

IN THE MATTER OF
STEPHAN R. IZZI, M.D.

Respondent

License Number: D25782

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2219-0190A

* * * * *

CONSENT ORDER

On May 21, 2021, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged Stephan R. Izzi, M.D., M.D. (the "Respondent"), under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2014 Repl. Vol. & 2020 Supp.). The Respondent was charged with violating the following provisions of 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) (ii) Is guilty of: . . . Unprofessional conduct in the practice of medicine[.]
- (28) Fails to comply with the provisions of § 12-102 of this article;

Health Occ. § 12-102(a): provides in pertinent part:

- (a) (1) In this section the following terms have the meanings indicated.
- (2) "In the public interest" means the dispensing of drugs or devices by a licensed dentist, physician, or podiatrist to a patient when a pharmacy is not conveniently available to the patient.
- (3) "Personally preparing and dispensing" means that the licensed dentist, physician, or podiatrist:

- (i) Is physically present on the premises where the prescription is filled; and
 - (ii) Performs a final check of the prescription before it is provided to the patient.
- (b) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.
- (c) This title does not prohibit:
 - (2) A licensed dentist, physician, or podiatrist from personally preparing and dispensing the dentist's, physician's, or podiatrist's prescriptions when:
 - (i) The dentist, physician, or podiatrist:
 - 1. Has applied to the board of licensure in this State which licensed the dentist, physician, or podiatrist;
 - 2. 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; and
 - 3. 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;
 - (ii) The person for whom the drugs or devices are prescribed is a patient of the prescribing dentist, physician, or podiatrist;
 - (iii) The dentist, physician, or podiatrist does not have a substantial financial interest in a pharmacy; and
 - (iv) The dentist, physician, or podiatrist:
 - 1. Complies with the labeling requirements of § 12-505 of this title;
 - 2. Records the dispensing of the prescription drug or device on the patient's chart;

3. Allows the Division of Drug Control to enter and inspect the dentist's, physician's, or podiatrist's office at all reasonable hours;
4. 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;

Health Occupations § 12-505

- (a) 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) 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)(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.

The Respondent also was alleged to have violated Code of Maryland Regulations (COMAR), in pertinent part as indicated below.

COMAR 10.13.01.

.04 Dispensing Requirements.

- C. A licensee shall personally prepare and dispense prescription drugs.
- D. Except as provided in Health Occupations Article, §12-102(c)(2)(iii), Annotated Code of Maryland, and §S of this regulation, a licensee shall dispense prescription drugs only to the patients of the licensee.
- E. A licensee shall comply with the labeling requirements set forth in Health Occupations Article §12-505, Annotated Code of Maryland.
- H. A licensee shall record the dispensing of the prescription drug on the patient's chart.
- J. A licensee shall, except for starter dosages or samples provided without charge,
- M. A licensee shall dispense prescription drugs to a patient only when the patient determines that a pharmacy is not conveniently available to the patient.
- N. In each patient's chart for each patient to whom prescription drugs are dispensed or in a format readily retrievable, a licensee shall maintain a single form which:
 - (1) Indicates that a pharmacy is not conveniently available to the patient;
 - (2) States that the determination that a pharmacy is not conveniently available was made solely by the patient; and
 - (3) Is signed and dated by the patient before dispensing prescription drugs to the patient for the first time.
- O. A licensee shall display prominently a sign which informs the patient that prescription drugs can be purchased from the permit holder if the patient determines that a pharmacy is not conveniently available to the patient.

- R. A licensee shall maintain at all times the minimum professional and technical equipment and sanitary appliances that are necessary to prepare and dispense prescriptions properly.

On August 11, 2021, Panel A was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of the DCCR, the Respondent agreed to enter this Consent Order, consisting of the following Findings of Fact, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

Panel A makes the following factual findings:

I. BACKGROUND

1. At all relevant times, the Respondent was and is a physician licensed to practice medicine in the State of Maryland. He was initially licensed in Maryland on October 23, 1980. The Respondent's license is presently active.

2. The Respondent specializes in family medicine, and is employed at a multi-specialty clinic. The Respondent’s private practice was not the subject of the Board’s investigation and charges.

3. At all relevant times, the Respondent was also the medical director at several locations in Maryland for a weight loss program, hereinafter Program A.¹ At all relevant times the Respondent had a dispensing permit with the Board.

II. COMPLAINT

4. On October 29, 2018, the Office of Controlled Substances Administration (“OCSA”) conducted an inspection at one of Program A’s offices in Anne Arundel

¹ Program A, and any organizations, medical offices, institutions, witnesses or patients are not identified by name for privacy reasons. This information will be provided to the Respondent upon request.

County, Maryland. The Respondent was not present, but an OCSA inspector met with the office manager and a registered nurse who were present. The OCSA inspector observed the nurse remove a bottle of medication from an unlocked cabinet

5. On April 30, 2019, the Board received a Complaint from OCSA alleging that the drug phentermine was being improperly dispensed at Program A under the Respondent's dispensing permit with the Board.

6. The Complaint alleged numerous violations, including but not limited to the following: a dispensing physician was not onsite at Program A; a dispensing physician did not perform a check before dispensing medication; the dispensed drugs were not properly labeled with the name of the prescriber and expiration date; and medication was not properly secured during business hours.

7. After receiving the Complaint, the Board initiated an investigation.

8. On May 29, 2019, in furtherance of its investigation Board staff and OCSA inspectors conducted a re-inspection of Program A's office in Anne, Arundel County, Maryland. The Respondent was not present, but a Certified Registered Nurse Practitioner ("CRNP") was dispensing phentermine stored in an unlocked rolling, storage cart.

9. The CNRP provided a medication label, for a patient identified hereinafter as Patient A (KL). The Respondent was on the label as the prescriber, but there was no expiration date on the label.

10. Board staff reviewed the patient record, which documented that Patient A. was treated by the CNRP. Under medication history the chart listed a refill for

phentermine (37.5 mg tablet), 1 tablet by mouth daily, #90, 1 refill. The CNRP informed Board staff that the patient comes for weekly visits and is dispensed 7 tablets each visit.

11. The OCSA Inspection Report documented that there was no verification in the patient's chart before dispensing the drugs for the first time that: (1) a pharmacy was not conveniently available to the patient, where the patient could have the prescriptions filled; (2) the documentation did not include the date of the request and signature of the patient requesting the medication, and (3) the documentation did not include a statement attesting that it was solely the patient's determination that a pharmacy was not conveniently available.

12. There was no expiration label affixed to the dispensed medication.

13. The name of the prescriber was not on the patient-label affixed to the dispensed medication.

14. The phentermine was not properly secured during business hours. The phentermine was stored in plastic drawers in an unlocked rolling storage cart, which was accessible to patients.

15. The Respondent was not on the premises for consultation at the time phentermine was dispensed to patients, and there was no final check performed to verify the accuracy and completeness of the filled prescription.

16. Board staff observed that the CNRP was dispensing the medication and the Respondent was not present.

17. Board staff issued a subpoena to Program A for eight Patient medical records (Patients B-I.)

18. The Patient records indicated that phentermine was being dispensed to patients B-I, during onsite follow-up visits by a nurse practitioner, and that the medical records did not contain the required verification to dispense medication to a patient when a pharmacy is not conveniently available.

19. There was no indication in the file that Respondent was present when medication was dispensed to patients B-I.

20. Board staff issued a subpoena to Program A for dispensing logs from June 1, 2018, through September 1, 2018. A review of the dispensing logs indicated that phentermine was being dispensed to patients on a daily basis. Each single line log entry contains the word "Cash," next to a log entry indicating phentermine was dispensed. The Respondent was listed as the Provider on every log entry.

21. There was no verification that the Respondent was onsite on the dates when medication was dispensed to patients from June 1, 2018, through September 1, 2018.

22. Board staff subpoenaed prescription orders and invoices from Program A and the pharmaceutical company providing the medication, which documented the Respondent's DEA number and physician's license number as the Provider identification information used to order the phentermine.

23. Board staff interviewed the Respondent who stated that he helped to design a multidimensional weight loss approach with the CEO of Program A, and that he obtained a dispensing permit from the Board to dispense phentermine at Program A facilities.

24. The Respondent stated that he does not have a formal written agreement with program A, but that he is paid a yearly salary as medical director. He stated that in the first two years of his involvement with the business he saw patients on a regular basis, but that he currently supervises two physician assistants and does not see patients, except if a consultation is needed for a complex case.

25. The Respondent stated that he is not usually present when the medication is being dispensed to patients, but the nurse practitioner is supposed to make a note electronically in the chart that the medication was dispensed. He stated that he does not need to perform a final check of the medication before it is dispensed, because the medication is pre-packaged and sealed by the distributor in packages containing 7 or 14 pills.

26. Board staff interviewed Witness A, the CEO and chairman of Program A, who stated that initially the Respondent was given a 10% ownership interest in Program A, and that the Respondent is currently being paid a salary of approximately \$50,000 dollars, as medical director. Witness A stated that the Respondent is a Board member for Program A, and another affiliated company, described as a not-for-profit organization.

27. Board staff also interviewed Witness B, the chief operating officer at Program A, who stated that the Respondent was the medical director, for Program a, but that there were other individuals who were also classified as medical directors. Witness a stated that the Respondent was paid a salary, but he was not sure as to whether the Respondent had an employment contract with Program A.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, 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. § 14-404(a)(3)(ii); and failed to comply with the provisions of § 12-102 of the Health Occupations Article, in violation of Health Occ. § 14-404(a)(28). In finding that the Respondent violated Health Occ. § 14-404(a)(28), Panel A also concludes that the Respondent violated Health Occ. § 12-505 and COMAR 10.13.01.04.

ORDER

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

ORDERED that the Respondent, Stephan R. Izzi, M.D., is **REPRIMANDED**; and it is further

ORDERED that any dispensing permit issued by the Board to the Respondent is surrendered by the Respondent; and it is further

ORDERED that, within **ONE YEAR**, the Respondent shall pay a civil fine of **SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500)**. 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; and it is further

ORDERED that the Respondent shall not apply for early termination of probation; 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 the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; 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 this Consent Order is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

Signature on File

10/13/2021
Date

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Stephan R. Izzi, 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.

Signature on File

10-4-2021
Date

Stephan R. Izzi, M.D.

NOTARY

STATE OF Maryland

CITY / COUNTY OF Anne Arundel

I HEREBY CERTIFY that on this 4 day of October 2021, before me, a Notary Public of the foregoing State and City/County, personally appeared Stephan Izzi, 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.

Anita Dragan
Notary Public
Anne Arundel Co., MD
My Commission Exp. 2-8-24

Anita Dragan
Notary Public

My Commission expires: 2-8-2024