IN THE MATTER OF	*	**BEFORE THE**
PHILIP RUZBARSKY, M.D.	*	**MARYLAND STATE**
Respondent	*	**BOARD OF PHYSICIANS**
License Number: D33599	*	**Case Number: 2223-0031A**

* * * * * * * * * * * * *

AMENDED CEASE AND DESIST ORDER

Pursuant to the authority granted to Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") under Md. Code Ann., Health Occ. ("Health Occ.") § 14-206(e)(3) (2021 Repl. Vol. & 2022 Supp.), Panel A hereby orders **PHILIP RUZBARSKY, M.D.** (the "Respondent"), to **CEASE AND DESIST** from prescribing and dispensing Controlled Dangerous Substances ("CDS") in the State of Maryland, as defined in Criminal Law § 5-101 *et seq.* beginning on and including February 26, 2024.

The pertinent provisions of the Maryland Medical Practice Act (the "Act"), Health Occ. §§ 14-101 *et seq.*, under which Panel A issues this Order provide the following:

> **§ 14-206. Judicial Powers.**
> ...
> (e) A disciplinary panel may issue a cease and desist order or obtain injunctive relief against an individual for:
> ...
> (3) 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.

§ 14-404. Denials, reprimands, probation, suspensions, and revocations.

(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[.]

INVESTIGATIVE FINDINGS[1]

Based on the investigatory information received by, made known to, and available to Panel A, there is reason to believe that the following facts are true:

I. BACKGROUND

1. At all relevant times, the Respondent was and is licensed to practice medicine in the State of Maryland. The Board initially issued the Respondent a license to practice medicine in the State of Maryland on May 8, 1986. His license is active through September 30, 2025.

[1] The statements regarding the Board's investigative findings are intended to provide the Respondent with reasonable notice of the basis of the Board's action. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

2. The Respondent is the sole owner of a general medical practice located in Westminster, Maryland.

II. COMPLAINTS

3. On or about November 9, 2022, the Board received two anonymous complaints ("Complaint 1" and "Complaint 2" respectively):

a. Complaint 1 alleged that the Respondent had prescribed one of his patients ("Patient 2")[2] an anxiolytic[3] when Patient 2 had already been prescribed one by another treating physician. Complaint 1 further stated that if Patient 2 had taken both medications, Patient 2 "could have died!".

b. Complaint 2 alleged that the Respondent had been prescribing oxycodone to another of his patients ("Patient 1") for over seventeen (17) years. Patient 1 currently receives 180 30mg pills per month and has been sharing the pills with another family member for years. Complaint 2 stated that Patient 1 "sleeps half the days away dozing off all the time on [the] pills" and that Patient 1 is "wasting away to nothing" due to having lost at least 40 pounds in the last year.

4. During the pendency of the Board's investigation based on the two anonymous complaints, the Board also received a referral on or about April 24, 2023 from

[2] For confidentiality reasons, the names of individuals referenced herein, will not be disclosed in this document. The Respondent may obtain this information from the administrative prosecutor.

[3] An anxiolytic is a medication or other intervention that reduces anxiety.

the Office of Controlled Substances Administration ("OCSA"). The OCSA referral stated that the Respondent's patients frequently receive daily opioid dosages exceeding 90 MME[4], the Respondent regularly prescribes opioids in combination with benzodiazepines, and the Respondent regularly prescribes CDS medications with abuse or diversion potential to his substance abuse patients.

III. BOARD INVESTIGATION

5. By letter dated January 11, 2023, the Board notified the Respondent of the two anonymous complaints regarding his prescribing practices. The Board provided the Respondent with copies of the complaints and requested that he address them in a written response within ten business days. The Board also enclosed a *subpoena duces tecum* ("SDT") for ten named patient records, requiring production within ten business days along with corresponding summaries of care and records certification forms.

6. The Respondent did not provide a formal response to the complaints but said that he would be available to answer questions from the Board.

IV. RESPONDENT'S INTERVIEW

7. On or around May 4, 2023, the Board conducted an interview with the Respondent who provided the following information:

[4] MME is an acronym for morphine milligram equivalents. The MME/day metric is often used as a gauge of the overdose potential of the amount of opioid that is being given at a particular time. High-dose opioids are typically defined as morphine equivalent daily doses of 91 or more milligrams. The current CDC Clinical Practice Guideline for Prescribing Opioids for Pain states that dosages of ≥100 MME/day were found to be associated with increased risks for overdose.

(a) The Respondent stated that he sometimes does not reduce a patient's medication if the patient is doing well even if the opioid dosage is over the 90 MME/day threshold.

(b) The Respondent admitted that he does not prescribe Narcan for accidental overdose with every prescription that he provides to his patients. He further stated that he might prescribe it once for a patient who was compliant.

(c) The Respondent stated that he did not complete any "formal pain residency" when asked about the extent of his professional training in dealing with patients with addiction issues.

V. PEER REVIEW

8. As part of its investigation, the Board referred ten (10) patient records obtained from the Respondent (referenced *infra* as "Patients 1-10")[5] and related materials for peer review. The review was performed by two physicians ("Peer Reviewer 1" and "Peer Reviewer 2," respectively) who are board-certified in Physical Medicine and Rehabilitation. The reviewers submitted reports to the Board which addressed standard of care issues related to the Respondent's treatment of the patients and the adequacy of the Respondent's medical records.

9. The reviewers independently concluded that in nine of the ten cases reviewed, the Respondent failed to meet appropriate standards for the delivery of quality

[5] To ensure confidentiality and privacy, the names of individuals and entities involved in this case, other than the Respondent, are not disclosed in this document. The Respondent may obtain the identity of all individuals/entities referenced in this document by contacting the Administrative Prosecutor.

medical care and failed to keep adequate medical records. Examples of deficiencies include but are not limited to the following:[6]

(a) The Respondent inappropriately maintained a high-dose opioid regimen in excess of 90 MME/day (Patients 1, 4, 5, 6, 9, 10);

(b) The Respondent failed to document a discussion of the risks of chronic opioid therapy (Patients 4, 6, 7, 8, 9, 10);

(c) The Respondent inappropriately prescribed high-dose opioid medications in conjunction with benzodiazepines (Patients 1, 3, 4, 9, 10);

(d) The Respondent failed to document a discussion of the risks of concurrent opioid and benzodiazepine use (Patients 1, 3, 4, 9, 10);

(e) The Respondent failed to adequately document justification for the continuation of chronic opioid therapy and/or a high-dose opioid regimen (Patients 1, 3, 4, 5, 6, 8, 9, 10)

(f) The Respondent failed to adequately prescribe medication intended to reverse an overdose such as Narcan or Naloxone (Patients 3, 5, 6, 7, 8, 9);

(g) The Respondent failed to address inconsistent toxicology results (Patients 3, 5);

[6] The deficiencies pertain to Patients 1 through 10 unless specifically indicated.

(h) The Respondent made little or no effort at utilizing non-opioid therapies such as physical therapy to treat chronic pain (Patients 4, 5, 8);

(i) The Respondent failed to consistently taper high-dose opioid regimen to 90 MME/day or less (Patients 1, 4, 5, 6, 7, 9, 10);

(j) The Respondent failed to address violations of the opiate contract (Patient 5); and

(k) The Respondent failed to maintain adequate medical records which should have included, *inter alia*, a complete history and physical examination, valid measures of treatment impact on function (e.g., pain scores), pain pathology and etiology, and opiate contracts and risk assessment where appropriate. (Patients 1, 2, 3, 4, 5, 6, 7, 8, 10).

10. Peer Reviewer 2 provided an addendum to his original report which emphasized the danger of the Respondent's prescribing practices. Reviewer 2 opined that the Respondent's "medical records revealed a concerning trend of irresponsible prescribing of controlled substances and I therefore believe he should be restricted from prescribing controlled substances." For example, the Respondent failed to inform the patients of the risk of respiratory depression and death in those cases where the Respondent prescribed high dose opioids concurrently with benzodiazepines. Reviewer 2 strongly recommended that the Respondent be prohibited from prescribing controlled substances.

CONCLUSIONS OF LAW

Based on the foregoing Investigative Findings, Panel A concludes as a matter of law that the Respondent failed to meet appropriate standards of quality medical care and failed

to keep adequate medical records with regard to his CDS prescribing practices and treatment of chronic pain patients in violation of Health Occ. § 14-404(a)(22) and (40). Because the Respondent's deficient CDS prescribing practices pose a serious risk to the health, safety and welfare of patients, Panel A is authorized to issue this cease and desist order under Health Occ. § 14-206(e)(3).

ORDER

Based on the foregoing Investigative Findings and Conclusions of Law, it is, by a majority of the quorum of Panel A, hereby:

ORDERED that the **Cease and Desist Order** dated February 9, 2024 is **TERMINATED** as moot; and it is further

ORDERED that pursuant to the authority under the Maryland Medical Practice Act, Health Occ. § 14-206(e)(3), the Respondent, Philip Ruzbarsky, M.D., shall **CEASE AND DESIST** from prescribing and dispensing all CDS beginning and including February 26, 2024; and it is further

ORDERED that beginning February 9, 2024, Respondent shall not prescribe or dispense CDS to new patients; and it is further

ORDERED that if the Respondent violates this Cease and Desist Order, Panel A may impose a fine pursuant to COMAR 10.32.02.11E(4)(a); and it is further

ORDERED that this is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq*. and COMAR 10.32.02.11E(1)(a).

02/14/2024
Date

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

NOTICE OF OPPORTUNITY FOR A HEARING

The Respondent may challenge the factual or legal basis of this initial order by filing a written opposition, which may include a request for a hearing, within 30 days of its issuance. The written opposition shall be made to:

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians
4201 Patterson Avenue, 4th Floor
Baltimore, Maryland 21215

A copy shall also be mailed to:

Veronica Colson
Assistant Attorney General
Maryland Office of the Attorney General
Health Occupations Prosecution and Litigation Division
300 West Preston Street, Suite 201
Baltimore, Maryland 21201

If the Respondent files a written opposition and a request for a hearing, the Board shall consider that opposition and provide a hearing if requested. If the Respondent does not file a timely written opposition, the Respondent will lose the right to challenge this Initial Order to Cease and Desist and this Order will remain in effect.