

IN THE MATTER OF
LARRY GASTON, M.D.

Respondent

License Number: D29768

*** BEFORE THE**
*** MARYLAND STATE**
*** BOARD OF PHYSICIANS**
*** Case Number: 2221-0095**

* * * * *

CONSENT ORDER

On March 31, 2022, Disciplinary Panel A of the Maryland State Board of Physicians (the “Board”) charged **LARRY GASTON, M.D.** (the “Respondent”), License Number **D29768**, with violating the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. § 14-101 *et seq.* (2021 Repl. Vol.). The pertinent provisions of the Act provide the following:

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;

....

(40) Fails to keep adequate medical records as determined by appropriate peer review[.]

On July 13, 2022, 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, and Order.

FINDINGS OF FACT

Disciplinary Panel A finds:

I. BACKGROUND

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 August 30, 1983, under License Number D29768. The Respondent’s license is currently active and scheduled to expire on September 30, 2022.

2. The Respondent is board-certified in dermatology.

3. At all times relevant hereto, the Respondent was a solo practitioner at a dermatology practice in Baltimore, Maryland (the “Practice”).¹

II. PRIOR DISCIPLINARY HISTORY

2020 CONSENT ORDER

4. On September 2, 2020, the Board executed a Consent Order (“2020 Consent Order”) where the Board found as a matter of law that the Respondent violated Health Occ. § 14-404(a)(3)(ii) and (13) when the Respondent engaged in unprofessional conduct in the practice of medicine and failed to provide details of a patient’s medical record upon request.

¹ For confidentiality and privacy purposes, the names of individuals and health care facilities involved in this case are not disclosed in this document.

5. The Board reprimanded the Respondent and placed him on probation for a minimum of two years subject to probationary conditions such as completion of a course in CDC universal guidelines, he may be subjected to unannounced site visits and inspections, evaluation by Maryland Professional Rehabilitation Program, and a \$10,000 fine.

III. THE COMPLAINT

6. On or about February 23, 2021, the Board received a complaint (the "Complaint") from a Maryland licensed physician alleging that the Respondent was improperly prescribing an opioid controlled dangerous substance ("CDS") to a patient ("Patient 1") for a dermatologic condition.

IV. BOARD INVESTIGATION

7. Based on the Complaint, the Board initiated an investigation under case number 2221-0095.

8. As part of its investigation, the Board obtained Patient 1's patient records, as well as the patient records for eight (8) additional patients of the Respondent's, interviewed the Respondent, and obtained a peer review of the Respondent's care of the patients.

Prescription Drug Monitoring Program

9. Based on the Complaint, by Subpoena Duces Tecum (SDT) dated February 24, 2021, the Board obtained a record, including the name of each patient, for all the Respondent's CDS prescriptions from January 1, 2020 to the date of the SDT.

Patient Records

10. By letter dated March 18, 2021, the Board notified the Respondent that it had opened an investigation of the matter and provided the Respondent with a copy of the Complaint. The Board directed the Respondent to provide a response to the allegations raised in the Complaint.

11. Also on March 18, 2021, the Board issued the Respondent an SDT that directed the Respondent to transmit to the Board “a complete copy of any and all medical records” for Patient 1 and additional patients (including “Patients 2-9”), all of whom the Respondent had prescribed CDS to.

12. The Respondent transmitted to the Board an overall written response to the allegations, the medical records, a written summary of care for each patient, and a Certification of Medical Records that the Respondent signed certifying that he had provided the Board with “the complete medical records which include all records pertaining to the care and treatment” of Patients 1-9.

Interview of the Respondent

13. On May 17, 2021, Board staff interviewed the Respondent under oath, during which the Respondent stated the following:

- a. He is the sole owner of his dermatology practice.
- b. He prescribes phentermine to approximately ten patients. He prescribes these patients phentermine when the “patients may bring to my attention that they are having problems . . . they come in for acne, eczema, something that they have a dermatological problem first. And they just secondarily ask

me – I mean not ask, but tell me that they’re having – I don’t know what they tell me. Anyway, they tell me why they’re having problems with losing weight and I bring it to their attention that if they’re having problems, that since I see you on a regular basis, I could, I could probably place you on something like an appetite suppressant.”

- c. He has not “taken any courses or anything like that” on weight loss or weight management.
- d. He does not have any professional training and has not completed any courses on CMEs in pain management.
- e. He now utilizes CRISP and accesses it once a month. However in the past he did not use CRISP because he “thought CRISP was monitoring it and that CRISP would contact me if there was noncompliance or if they thought something was, was being diverted, that they would call me or, I don’t know, tell me or send me a letter about the patient if something that’s wrong. I didn’t know I had to go into CRISP and monitor the patients myself.” He first got on CRISP in February after another physician called him about Patient 1 and referred him to CRISP.

Peer Review

14. In furtherance of its investigation, the Board submitted the records of Patients 1-9 and related materials to a peer review entity to determine if the Respondent complied with appropriate standards for the delivery of quality medical care and kept adequate medical records. Two peer reviewers, both physicians board-certified in

anesthesiology and pain medicine, independently reviewed the materials and submitted their reports to the Board.

15. In their reports the two physician peer reviewers concurred that the Respondent failed to meet appropriate standards for the delivery of quality medical care for all nine patients.

16. As part of the treatment of dermatologic conditions, Patients 1, 2, 3, 7, and 9 were treated by Respondent with opioid medications for pain management. In addition to one or more dermatologic conditions, Patients 4, 5, 6, and 8 were treated by Respondent with CDS for weight loss. The peer reviewers found that for all nine of the patients, the Respondent failed to meet the standard of quality medical care for reasons including but not limited to the following:

- a. Initiated opioid pain management without documenting pain descriptors, pain score, and/or risk assessment (Patient 1, 7, 9);
- b. Prescribed or began prescribing opioids without a signed pain contract (Patients 1, 2, 3, & 7);
- c. Failed to implement adequate compliance measures for patients prescribed CDS such as conducting random pill counts, obtaining random urine drug screens, and consulting CRISP (Patients 1, 3, 4, 5, 6, 7, 8, 9);
- d. Prescribed CDS for weight loss without documenting the weight of the patient at each visit (Patients 4, 5, 6, 8).

17. The peer reviewers also found that for five of the nine patients, the Respondent failed to maintain adequate medical records for reasons including but not limited to the following:

- a. Failed to document a thorough history and physical examination (Patients 1, 4, 6, 9);
- b. Prescribed CDS for weight loss without documenting the weight of the patient at each visit (Patients 4, 5, 6).
- c. Indicated that he would speak to the patient's primary care physician but failed to document that this occurred (Patient 1);

The Respondent's Response

18. The Board provided the Respondent with the peer reviewers' findings. By letter dated August 9, 2021, the Respondent provided his written response where he indicated that he is no longer treating seven of the nine patients and "[i]n the future, I will not treat patients for long-term pain or weight loss."

CONCLUSION OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent failed to meet the 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 Respondent, Larry Gaston, M.D., License No. D29768 is **REPRIMANDED**; and it is further

ORDERED that the Respondent is **PERMANENTLY PROHIBITED** from prescribing and dispensing all Controlled Dangerous Substances (CDS) **EXCEPT AS PROVIDED IN THE NEXT PARAGRAPH**; and it is further

ORDERED that the Respondent may issue CDS for treating patients for conditions that requires CDS, but the prescription may not exceed the lowest effective dose and quantity needed for a duration of **FIVE (5) DAYS**. The prescription may not be refilled, nor may it be renewed; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum of **THREE MONTHS and until he completes the following terms and conditions:**²

Within **SIX (6) MONTHS**, the Respondent is required to take and successfully complete a course in recordkeeping. 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 Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;
- (c) the course may not be used to fulfill the continuing medical education credits required for license renewal;
- (d) the Respondent is responsible for the cost of the course; it is further

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

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 a written petition for termination of probation. After consideration of the petition, the Respondent's probation may be administratively terminated 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 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 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 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).

09/30/2022
Date

Signature On File

Christine A. Farréllly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Larry 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

Date 09/27/22

Larry Gaston, M.D.
License No. D29768

NOTARY


STATE OF Maryland

CITY / COUNTY OF Frederick

I HEREBY CERTIFY that on this 27 day of September 2022, before me, a Notary Public of the foregoing State and City/County, personally appeared Larry 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 notarial seal.

JENNIFER CABRERA
Notary Public-Maryland
Frederick County
My Commission Expires
August 31, 2024



Notary Public

My Commission expires: 8-31-24