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| IN THE MATTER OF | * | BEFORE THE |
| JUNE E. BREINER, M.D. | * | MARYLAND STATE BOARD |
| Respondent | * | OF PHYSICIANS |
| License Number: D40208 | * | Case Number: 2221-0117B |

* * * * *

CONSENT ORDER

On January 21, 2022, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) charged **JUNE E. BREINER, M.D.** (the “Respondent”), License Number D40208, with violating the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2021 Repl. Vol.).

Specifically, Panel B charged the Respondent with violating the following provisions of the Act under Health Occ. § 14-404:

- (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[.]

On April 27, 2022, Panel B was convened as a Disciplinary Committee for Case Resolution (“DCCR”). Based on the 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

Panel B has made the following findings of fact:

Background

1. At all relevant times, 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 June 27, 1990, under License Number D40208. The Respondent's license is active through September 30, 2022.
2. The Respondent is board-certified in internal medicine.
3. At all relevant times, the Respondent practiced at a medical office in Baltimore County, Maryland 21061.

Referral from the Maryland Office of Controlled Substances Administration

4. The Board initiated an investigation of the Respondent under Case Number 2221-0117B after receiving a referral, dated April 7, 2021 from the Maryland Office of Controlled Substances Administration (“OCSA”). The OCSA stated that based on its professional judgment, it was referring the Respondent for “for possible inappropriate prescribing of controlled dangerous substance (“CDS”) prescriptions, specifically high doses of opioids (higher than the maximum recommended doses per CDC) and sometimes concurrently prescribed opioids with promethazine with codeine, benzodiazepines and/or carisoprodol (increasing the risk of overdose death) which is against the CDC and product manufacturer recommendations.”

Board’s request to Respondent for written response to the OCSA allegations

5. By letter dated May 6, 2021, the Board notified the Respondent that it had initiated an investigation of her after receiving the OCSA’s referral. The Board provided the Respondent with the OCSA report and requested that she address it in a written response within ten business

days. The Board also enclosed a *subpoena duces tecum* (“SDT”), dated May 6, 2021, for ten named patient records, requiring production within ten business days. The letter also directed the Respondent, within ten business days, to provide summaries of the care she provided to the patients whose charts were subpoenaed and records certification forms.

6. The Respondent did not provide a written response to the OCSA’s referral within ten business days as directed.

7. After contacting the Respondent’s office, a Board investigator, on June 8, 2021, personally picked up the records and related materials from the Respondent’s office.

Respondent’s Board interview

8. On July 16, 2021, Board staff conducted an under-oath interview of the Respondent. The Respondent acknowledged that she does not have any formal training in pain medicine other than taking continuing medical education courses through “Family American Medicine.” The Respondent stated that she does not accept new patients and currently provides pain management treatment to 17 patients whom she sees every one-to-three months. The Respondent further stated that although she utilizes controlled substance contracts, she does not regularly use urine toxicology screening to assess compliance. The Respondent stated that she “totally disagrees” with the concerns stated by the OCSA and that “the medication [she prescribes] is absolutely appropriate for each patient.” The Respondent also stated that she will prescribe Narcan if a patient so requests. The Respondent stated that she sometimes refers patients to pain medicine physicians “but if they refuse, they refuse.”

Peer review

9. On or about August 2, 2021, the Board referred this matter for peer review. The review was performed by two physicians who are board-certified in anesthesiology with

subspecialty certifications in pain medicine. The reviewers evaluated the treatment the Respondent provided to the patients whose charts were the subject of its May 6, 2021, SDT.

10. These patients (referred to *infra* as “Patients 1 through 10”) were adults for whom the Respondent provided primary care and chronic pain management, typically for an extended period of years. The Respondent typically prescribed immediate-release opioid medications (*e.g.*, 15 and 30 mg oxycodone, hydrocodone, Tramadol) for these patients, often in conjunction with extended-release opioid medications (*e.g.* Fentanyl patch, OxyContin, MS Contin, hydrocodone ER). In addition to the Respondent’s prescribing of these combinations of high-dose opioids (*i.e.*, 99 to 395 MME) for these patients, the Respondent often also prescribed other CDS, such as benzodiazepines (*e.g.*, alprazolam, diazepam), stimulants (*e.g.*, methylphenidate) and/or carisoprodol.

11. The reviewers independently concluded that in all ten cases reviewed, the Respondent failed to meet appropriate standards for the delivery of quality medical care and failed to keep adequate medical records. Examples of deficiencies include but are not limited to the following:

- (a) The Respondent inappropriately prescribed high-dose opioid medications (greater than 90 MME) without appropriate justification or adequately documenting such justification (Patients 1, 2, 3, 4, 5, 7, 8, 9, 10);
- (b) The Respondent inappropriately prescribed high-dose opioid medications, often in conjunction with other CDS, without adequately documenting or undertaking sufficient monitoring/oversight to ensure compliance, including urine drug screening and consulting the Prescription Drug Monitoring Program;

- (c) The Respondent inappropriately prescribed high-dose opioid medications in conjunction with benzodiazepines (Patients 2, 3, 4, 7, 8, 9, 10);
- d) The Respondent inappropriately prescribed high-dose opioid medications to patients without sufficient in-person office visits;
- (e) The Respondent failed to adequately document or appropriately address a patient's overdose/hospitalization on the subsequent visit after discharge (Patient 2);
- (f) The Respondent failed to adequately document or appropriately address possible patient CDS misuse (Patients 1, 2, 7);
- (g) The Respondent inappropriately placed a patient who had a longstanding and perhaps unresolved alcohol use disorder on a high-dose opioid regimen in conjunction with benzodiazepines (Patient 10);
- (h) The Respondent failed to adequately document or appropriately counsel patients on the risks of high-dose opioid treatment in conjunction with benzodiazepines (Patients 3, 4, 7);
- (i) The Respondent inappropriately prescribed high-dose opioid medications for patients to whom she was also prescribing muscle relaxants, without adequately documenting or conducting an appropriate risk assessment;
- (j) The Respondent inappropriately prescribed high-dose opioid medications (Fentanyl patch, oxycodone 15 mg 6 tablets per day, Tramadol 50 mg 4 tablets per day) in conjunction with two different benzodiazepines (alprazolam and temazepam) (Patient 8);
- (k) The Respondent inappropriately prescribed high-dose opioid medications to a patient who was also taking a benzodiazepine and a muscle relaxant (Patient 3);
- (l) The Respondent failed to appropriately address opioid misuse (Patients 2, 6);

- (m) The Respondent failed to adequately document or substantiate that a patient was not misusing CDS (Patient 7);
- (n) The Respondent failed to adequately document or justify the reason for dosing increases in opioid prescriptions (Patient 1, 4);
- (o) The Respondent inappropriately utilized an extended-release opioid in conjunction with immediate-release opioids and benzodiazepines in a manner that could promote additional patient risk (Patient 9); and
- (p) The Respondent failed to keep adequate medical records. The Respondent's records are handwritten, disorganized, lack chronicity and are sometimes illegible. The Respondent failed to adequately or consistently document her patients' past medical histories, pain complaints, physical examinations, medication histories, a medication profile with dosing, compliance and a treatment plan.

CONCLUSIONS OF LAW

Based upon the findings of fact, Panel B concludes that the Respondent: failed 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, in violation of Health Occ. § 14-404(a)(22); and failed to keep adequate medical records as determined by appropriate peer review, in violation of Health Occ. § 14-404(a)(40).

ORDER

It is, thus, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel B, hereby

ORDERED that the Respondent June E. Breiner, M.D. is **REPRIMANDED**; and it is further

ORDERED that the Respondent is permanently prohibited from prescribing and dispensing all opioids. Additionally, the following terms apply:

1.a. On every January 31st thereafter, if the Respondent holds a Maryland medical license, the Respondent shall provide the Board with an affidavit verifying that the Respondent has not prescribed any opioids in the past year;

1.b. If the Respondent fails to provide the required annual verification of compliance with this condition:

- (1) there is a presumption that the Respondent has violated the permanent condition; and
- (2) the alleged violation will be adjudicated pursuant to the procedures of a Show Cause Hearing;

2.a. The Respondent is permanently prohibited from certifying patients for the medical use of cannabis;

2.b. On every January 31st thereafter, if the Respondent holds a Maryland medical license, the Respondent shall provide the Board with an affidavit verifying that the Respondent has not certified patients for the medical use of cannabis in the past year;

2.c. If the Respondent fails to provide the required annual verification of compliance with this condition:

- (1) there is a presumption that the Respondent has violated the permanent condition; and
- (2) the alleged violation will be adjudicated pursuant to the procedures of a Show Cause Hearing.

3. The Respondent agrees that the CDS Registration issued by the Office of Controlled Substances Administration will be restricted to the same categories of CDS as limited by this Order;

4. The Respondent shall not delegate the prescribing of opioids to another health care professional, and any delegation agreement with a physician assistant shall be modified so that the delegation does not include the prescribing or dispensing of opioids;

5. The disciplinary panel may issue administrative subpoenas to the Maryland Prescription Drug Monitoring Program on a quarterly basis for the Respondent's CDS prescriptions. The administrative subpoenas will request the Respondent's CDS prescriptions from the beginning of each quarter; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum of **TWO YEARS**.¹ During probation, the Respondent shall comply with the following terms and conditions of probation:

1. Within **six months**, the Respondent is required to take and successfully complete courses in: (i) the appropriate prescribing of CDS, and (ii) medical record-keeping. The following terms apply:

- (a) it is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the courses before the courses begin;
- (b) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the courses;
- (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 courses;

2. A violation of probation constitutes a violation of this Consent Order; and it is further

ORDERED that, after the Respondent has complied with all terms and conditions 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 related to the charges; and it is further

¹ If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

ORDERED that this Consent Order goes into effect on the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director or her designee signs this Consent Order on behalf of Panel B; 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).

07/12/2022
Date

Signature On File

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

CONSENT

I, June E. Breiner, 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.

7/6/22
Date

Signature On File

June E. Breiner, M.D.
Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 6 day of July, 2022, before me, a Notary Public of the foregoing State and City/County, did personally appear June E. Breiner, M.D. and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSTH my hand and seal.

SIMONA MARINOVA
Notary Public
Baltimore County
Maryland
My Commission Expires June 20, 2025.



Notary Public

My commission expires: June 20, 2025