

IN THE MATTER OF	*	BEFORE THE
LARRY H. GASTON, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D29768	*	Case Number: 2220-0226A

* * * * *

CONSENT ORDER

On October 16, 2019, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) charged **Larry H. Gaston, M.D.** (the “Respondent”), **License Number D29768**, under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.). Panel A charged the Respondent with violating the following provisions of the Act:

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:
 - ...
 - (3) Is guilty of:
 - ...
 - (ii) Unprofessional conduct in the practice of medicine;
 - ...
 - (13) On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health--General Article, fails to provide details of a patient's medical record to the patient, another physician, or hospital[.]

On August 12, 2020, 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 times relevant to these charges, 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 August 30, 1983, under License Number D29768. The Respondent's license is current through September 30, 2020.
2. At all times relevant to these charges, the Respondent owned and maintained medical offices in Baltimore, Maryland (the "Baltimore office") as well as in Silver Spring, Maryland (the "Silver Spring office").¹
3. The Respondent is board-certified in dermatology.

II. PRIOR DISCIPLINARY HISTORY

1993 CONSENT ORDER

4. The Board initiated an investigation of the Respondent under Case Number 93-0086 after receiving a complaint from a female patient of child-bearing age for whose acne problem the Respondent prescribed Accutane (Isotretinoin), a drug known to cause severe congenital abnormalities.
5. The Board requested a peer review of the Respondent's practices of prescribing Accutane. The peer review revealed that the Respondent failed to document

¹ To ensure confidentiality, the names of any patients or medical facilities will not be identified in this document. The Respondent has been made aware of the identity of any patients referenced herein.

patient need for Accutane, failed to show previous therapy, and failed to report adequate physical examination and history.

6. On August 13, 1993, the Respondent entered into a Consent Order (the “1993 Consent Order”) with the Board upon the Board finding as a matter of law that the Respondent violated Health Occ. § 14-404(a)(22) by failing to meet appropriate standards, as determined by peer review, for the delivery of quality medical care in his prescribing of Accutane.
7. The Board suspended the Respondent's medical license for one (1) year with a stay of the suspension after the first thirty (30) days and placed the Respondent on probation for three (3) years.
8. On November 26, 1996, the Board terminated probation because the Respondent completed satisfactorily the required conditions of probation.

III. COMPLAINT

9. On or about August 12, 2019, the Board received a complaint from a patient (“Patient A”) that visited the Respondent's Baltimore office on or about June 19, 2019 for a medical appointment. During the appointment, the Respondent performed a swab of Patient A’s scalp and indicated that test results would be available in three (3) weeks. Following the appointment, Patient A called the Respondent's Baltimore office to try to obtain the test results. Moreover, Patient A attempted to procure her medical records by completing a written form. As of the date of the complaint, Patient A was unable to obtain any test results or medical records from the Respondent.

10. Patient A's complaint also noted the condition of the Respondent's Baltimore office as disorganized and unsanitary. Patient A observed that furniture in the waiting area of the Respondent's Baltimore office was in a state of disrepair and the examination table had "greasy smears." Patient A further stated that medical and office supplies were out of place in the Respondent's Baltimore office.

IV. SITE VISITS

11. On or about September 6, 2019, based on the allegations in the complaint, Board staff conducted an unannounced site visit of the Respondent's Baltimore office and hand delivered a *Subpoena Duces Tecum* for Patient A's medical records. The Respondent was unable to locate and produce Patient A's medical records within the nearly one (1) hour period of time during which the site visit took place. The Respondent stated that the records may have been moved to his Silver Spring office.
12. During the unannounced site visit of the Baltimore office, Board staff also observed and documented the following potentially hazardous conditions:
 - a. The Respondent kept expired medication in Examination Room #1;
 - b. The Respondent failed to supply the examination table in Examination Room #2 with lining paper;
 - c. The Respondent failed to cover an open electrical outlet or provide protective equipment in Examination Room #3;
 - d. The Respondent and his staff entered and exited examination rooms with patients without wearing gloves or sanitizing between patients;

- f. The Respondent housed medical supplies and patient blood tests in the staff bathroom;
 - g. The Respondent stored medication in a refrigerator along with kombucha tea;
 - h. The Respondent kept expired medications on a cart opposite patient examination rooms along with medical records and syringes;
13. On or about February 27, 2020, during an unannounced site visit to the Respondent's Silver Spring office, Board staff observed and documented the following conditions:
- a. The Respondent kept five (5) bottles of ethyl alcohol beverages on the desk in his personal office;
 - b. The Respondent maintained a mini-refrigerator in the staff break room containing non-alcoholic drinks, blood, and medical supplies;
 - c. The Respondent maintained a room with disorganized medical records stacked approximately five (5) feet high in seemingly random, disorganized fashion.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent engaged in unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(ii) and failed to provide details of a patient's medical record upon request, in violation of Health Occ. § 14-404(a)(13).

ORDER

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

ORDERED that the Respondent, Larry H. Gaston, M.D., License No. D29768, is **REPRIMANDED**; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum of two (2) years.² 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 and successfully complete a course in CDC universal guidelines. 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;
 - (d) the course 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 course;
2. After the Respondent successfully completes the course, he may be subject to unannounced site visits and inspections of his office by Board Staff. The Respondent shall at all times cooperate with the disciplinary panel, its employees or agents in conducting the inspection. The Respondent understands and agrees that if the inspection reveals that his office is not maintained in a clean, orderly and safe condition, such acts shall constitute a violation of probation;
3. The Respondent shall be evaluated by the Maryland Professional Rehabilitation

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

Program (MPRP) and enroll in MPRP if MPRP determines enrollment is needed. The following terms apply:

(a) Within five (5) business days of the effective date of this Consent Order, the Respondent shall contact MPRP to schedule an initial consultation for enrollment;

(b) Within fifteen (15) business days of the effective date of this Consent Order, the Respondent shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP if MPRP determines that enrollment is indicated;

(c) the Respondent shall fully and timely cooperate and comply with all MPRP's referrals, rules, and requirements, including, but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by MPRP;

(d) 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;

(e) 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;

(f) the Respondent's failure to comply with any of the above terms or conditions including terms or conditions of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s) constitutes a violation of this Consent Order; and as a condition of Probation;

4. Within 2 years, the Respondent shall pay a civil fine of \$10,000. 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 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 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 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, 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).

09/02/2020
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Larry H. Gaston, 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

08/26/2020
Date

Larry H. Gaston, M.D.
Respondent

NOTARY

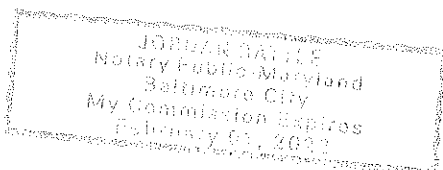
STATE OF Maryland

CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 26 day of August,

2020, before me, a Notary Public of the foregoing State and City/County, did personally appear Larry H. Gaston, 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 seal.



Notary Public

My commission expires: 2-1-2022