

IN THE MATTER OF	*	BEFORE THE
HENRY H. HOLCOMB, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D27903	*	Case Number: 2218-0098A
* * * * *	*	* * * * *

CONSENT ORDER

On April 30, 2019, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) charged **HENRY H. HOLCOMB, M.D.** (the “Respondent”), License Number D27903, under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.).

The pertinent provisions of the Act provide:

Health Occ. § 14-404. Denials, reprimands, probations, suspensions, and revocations –Grounds.

- (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 August 14, 2018, 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 into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

Panel A finds:

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was originally licensed to practice medicine in Maryland on May 28, 1982. His license is scheduled to expire on September 30, 2020. The Respondent holds inactive licenses in Connecticut and Illinois.
2. The Respondent practices psychiatry at a clinic in Rockville, Maryland.
3. The Respondent is not board-certified in psychiatry or any other medical specialty.

PRIOR BOARD HISTORY

4. On May 16, 2017, the Board issued to the Respondent an Advisory Letter regarding his deficient prescribing of Adderall¹ to a psychiatric patient. The Advisory Letter further cautioned the Respondent that his documentation was inadequate because he had failed to document his treatment rationale for doubling the Adderall dosage and the resultant worsening of the patient's psychiatric condition.

CURRENT ALLEGATIONS

5. On or about September 21, 2017, the Board received an anonymous complaint that alleged in pertinent part that the Respondent “does not appear to exercise proper

¹ Adderall, a Schedule II Controlled Dangerous Substance (“CDS”), is a central nervous system stimulant.

precautions in his prescription and management” of medications to a patient (identified as “Patient 1” herein).²

6. Upon receipt of the complaint, the Board initiated an investigation that included an under-oath interview with the Respondent, the issuance of subpoenas for ten patient records and referral for peer review.
7. During the Respondent’s interview, he stated in part that he prescribes ketamine³ for treatment-resistant depression and to reduce severe suicidal ideation. The Respondent further stated that benzodiazepines should not be prescribed to patients who are also prescribed ketamine.
8. The ten patient records transmitted to the Board by the Respondent were referred for peer review by two board-certified psychiatrists. The peer reviewers concurred that the Respondent failed to meet the standard of quality care and failed to keep adequate medical records in all ten records.

PATIENT-RELATED ALLEGATIONS

9. The peer reviewers found that the Respondent failed to meet standard of quality care for reasons including, but not limited to:
 - a. consistently failed to support diagnoses with adequate patient assessments and clinical information;

² The names of patients are confidential. The Respondent may request the names from the Administrative Prosecutor.

³ Ketamine is an anesthetic agent that has been found to have rapid-onset antidepressant effects.

- b. diagnosed patients with Attention Deficit Disorder (“ADD”) or Attention Deficit Hyperactivity Disorder (“ADHD”) and prescribed Adderall or Ritalin in the absence of clinical information to support the diagnosis;
 - c. started Adderall or Ritalin at higher than recommended dosages;
 - d. failed to monitor for therapeutic levels or adverse side effects of medications, including Depakote (valproic acid);
 - e. prescribed high dosages of opioids concurrently with benzodiazepines;
 - f. prescribed two benzodiazepines concurrently without monitoring for sedation;
 - g. failed to address the potential addictive potential of Controlled Dangerous Substances (“CDS”); and
 - h. prescribed benzodiazepines in conjunction with ketamine.
10. The peer reviewers found that the Respondent kept inadequate medical records for reasons including, but not limited to:
- a. documentation is consistently scant and appears in many cases to be derived from a template. In several instances, the Respondent's documentation is contradictory or inconsistent. For two patients (identified as Patient 1 and 3 on the peer review reports), for over six years, the Respondent documented minimal information, typically only the date and time of the appointment and who was present;
 - b. consistently failed to document his treatment rationale regarding medication selection or changes in dosage levels; and

- c. failed to document informed consent for some of the patients to whom he prescribed ketamine.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent failed to meet appropriate standards for the delivery of quality medical care, in violation of Health Occ. § 14-404(a)(22), and failed to keep adequate medical records, in violation of Health Occ. § 14-404(a)(40).

ORDER

It is thus by Disciplinary Panel A of the Board, 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**.⁴ During probation, the Respondent shall comply with the following terms and conditions of probation:

1. Within five business days of the date of this Consent Order, the Respondent shall inform the Board in writing of his current employer or employers, the employer's or employers' address or addresses, and of all locations including hospitals at which the Respondent provides health care services. The Respondent shall keep the Board informed of any subsequent employment changes within five business days of the change;

2. Within **SIX (6) MONTHS**, the Respondent is required to take and successfully complete two (2) courses. The first course will address the appropriate prescribing of Controlled Dangerous Substances (CDS) and the second course will address appropriate record keeping. The following terms apply:

(a) it is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the courses before the courses are started;

⁴ If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

- (b) the disciplinary panel will not accept courses taken over the internet;
- (c) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the courses;
- (d) the courses may not be used to fulfill the continuing medical education credits required for license renewal;
- (e) the Respondent is responsible for the cost of the courses;

3. For the full duration of probation, the Respondent is prohibited from certifying a patient for the medical use of cannabis;

4. During the **first six (6) months** of probation:

- (a) the Respondent is prohibited from prescribing and dispensing all CDS;
- (b) the prohibition on prescribing and dispensing goes into effect 30 calendar days after the effective date of this Consent Order;
- (c) the Respondent is prohibited from delegating to a Physician Assistant the prescribing or dispensing of all CDS;

5. During the **second six (6) months** of probation:

- (a) after the Respondent has successfully completed the panel-approved courses in appropriate CDS prescribing and medical record keeping and the panel has approved a supervisor, the Respondent may resume prescribing and dispensing of CDS;
- (b) the Respondent shall be subject to supervision by a disciplinary panel-approved supervisor who is board-certified in psychiatry for a minimum of six (6) months as follows:
 - (i) prior to the end of the first six months of probation, the Respondent shall provide the disciplinary panel with the name, pertinent professional background information of the supervisor whom the Respondent is offering for approval, and written notice to the disciplinary panel from the supervisor confirming his or her acceptance of the supervisory role of the Respondent and that there is no personal or professional relationship with the supervisor;

(ii) the Respondent's proposed supervisor, to the best of the Respondent's knowledge, should not be an individual who is currently under investigation, and has not been disciplined by the Board within the past five years;

(iii) if the Respondent fails to provide a proposed supervisor's name, the Respondent may not resume prescribing or dispensing CDS until a supervisor is approved by the disciplinary panel;

(iv) the disciplinary panel, in its discretion, may accept the proposed supervisor or request that the Respondent submit a name and professional background, and written notice of confirmation from a different supervisor;

(v) the supervision begins after the disciplinary panel approves the proposed supervisor;

(vi) the disciplinary panel will provide the supervisor with a copy of this Consent Order and any other documents the disciplinary panel deems relevant;

(vii) the Respondent shall grant the supervisor access to patient records selected by the supervisor, which shall, to the extent practicable, focus on the type of treatment at issue in the Respondent's charges;

(viii) if the supervisor for any reason ceases to provide supervision, the Respondent shall immediately notify the Board and shall not practice medicine beyond the 30th day after the supervisor has ceased to provide supervision and until the Respondent has submitted the name and professional background, and written notice of confirmation, from a proposed replacement supervisor to the disciplinary panel;

(ix) it shall be the Respondent's responsibility to ensure that the supervisor:

(1) reviews the records of 10 patients each month, such patient records to be chosen by the supervisor and not the Respondent;

(2) meets in-person with the Respondent at least once each month and discuss in-person with the Respondent the care the Respondent has provided for these specific patients;

(3) be available to the Respondent for consultations on any patient;

(4) maintains the confidentiality of all medical records and patient information;

(5) provides the Board with monthly reports which detail the quality of the Respondent's practice, any deficiencies, concerns, or needed improvements, as well as any measures that have been taken to improve patient care; and

(6) immediately reports to the Board any indication that the Respondent may pose a substantial risk to patients.

(x) if the disciplinary panel, upon consideration of the supervisory reports and the Respondent's response, if any, has a reasonable basis to believe that the Respondent is not meeting the standard of quality care or is failing to keep adequate medical records in his or her practice, the disciplinary panel may find a violation of probation after a hearing.

6. The disciplinary panel may issue administrative subpoenas to the Maryland Prescription Drug Monitoring Program on a quarterly basis for the Respondent's CDS prescriptions. The administrative subpoena will request the Respondent's CDS prescriptions from the beginning of each quarter; and it is further

ORDERED that the Respondent shall not apply for early termination of probation; 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 a violation of probation constitutes a violation of the 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 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 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).

09/12/2019
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Henry H. Holcomb, 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

9.4.2019

Date

Henry H. Holcomb, M.D.
Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF Montgomery

I HEREBY CERTIFY that on this 4th day of September 2019, before me, a Notary Public of the foregoing State and City/County, personally appeared Henry H. Holcomb, 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.

Isatou Colley
Notary Public

My Commission expires: _____

ISATOU COLLEY
NOTARY PUBLIC
MONTGOMERY COUNTY
MARYLAND
MY COMMISSION EXPIRES AUGUST 22, 2023