

IN THE MATTER OF
GARY J. SPROUSE, M.D.

Respondent

License Number: D32036

*** BEFORE THE**
*** MARYLAND STATE**
*** BOARD OF PHYSICIANS**
*** Case Number: 2218-0276 A**

* * * * *

ORDER

On August 12, 2019, pursuant to Md. Code Ann., Health Occ. § 14-206(e)(2), Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) issued an Order to Cease and Desist to Gary J. Sprouse, M.D. The Order to Cease and Desist prohibits Dr. Sprouse from prescribing opioids.

Dr. Sprouse was entitled to challenge the factual or legal basis of the Order to Cease and Desist by filing a written opposition and a request for a hearing within 30 days of the issuance of the Order to Cease and Desist. COMAR 10.32.02.11E(3). Dr. Sprouse did not file a timely written opposition to the Order to Cease and Desist or a timely request for a hearing.

Section 14-206 of the Health Occupations Article provides, in pertinent part:

(e) A disciplinary panel may issue a cease and desist order . . . against an individual for:

* * *

(2) Taking any action:

(i) For which a disciplinary panel determines there is a preponderance of evidence of grounds for discipline under § 14-404 of this title; and

(ii) That poses a serious risk to the health, safety, and welfare of a patient.

(f) The Board shall adopt regulations to carry out the provisions of this section, including hearing procedures and sanctions for noncompliance with a cease and desist order.

COMAR 10.32.02.11E provides, in pertinent part:

(3) Challenge.

(a) A respondent may challenge the factual or legal basis of the initial order by filing a written opposition within 30 days of its issuance, and may include a request for a hearing.

(b) The Board shall consider that opposition and shall provide a hearing if requested.

(c) After considering the written opposition and the presentation at the hearing, if any, the Board may issue a final order to rescind, modify, or affirm the cease and desist order.

FINDINGS OF FACT

The Board finds by the preponderance of evidence the following findings of fact concerning Dr. Sprouse's written opposition and request for a hearing:

1. On August 12, 2019, pursuant to § 14-206(e)(2) of the Health Occupations Article, Panel A issued an Order to Cease and Desist, which ordered Dr. Sprouse to cease and desist the prescribing or dispensing of opioids in Maryland. The Board found that, with respect to Dr. Sprouse's prescribing of opioids, there is a preponderance of evidence of grounds for discipline under § 14-404 of the Health Occupations Article and a serious risk to the health, safety, and welfare of patients.

2. Under COMAR 10.32.02.11E(3)(a), to challenge the Order to Cease and Desist through a written opposition and a hearing, Dr. Sprouse had to file a written opposition and a request for a hearing within 30 days of the issuance of the Order to Cease and Desist.

3. The Order to Cease and Desist explicitly notified Dr. Sprouse that he had 30 days to file a written opposition and a request for a hearing:

Respondent has the right to contest this order through a hearing. To obtain a hearing, Respondent shall file, within **30 days** of this order, a written request for a hearing and a written opposition to the order. The written opposition shall state the Respondent's legal and factual grounds for opposing the order. The request for a hearing and opposition shall be filed with: If the Respondent fails to timely file a request for a hearing, the Respondent waives his right to contest the order to cease and desist.

Order to Cease and Desist at 10-11.

4. On September 12, 2019, Dr. Sprouse filed with the Board, through email, a written opposition and a request for hearing. The written opposition and request for a hearing, however, were untimely filed. They were filed 31 days after the Order to Cease and Desist was issued.

CONCLUSIONS OF LAW

Because Dr. Sprouse did not file his written opposition and a request for a hearing within 30 days from the issuance of the Order to Cease and Desist, Dr. Sprouse waived his right to challenge the Order to Cease and Desist. *See* COMAR 10.32.02.11E(3)(a). The written opposition is denied, because it was untimely filed. *Id.* The Board also denies the request for hearing as untimely. *Id.* Because the Order to Cease and Desist was not timely challenged, the Order to Cease and Desist remains in effect and is converted into a final order. *Id.*

ORDER

It is, by an affirmative vote of a majority of the Board members present, hereby **ORDERED** that Dr. Sprouse's request for a hearing is denied; and it is further **ORDERED** that Dr. Sprouse's written opposition is denied; and it is further **ORDERED** that the Order to Cease and Desist, issued on August 12, 2019, remains in effect and is converted to the final Order to Cease and Desist as of the date of this Order; and it is further

ORDERED that this Order goes into effect upon the signature of the Executive Director of the Board, who signs on behalf of the Board.

ORDERED that this is a public document. *See* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Md. Code Ann., Gen. Prov. § 4-333(b)(6).

10/15/2019
Date

Signature on File

Christine A. Farrelly, Executive Director
Maryland State Board of Physicians

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Dr. Sprouse has the right to seek judicial review of this Order. Any petition for judicial review shall be filed within 30 days from the date of mailing of this Order. The cover letter accompanying this Order indicates the date this Order was mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Dr. Sprouse files a petition for judicial review, the Board is a party and should be served with the Court's process at the following address:

**Maryland State Board of Physicians
4201 Patterson Avenue, Fourth Floor
Baltimore, Maryland 21215**

Notice of any petition should also be sent to the Board's counsel at the following address:

**David Wagner
Assistant Attorney General
Office of the Attorney General
300 West Preston Street, Suite 302
Baltimore, Maryland 21201**