient “two strips with two tablets each” to take home.

12. The Respondent stated that he ordered medications from a specific pharmaceutical distributor, such as Cipro (a prescription-only antibiotic) and Zofran (a prescription-only anti-nausea medication) and dispensed those medications to patients.

13. The Board obtained records from the pharmaceutical distributor the Respondent used to purchase medications he dispensed. These records indicate that for the period August 2016 to October 2018, the Respondent purchased the following

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<sup>1</sup> For confidentiality reasons, the specific medication(s) dispensed will not be disclosed in this document.

medications: losartan (a prescription-only anti-hypertensive medication); metformin; ibuprofen (a pain reliever); amlodipine; prednisone (a prescription-only steroid) and gentamicin (a prescription-only antibiotic). The Respondent also ordered the following medications for patients: azithromycin (a prescription-only antibiotic); lidocaine (a medication used for pain); ondansetron (a prescription-only anti-nausea medication); tuberculin (a prescription-only testing agent); diphenhydramine (an antihistamine); epinephrine (a vasoconstrictor); amoxicillin (a prescription-only antibiotic); and prednisone. The Respondent stated that he administered or dispensed these medications to patients.

14. The Board's investigation determined that the Respondent violated the Act and related regulations by accepting returned medications from patients and dispensing them to other patients. The Respondent dispensed medications to patients without a valid dispensing permit. The Respondent inappropriately dispensed prescription-only medications in an inappropriate and unsafe manner, without complying with dispensing and labeling requirements. The Respondent also inappropriately dispensed medications to himself and to a family member.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Panel finds as a matter of law that the Respondent violated the following provisions of the Act under Health Occ. §§ 14-404(a): (3) Is guilty of (ii) Unprofessional conduct in the practice of medicine; and (28) Fails to comply with the provisions of § 12-102 of this article. The Panel also finds that the Respondent violated Health Occ. § 12-505 and COMAR 10.13.01 *et seq.*

## **ORDER**

It is thus by the Panel, hereby:

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

**ORDERED** that the Respondent is placed on **PROBATION** for a minimum of **ONE (1) YEAR.**<sup>2</sup> During probation, the Respondent shall comply with the following terms and conditions of probation:

1. Within six (6) months, the Respondent is required to take a course in professional ethics. 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 is begun;
  - (b) the disciplinary panel will not accept a course taken over the internet;
  - (c) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;
  - (e) the course may not be used to fulfill the continuing medical education credits required for license renewal; and
  - (f) the Respondent is responsible for the cost of the course.
2. Within six (6) months, the Respondent shall pay a civil fine of **TWO THOUSAND DOLLARS \$2000.00**. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297. The Board will not renew or reinstate the Respondent's license if the Respondent fails to timely pay the fine to the Board.
3. Within thirty (30) days, the Respondent shall submit a written action plan (the "Action Plan") to the Panel which will set forth written policies and procedures that he will implement in his office to ensure

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<sup>2</sup> If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

that: (a) other than samples or starter doses, he or office staff do not dispense medications to patients; (b) the Respondent and/or office staff will not accept medications from patients; and (c) in accordance with all applicable laws and regulations, the Respondent and/or office staff shall promptly discard any medications stored in the office after their expiration dates. Upon Panel approval of the Action Plan, the Respondent shall forthwith provide the written Action Plan to all office staff and require them to execute written affidavits confirming that they have read and will follow the requirements that are set forth in the Action Plan. The Respondent will keep the affidavits on file at his office and upon Board request, shall provide them to the Board for verification purposes.

4. The Respondent shall comply with the Maryland Medical Practice Act, Md. Code Ann., Health Occ. §§ 14-101—14-702, and all federal and state laws and regulations governing the practice of medicine in Maryland; and it is further

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

**ORDERED** that the Respondent shall not apply for early termination of probation; 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 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 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 after the Respondent has complied with all terms and conditions of probation and the minimum period of probation imposed by the Consent Order has passed the Respondent may submit to the Board a written petition for termination of probation. After consideration of the petition, the probation may be terminated through an order of the disciplinary panel. The Respondent may be required to appear before the disciplinary panel to discuss his or her petition for termination. The disciplinary panel may grant the petition to terminate the probation, through an order of the disciplinary 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 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 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* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

June 11, 2019

Date

***Signature on File***

Christine A. Farrelly  
Executive Director  
Maryland State Board of Physicians

**CONSENT**

I, Tony P. Kannarkat, M.D., acknowledge that I have consulted with counsel before signing this document.

By this 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.

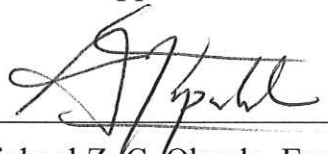
I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

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

6/7/2019  
Date

***Signature on File***  
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Tony P. Kannarkat, M.D.  
Respondent

Read and approved:

  
Michael Z. C. Okpala, Esquire  
Counsel for Dr. Kannarkat

**NOTARY**

STATE OF Maryland

CITY/COUNTY OF Montgomery

I HEREBY CERTIFY that on this 7 day of June 2019, before me, a Notary Public of the foregoing State and City/County, personally appeared Tony P. Kannarkat, 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.

  
\_\_\_\_\_  
Notary Public

My Commission expires: 3-10-2022