

IN THE MATTER OF	*	BEFORE THE
GERARD S. O'CONNOR, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D30368	*	Case Number: 2222-0007
* * * * *	*	* * * * *

CONSENT ORDER

On March 16, 2022, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) charged **GERARD S. O’CONNOR, M.D.** (the “Respondent”), License Number D30368, under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2021 Repl. Vol.). Panel A charged the Respondent under the following provisions of the Act:

Health Occ. § 14-404. License denial, suspension, or revocation.

(a) 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[.]

On May 11, 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

Panel A finds:

I. BACKGROUND

1. At all times relevant hereto, the Respondent has been licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on or about February 2, 1984, under license number D30368. His license is currently active through September 30, 2023.

2. The Respondent is board-certified in general surgery.

3. The Respondent had surgical privileges at a medical facility (the “Medical Facility”)¹ in Kent County, Maryland until he retired on or about July 31, 2021.

4. On or about April 14, 2021, the Board received a Mandated 10-Day Report (the “Report”) from the Medical Facility, which alleged that the Respondent’s privileges were “suspended for five days, effective 3/8/2021 – 3/13/2021[.]”

II. INVESTIGATION

5. The Board opened an investigation into the Report.

6. On or about July 16, 2021, the Board notified the Respondent about the Mandated 10-Day Report and requested a written response from him.

¹ To maintain confidentiality, the names of all witnesses, facilities, employees, and patients will not be used in this Consent Order.

7. On or about July 26, 2021, the Respondent provided his response to the Mandated 10-Day Report in which he stated the following:

I was suspended for using unacceptable language in the Operating Room. I used the word retarded [and] clown directed at surgical techs who had been at our facility less than 1 year. The one incident, the tech gave me the wrong instrument several times causing me to ask if he was “retarded.” The other incident was using the word clown and clown show when surgery tech actually told me “you don’t use that on female hernia.” I reported this to OR charge nurse [and] nothing was done. I believe the whole process is retaliatory and punitive against me because I have been vocal and started [a movement] 6 years ago. I satisfied all the requirements listed in [the] letter

8. As part of the Board’s investigation, Board staff subpoenaed the Respondent’s personnel records from the Medical Facility, conducted under-oath interviews with former colleagues of the Respondent, including those who were present during the incidents described by the Respondent in his July 26, 2021 response, and conducted an under-oath interview with the Respondent.

9. On or about August 16, 2021, Board staff conducted an interview with Individual 1, a surgical technologist who worked with the Respondent at the Medical Facility from January 2019 through early 2021. In the under-oath interview, Individual 1 stated:

- a. Individual 1 worked directly with the Respondent “just about every day” at the Medical Facility in Kent County, Maryland.
- b. The Respondent’s demeanor is “[v]ery arrogant, condescending.”
- c. On or about February 15, 2021, Individual 1 volunteered to stay after normal shift hours to help the Respondent with an emergency surgical procedure.

- d. During the surgery, Individual 1 “was holding the wound open and [the Respondent] just looked up and looked across and said, ‘what are you, a retard?’”
- e. The Respondent said to another surgical technologist, “this is a friggin clown show.”
- f. The next morning, Individual 1 reported the above statements to his direct supervisor. His supervisor advised him and the other surgical technologists that were present to “write [the Respondent] up.”
- g. The Respondent was suspended for a week from the Medical Facility.
- h. Once the Respondent returned from suspension, Individual 1 was transitioning to the Medical Facility’s other location.

10. On or about August 16, 2021, Board staff conducted an interview with Individual 2, a surgical technologist who has worked at the Medical Facility for about two and a half years. In the under-oath interview, Individual 2 stated:

- a. Individual 2 worked directly with the Respondent almost every day.
- b. On or about February 15, 2021, the Respondent “was just awfully grumpy and kind of rude.” During a surgical procedure that day, Individual 2 “was doing [her] job very well, and [the Respondent] said that it was a clown show.”
- c. Individual 2 gave the Respondent a piece of medical equipment during the procedure, but the Respondent wanted a different size. He said something to her like, “This is a clown show.”
- d. Individual 2 reported the Respondent’s behavior to her direct supervisor who advised her to “write him up.”
- e. Individual 2 submitted a written statement through the Medical Facility’s RL system.²

² An RL system is computer software for incident reporting.

11. On or about September 16, 2021, Board staff conducted an interview with Individual 3, a surgical technologist who worked at the Medical Facility for about three years, from 2018 until early 2021. In the under-oath interview, Individual 3 stated:

- a. Individual 3 worked with the Respondent “almost every day” at the Medical Facility.
- b. The Respondent’s demeanor was “[r]ude, sarcastic . . . he talked down on people all the time, made them feel crappy.” He used “nasty words,” like “retarded.” The Respondent “was nasty on a daily basis.”
- c. On or about February 15, 2021, Individual 3 was working on a surgical procedure with Individual 1 and the Respondent. The Respondent called Individual 1 “retarded.”
- d. The Respondent referred to the team as a “clown show . . . all the time.”
- e. Individual 3 reported the Respondent’s behavior through the Medical Facility’s RL system.
- f. The Respondent’s comments affected Individual 3’s confidence, making her feel like she’s “not good enough for this job.”

12. On or about August 16, 2021, Board staff interviewed Individual 4, the direct supervisor of Individuals 1, 2, and 3 at the Medical Facility, where she has worked for more than 14 years. In the under-oath interview, Individual 4 stated:

- a. The Respondent has worked at the Medical Facility since Individual 4 began working there. Individual 4 has worked directly with the Respondent in the operating room.
- b. The Respondent’s demeanor “depends on the day[.]” The Respondent “can come in and . . . be in a good mood,” and sometimes, “he was not that nice to you.”
- c. The Respondent has said, “[W]ow, you’re really being a bitch today[.]” to Individual 4 “numerous times.”

- d. Individual 4 would not react to the Respondent's comments because "if you showed him that his comments got to you, he would keep going with it."
- e. The Respondent called Individual 4 and another coworker "fucking idiots" because they did not know what was on the cafeteria menu that day.
- f. Individual 1 informed Individual 4 that the Respondent called him "retarded" during a procedure in the operating room. Individual 2 informed Individual 4 that the Respondent said something to her about a "circus" during a procedure in the operating room. Individual 4 encouraged them to report it through the Medical Facility's RL system.

13. On or about November 19, 2021, Board staff interviewed the Respondent.

In the under-oath interview, the Respondent stated:

- a. He was a surgeon at the Medical Facility since the time he finished residency, about 38 years ago, until on or about July 31, 2021 when he retired.
- b. The Respondent has been "kind of a target . . . for the last six years because [he] is not an employee" of the Medical Facility and "[he speaks his] mind quite freely[.]" The Respondent said that the Medical Facility "took an opportunity to tarnish me, unfortunately. After 38 years of a sterling practice, they throw this thing at me[.]"
- c. The Respondent has had to change how he speaks to staff by being "more cognizant" of what he is saying. He said, "38 years ago, it was more fun, everyone was more relaxed and as time goes on, the paradigm shift in regulations, politically, political correctness took a shift[.]"
- d. The Respondent "used a bad word, retarded, and clown, but . . . [he has] heard a lot worse from other people, other surgeons, other situations . . ."
- e. Individual 1, a surgical technologist, gave the Respondent the wrong instrument three times during a procedure. After he gave him the

wrong instrument for the third time, the Respondent said to Individual 1, “what, are you retarded[?]”

- f. The Respondent has lessened his use of the term “retarded” since “it became politically incorrect.”
- g. Individual 2 questioned the Respondent’s decision to use a certain instrument during a procedure. The Respondent said to Individual 2, “what is this, a clown show, are you a clown[?]”
- h. The Respondent received a patient complaint. The patient “may have weighed 400 pounds[.]” There was a nurse in the room who was pregnant and the Respondent said, “whose belly’s bigger?”
- i. The Respondent may continue to practice medicine as a *locum tenens* physician.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent was guilty of unprofessional conduct in the practice of medicine in violation of Health Occ. § 14-404(a)(3)(ii).

ORDER

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

ORDERED that Respondent, Gerard S. O’Connor, M.D., License No. D30368 is **REPRIMANDED**; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum of **ONE YEAR and shall comply with the following terms and conditions:**³

Within **SIX (6) MONTHS**, the Respondent is required to take and successfully complete a course in workplace communications 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;

³ If the Respondent’s license expires during the period of probation, the probation and any conditions will be tolled.

- (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

ORDERED that within **ONE YEAR**, the Respondent shall pay a civil fine of \$5,000. 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.

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).

Signature On File

06/07/2022
Date

Christine A. Farréllý 
Executive Director
Maryland State Board of Physicians

CONSENT

I, Gerard S. O'Connor, 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

5/27/22
Date

Gerard, S. O'Connor, M.D.
License No. D30368

NOTARY

STATE OF Maryland

CITY / COUNTY OF Kent

I HEREBY CERTIFY that on this 27 day of May 2022, before me, a Notary Public of the foregoing State and City/County, personally appeared Gerard, S. O'Connor, 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.

BRIDGET MARY CAHALL
Notary Public
State of Maryland
Kent County

Bridget M. Mahoney
Notary Public
Commissioned as Bridget M. Cahall

My Commission expires: 12/04/2021