IN THE MATTER OF	*	**BEFORE THE**
ERIC F. CIGANEK, M.D.	*	**MARYLAND STATE**
Respondent	*	**BOARD OF PHYSICIANS**
License Number: D35048	*	**Case Number: 2222-0045A**

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CONSENT ORDER

On October 6, 2022, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged **Eric F. Ciganek, M.D.** (the "Respondent"), License Number D35048, 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) *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:
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> . . .
>
> (ii) Unprofessional conduct in the practice of medicine;
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> . . .
>
> (33) Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel[.]

One form of unprofessional conduct in the practice of medicine is providing self-treatment or treatment to family members. The American Medical Association has addressed this in a series of ethics opinions:[1]

> **Opinion 8.19 (2012) – Self-Treatment or Treatment of Immediate Family Members**
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> Physicians generally should not treat themselves or members of their immediate families. Professional objectivity may be compromised when an immediate family member or the physician is the patient; the physician's personal feelings may unduly influence his or her professional medical judgment, thereby interfering with the care being delivered. Physicians may fail to probe sensitive areas when taking the medical history or may fail to perform intimate parts of the physical examination. Similarly, patients may feel uncomfortable disclosing sensitive information or undergoing an intimate examination when the physician is an immediate family member. This discomfort is particularly the case when the patient is a minor child, and sensitive or intimate care should especially be avoided for such patients. When treating themselves or immediate family members, physicians may be inclined to treat problems that are beyond their expertise or training. If tensions develop in a physician's professional relationship with a family member, perhaps as a result of a negative medical outcome, such difficulties may be carried over into the family member's personal relationship with the physician.
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> Concerns regarding patient autonomy and informed consent are also relevant when physicians attempt to treat members of their immediate family. Family members may be reluctant to state their preference for another physician or decline a recommendation for fear of offending the physician. In particular, minor children will generally not feel free to refuse care from their parents. Likewise, physicians may feel obligated to provide care to immediate family members even if they feel uncomfortable providing care.
>
> It would not always be inappropriate to undertake self-treatment or treatment of immediate family members. In emergency settings or isolated settings where there is no other qualified physician available, physicians should not hesitate to treat themselves or family members until another physician becomes available. In addition, while physicians should not serve as a

[1] The Board and the disciplinary panels may consider the Principles of Ethics of the American Medical Association, but those principles are not binding on the Board or the disciplinary panels. *See* COMAR 10.32.02.16.

primary or regular care provider for immediate family members, there are situations in which routine care is acceptable for short-term, minor problems. Except in emergencies, it is not appropriate for physicians to write prescriptions for controlled substances for themselves or immediate family members.

Opinion 1.2.1 (2016) – Treating Self or Family

When the patient is an immediate family member, the physician's personal feelings may unduly influence his or her professional medical judgment. Or the physician may fail to probe sensitive areas when taking the medical history or to perform intimate parts of the physical examination. Physicians may feel obligated to provide care for family members despite feeling uncomfortable doing so. They may also be inclined to treat problems that are beyond their expertise or training.

Similarly, patients may feel uncomfortable receiving care from a family member. A patient may be reluctant to disclose sensitive information or undergo an intimate examination when the physician is an immediate family member. This discomfort may particularly be the case when the patient is a minor child, who may not feel free to refuse care from a parent.

In general, physicians should not treat themselves or members of their own families. However, it may be acceptable to do so in limited circumstances:

(a) In emergency settings or isolated settings where there is no other qualified physician available. In such situations, physicians should not hesitate to treat themselves or family members until another physician becomes available.

(b) For short-term, minor problems.

When treating self or family members, physicians have a further responsibility to:

(c) Document treatment or care provided and convey relevant information to the patient's primary care physician.

(d) Recognize that if tensions develop in the professional relationship with a family member, perhaps as a result of a negative medical outcome, such difficulties may be carried over into the family member's personal relationship with the physician.

(e) Avoiding providing sensitive or intimate care especially for a minor patient who is uncomfortable being treated by a family member.

(f) Recognize that family members may be reluctant to state their preference for another physician or decline a recommendation for fear of offending the physician.

On December 7, 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, Order, and Consent.

FINDINGS OF FACT

Disciplinary Panel A finds the following:

I. INTRODUCTION

1. A Board investigation determined that the Respondent prescribed medications to himself and to two of his family members on a long-term basis for chronic medical conditions. In addition, the Respondent failed to comply with the Board's duly authorized investigatory *subpoenas duces tecum* ("SDT").

II. LICENSING INFORMATION

2. At all times relevant, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on or about April 27, 1987, under License Number D35048. His license is currently active through September 30, 2024.

2. The Respondent is board-certified in family medicine and practices at two medical offices in Queen Anne's County. The Respondent practices family medicine at one of the office locations and treats opiate addiction at the other office location.

3. The Respondent does not hold any hospital privileges.

III. THE COMPLAINT

4. On or about September 28, 2021, the Board received a complaint (the "Complaint") from an individual claiming to be the spouse of one of the Respondent's patients concerning the patient's standard of care.

IV. INVESTIGATION

5. The Board initiated an investigation based on the Complaint.

6. On or about September 29, 2021, the Board sent an SDT to the Prescription Drug Monitoring Program ("PDMP"). The SDT directed the PDMP to deliver to the Board within 10 business days a computer-generated printout "of all controlled substances written by [the Respondent] from January 1, 2020 to September 28, 2021, including, but not limited to, name of patient, address of patient, date of birth, name of medication, quantity, dose prescribed and payment method."

7. On or about September 29, 2021, the Board received the Respondent's PDMP report, which stated that the Respondent prescribed controlled dangerous substance ("CDS") medications to himself and two of his family members ("Family Member 1" and "Family Member 2").[2]

[2] To ensure confidentiality and privacy, the names of individuals, patients, and institutions involved in this case are not disclosed in this document.

8. By letter dated October 20, 2021, the Board provided the Respondent with a copy of the Complaint and informed him that a review of his PDMP report "documents that you may be prescribing CDS to yourself and family members." The letter requested that the Respondent provide a written response and it directed him to provide the Board with "the complete medical records and a signed Certification of Medical Records form" for four named patients, which included the Respondent himself, Family Member 1, and Family Member 2. The Board enclosed with the letter an SDT that directed the Respondent to produce "a complete copy of any and all medical records" that were in his "possession or [his] constructive possession and control, whether generated by [him] or any other health care entity" for the four named patients to the Board within 10 business days.

9. On or about October 28, 2021, the Respondent transmitted to the Board his written response, as well as medical records with Certification of Medical Records forms for the four named patients. The medical records included the Respondent's office treatment notes for Family Member 1 and Family Member 2 between October 2008 and September 2021. The notes show that the Respondent treated Family Member 1 and Family Member 2 for multiple medical conditions and prescribed CDS and non-CDS medications to them.[3]

10. On or about November 9, 2021, the Board sent an SDT to the Respondent that directed him to produce to the Board within 10 business days "a complete copy of any and all medical records" that were in his "possession or [his] constructive possession and

[3] For purposes of confidentiality, the specific medications will not be identified in this document.

control, whether generated by [him] or any other health care entity" for nine named patients. The letter also asked the Respondent to complete Certification of Medical Records forms and summaries of care for each of the patients.

11. On or about November 22, 2021, the Respondent transmitted medical records and Certification of Medical Records forms for the nine patients to the Board.

12. On or about December 20, 2021, the Respondent transmitted summaries of care for each of the nine patients to the Board.

13. On or about February 4, 2022, Board staff contacted the Respondent to inquire about missing office notes from the medical records for one of the nine patients listed in the November 9, 2021 SDT.

14. On or about February 8, 2022, the Respondent transmitted additional medical records for that patient and another signed Certification of Medical Records form to the Board.

15. On or about January 31, 2022, Board staff conducted an under-oath interview of the Respondent. The Respondent admitted that he has been prescribing CDS and prescription-only medications to Family Member 1 since 2013. The Respondent further admitted that he has been serving as Family Member 2's primary care provider for ten (10) or eleven (11) years. The Respondent further admitted that over this same time period, he has been prescribing prescription-only medications to Family Member 2 on a non-emergent basis.

16. The Respondent also admitted that he wrote prescriptions for prescription-only medications for himself, even though he has a primary care provider.

B. Prescription Records

17. As part of its investigation, the Board issued SDTs to pharmacies where the Respondent's prescriptions for himself, Family Member 1, and Family Member 2 were filled. The SDTs directed the pharmacy custodians of records to produce copies of any and all original paper prescriptions written by the Respondent for himself, Family Member 1, and Family Member 2.

18. The pharmacy records show that the Respondent wrote at least forty-one (41) prescriptions for medication for Family Member 1 between September 2015 and December 2021, including prescriptions for CDS and non-CDS, prescription-only medications.

19. The pharmacy records show that the Respondent wrote at least onehundred and eight (108) prescriptions for Family Member 2 between February 2015 and February 2022, including prescriptions for CDS and non-CDS, prescription-only medications.

20. The pharmacy records show that the Respondent wrote at least fifty-three (53) prescriptions for himself between November 2013 and January 2022, including prescriptions for prescription-only medications.

C. Additional Medical Records

21. On or about February 17, 2022, the Board referred ten (10) patient records obtained through its investigation to a peer review entity for review. Two peer reviewers, each board-certified in family medicine, separately reviewed the ten (10) patient records.

22. On or about May 3, 2022, the Board provided the peer reviewers' reports to the Respondent and gave him an opportunity to review and respond to the reports.

23. On or about May 19, 2022, the Respondent provided his supplemental response, which included approximately three hundred and ninety-three (393) pages of additional medical records for eight (8) of the patients[4] named in the Board's October 20, 2021 and November 9, 2021 SDTs. The Respondent did not previously provide many of these medical records to the Board. For example, the additional medical records that were not previously transmitted to the Board included the following: the Respondent's office notes, multiple urine toxicology reports, medical imaging reports, and letters and/or evaluations from pain management specialists, neurosurgeons, and other medical providers to whom the Respondent referred the patients for consultations.[5]

24. Nearly all of the additional medical records were dated before the Board's October 20, 2021 and November 9, 2021 SDT to the Respondent for "a complete copy of any and all medical records" of Patients 1, 2, 4, 5, 7, 8, 9, and 10, and before the Respondent's signed Certification of Medical Records for each patient, in which he attested to sending the Board "all laboratory reports," among other things.

25. On or about June 10, 2022, the Respondent provided a second supplemental response, which included approximately five hundred and nine (509) pages of additional medical records for Patients 1, 4, 7, and 10. The Respondent did not previously transmit many of these medical records to the Board. For example, the additional medical records

[4] Patients 1, 2, 4, 5, 7, 8, 9, and 10.

[5] The peer reviewers noted in their reports that some office notes, medical imaging reports, consultation notes, and many urine toxicology reports were missing. The Respondent's submission of these records was in response to the peer reviewers' concerns.

in the Respondent's second supplemental response included multiple urine toxicology reports for Patients 1, 4, and 10 that were not previously transmitted.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent is guilty of unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(3)(ii), and guilty of failing to cooperate with a lawful investigation conducted by the Board or a disciplinary panel, in violation of Health Occ. § 14-404(a)(33).

ORDER

It is thus by a majority of a quorum of Disciplinary Panel A of the Board hereby:

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum of **ONE YEAR.**[6] During probation, the Respondent shall comply with the following terms and conditions of probation:

(1) Within **ONE YEAR**, the Respondent is required to take and successfully complete a course in ethics. 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 has begun;

(b) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;

(c) the courses 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; and

(2) Within **ONE YEAR** the Respondent shall pay a **$5,000** civil fine. 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

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

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, after the Respondent has complied with all terms and conditions of probation, the Respondent may submit a written petition for termination of probation. 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 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 the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; 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 this Consent Order is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

01/09/2023
Date

Signature on File

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

CONSENT

I, Eric Ciganek, 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.

12/21/2022
Date

Signature on File

Eric Ciganek, M.D.

NOTARY

STATE OF Maryland

CITY/COUNTY OF Kent

I HEREBY CERTIFY that on this 21 day of December, _____, before me, a Notary Public of the State and County aforesaid, personally appeared Eric Ciganek, M.D., and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Christel Nowell

Notary Public

My Commission Expires: 2-3-26