

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE</b>
<b>BERNARD COHEN, M.D.</b>	*	<b>MARYLAND STATE</b>
<b>Respondent</b>	*	<b>BOARD OF PHYSICIANS</b>
<b>License Number: D26518</b>	*	<b>Case Number: 2222-0064B</b>

\* \* \* \* \*

**CONSENT ORDER**

On May 18, 2022, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) charged **BERNARD COHEN, M.D.** (the “Respondent”), License Number D26518, under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-101 *et seq.* (2021 Repl. Vol.).

Disciplinary Panel B 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:

. . .

- (4) Is professionally, physically, or mentally incompetent[.]

On June 22, 2022, Panel B was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on the 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 B finds the following:

### **Background/Licensing Information**

1. The Respondent was originally issued a license to practice medicine in Maryland on June 17, 1981, under License Number D26518. The Respondent has retained continuous licensure in Maryland since that time. The Respondent's license expires on September 30, 2022, subject to renewal.
2. The Respondent is board-certified in pediatric medicine and dermatology.
3. At all relevant times, the Respondent practiced at a health care facility (the "Facility") in Maryland.

### **The Complaint**

4. The Board initiated an investigation of the Respondent after reviewing a Mandated 10-Day Report (the "Report") from the Facility, received by the Board on September 21, 2021. The Report stated that effective September 3, 2021, the Respondent "voluntarily resigned his medical staff membership and clinical privileges at [the Facility] while under investigation for concerns raised that he continued to engage in clinical practice while on a medical leave of absence."

### **Board Investigation**

5. As part of its investigation, the Board obtained the Respondent's quality assurance file from the Facility, interviewed several staff members from the Facility, and referred the Respondent for an evaluation.

***The Respondent's quality assurance file***

6. The Respondent's quality assurance file notes that on or about March 20, 2020, the Facility informed the Respondent that it had received several individual reports about him involving forgetfulness and possible practice irregularities. As a result of these concerns, the Facility referred the Respondent for a fitness-for-duty evaluation. In conjunction with this referral, the Respondent agreed to take a medical leave of absence. On March 23, 2020, the Respondent submitted to the evaluation, after which the evaluator issued a report of his findings.

7. In or around July 2021, the Facility received information that the Respondent was continuing to practice medicine despite his medical leave of absence. In a letter dated July 26, 2021, the Facility informed the Respondent that he was continuing to provide patient care that included providing medical advice to patients and consultation services to community physicians at other health care facilities, including recommendations for medical and pharmacologic management of inpatients. The Facility further instructed the Respondent to cease and desist from these actions.

8. In a letter dated September 3, 2021, the Respondent informed the Facility that he was resigning his privileges.

9. On or about November 4, 2021, the Facility submitted the evaluation report to the Board. As a result, the Board initiated an investigation of the Respondent.

***Respondent's written response***

10. After receiving this information, the Board requested that the Respondent address the circumstances of his resignation from the Facility in a written response. By letter dated November 9, 2021, the Respondent acknowledged resigning from the Facility, before which he had been on a leave of absence. The Respondent stated that at the time of his resignation, he was the subject of a Facility inquiry into whether he was engaging in activities that were “not allowed during . . . [his] . . . leave of absence.” The Respondent stated that during his leave of absence, he continued to lecture on pediatric dermatology issues to residents, students, and faculty for teaching purposes at various health care facilities but was under the impression that his input was informal and not in the nature of an official consultation.

#### ***Board interviews***

11. The Board interviewed several former and recent professional colleagues of the Respondent who made observations about the Respondent’s clinical actions and behaviors while on staff at the Facility. Those colleagues variously described instances where the Respondent: expressed confusion about which patient he was seeing; repeated himself; performed procedures without appropriate indication; misused or employed inappropriate treatment modalities; treated patients without an established physician-patient relationship or without obtaining appropriate informed consent; and made possible billing errors. Senior staff members also stated that they received reports from trainees and staff involving the Respondent’s clinical judgment with respect to patient care.

#### ***Referral for evaluation and findings***

12. As part of the Board's investigation, the Board, pursuant to Health Occ. § 14-402(a), referred the Respondent to a Board-approved program (the "Program") for an independent evaluation to determine his present competency to practice medicine. On March 22, 2022, at the direction of the Program, the Respondent submitted to an independent evaluation. The evaluator issued a report that the Respondent's medical condition "almost certainly precludes his ability to independently practice medicine."

### **CONCLUSIONS OF LAW**

Based on the Findings of Fact, Panel B of the Board concludes as a matter of law that the Respondent: Is professionally, physically, or mentally incompetent, in violation of Health Occ. § 14-404(a)(4).

### **ORDER**

It is, thus, by Panel B of the Board, hereby:

**ORDERED** that the Order for Summary Suspension, issued on May 11, 2022, and affirmed, on May 26, 2022, is terminated as moot based upon the suspension ordered under this Consent Order; and it is further

**ORDERED** that the Respondent's license to practice medicine in Maryland is **SUSPENDED**.<sup>1</sup> During the suspension, the Respondent shall comply with the following conditions of suspension:

(1) During the suspension period, the Respondent shall not:

- (a) practice medicine;
- (b) take any actions to hold himself out to the public as a current provider of medical services;
- (c) authorize, allow or condone the use of the Respondent's name or provider number by any health care practice or any other licensee or health care provider;

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<sup>1</sup> If the Respondent's license expires during the period of suspension, the suspension and any conditions will be tolled.

- (d) function as a peer reviewer for the Board or for any hospital or other medical care facility in the State;
  - (e) prescribe or dispense medicine;
  - (f) perform any other act that requires an active medical license; and
- (2) The Respondent shall undergo a comprehensive evaluation by the **Maryland Professional Rehabilitation Program (MPRP)** and/or its agents to determine the Respondent's fitness to practice medicine safely. The following conditions apply:
- (a) Within **5 business days**, the Respondent shall contact MPRP to make arrangements for the evaluation;
  - (b) the Respondent shall fully and timely cooperate and comply with all MPRP's referrals and directives for the evaluation and shall fully participate and comply with the evaluation as directed by MPRP and its agents;
  - (c) the Respondent shall sign and update the written release/consent forms requested by the Board and MPRP, including release/consent forms to authorize MPRP to make verbal and written disclosures to the Board and to authorize the Board to disclose relevant information from MPRP records and files in a public order. The Respondent shall not withdraw his release/consent;
  - (d) 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, including, but not limited to, mental health and drug or alcohol evaluation and treatment records. The Respondent shall not withdraw his release/consent;
  - (e) the Respondent's failure to comply with any of the above terms or conditions constitutes a violation of this Consent Order;
  - (f) the evaluation shall not be performed by Dr. B, Dr. H, or Dr. G,<sup>2</sup> who have already performed evaluations of the Respondent; and
- (3) After the evaluation by MPRP and/or its agents is complete, the evaluation shall be reviewed by Panel B. The parties may be required to appear before Panel B to discuss whether the Respondent is fit to practice medicine and, if so, if probationary conditions are necessary. If Panel B determines that it is safe for the Respondent to

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<sup>2</sup> The parties know who these three individuals are. The individuals involved in the evaluation ordered under this Consent Order, however, may, but are not required to, review the evaluations performed by these three individuals.

return to the practice of medicine, the suspension will be terminated through an order of Panel B and Panel B may impose any terms and conditions it deems appropriate on the Respondent's return to practice, including, but not limited to, the Respondent's enrollment in MPRP. If the Panel B determines that it is not safe for the Respondent to return to the practice of medicine, Panel B may issue any order appropriate to the circumstances in this matter; and it is further

**ORDERED** that a violation of suspension constitutes a violation of the 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 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 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 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 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* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

07/21/2022  
Date

***Signature On File***

Christine A. Farrelly  
Executive Director  
Maryland State Board of Physicians

## CONSENT

I, Bernard Cohen, 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.

7/15/2022  
Date

***Signature On File***

Bernard Cohen, M.D.  
Respondent

NOTARY

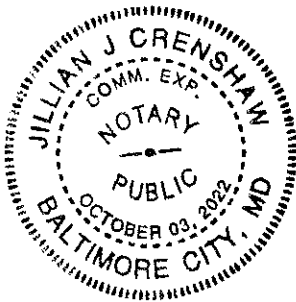
STATE OF MARYLAND

CITY/COUNTY OF BALTIMORE

I HEREBY CERTIFY that on this 15th day of July, 2022, before me, a Notary Public of the foregoing

State and City/County, did personally appear Bernard Cohen, M.D. and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSTH my hand and seal.



Jillian J. Crenshaw  
Notary Public

My commission expires: 10-03-2022