IN THE MATTER OF	*	**BEFORE THE**
FERNANDO JOSE FERRO, M.D.	*	**MARYLAND STATE**
Respondent	*	**BOARD OF PHYSICIANS**
License Number: D40480	*	**Case Number: 2218-0250B**

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CONSENT ORDER

On May 6, 2019, Disciplinary Panel B of the Maryland State Board of Physicians (the "Board") charged **FERNANDO JOSE FERRO, M.D.** (the "Respondent"), License Number D40480, with violating the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.).

Disciplinary Panel B charged the Respondent with violating the following provision 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[.]

On August 28, 2019, Panel B was convened as a Disciplinary Committee for Case Resolution ("DCCR") in this matter. Based on negotiations occurring as a result of the

DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

Panel B finds:

I. Licensing Information

1. At all times relevant to these charges, 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 August 22, 1990, under License Number D40480. The Respondent's license is currently active and is scheduled for renewal on September 30, 2020.

2. The Respondent is board-certified in Internal Medicine.

II. Complaint

3. On or about April 16, 2018, the Board received a complaint dated April 11, 2018, from an individual (the "Complainant")[1] who alleged that the Respondent's treatment of her lower back pain with narcotics ignored "red flags" of her addiction, failed to inform her of the risks of opioids and benzodiazepines, never developed a treatment plan for her pain and failed to screen her compliance with drug testing.

III. Investigative Allegations

4. After reviewing the above complaint, the Board initiated an investigation of the Respondent. Pursuant to its investigation, the Board obtained ten patient records

[1] For confidentiality reasons, the names of the complainant, health care facilities or patients will not be identified in this document. The Respondent may obtain the identity of the complainant, health care facility or patient referenced herein by contacting the assigned administrative prosecutor.

from the Respondent and submitted them to two physicians who are board-certified in physical medicine and rehabilitation, with sub-specialty certificates in pain medicine, for a practice review.

5. The reviewers determined that the Respondent failed to meet appropriate standards for the delivery of quality medical care, in violation of Health Occ. § 14-404(a)(22), with respect to five patients ("Patients A through E"). In these cases, the Respondent did not consistently discuss risks associated with chronic opioid usage, often prescribed opioids concomitantly with benzodiazepines without discussing the risk with the patient, failed to timely initiate or routinely order random toxicology screening, failed to routinely perform CRISP/PDMP checks,[2] failed to timely obtain signed opioid treatment contracts, and at times failed to consider or appropriately address "red flag" behaviors when prescribing controlled dangerous substances ("CDS"). Examples of these deficiencies are cited in the following patient summaries:

Patient A

6. The Respondent began treating Patient A, a woman then in her early 60s, in or around 2013, for chronic medical problems including liver cirrhosis, hypertension, diabetes mellitus and pain. The Respondent's treatment of Patient A included use of low-dose oxycodone[3] and alprazolam.[4] The Respondent treated Patient A through 2018.

[2] CRISP stands for "Chesapeake Regional Information on our Patients." PDMP stands for "Prescription Drug Monitoring Program."
[3] Oxycodone is an opioid medication and Schedule II CDS.
[4] Alprazolam (trade name, Xanax) is a benzodiazepine and Schedule IV CDS.

7. The Respondent failed to meet appropriate standards for the delivery of quality medical care, in violation of Health Occ. § 14-404(a)(22), with respect to Patient A, for reasons including:

(a) the Respondent failed to discuss, or document discussing, risks associated with chronic opioid therapy;

(b) the Respondent failed to have Patient A execute an opioid treatment contract upon beginning opioid treatment;

(c) the Respondent failed to discuss, or document discussing, the risk of using opioids concurrently with benzodiazepines;

(d) the Respondent failed to use, or document using, random toxicology screening; and

(e) the Respondent failed to query, or document querying, the PDMP.

Patient B

8. The Respondent began treating Patient B, a woman then in her early 30s, in or around 2006, for back pain. The Respondent treated Patient B using high-dose (greater than 50 MME[5]/day) multiple prescription opioid combinations including methadone,[6] Lortab,[7] Percocet (oxycodone), morphine and fentanyl patches, in conjunction with Valium.[8] The Respondent did not have Patient B sign an opioid treatment agreement

[5] Morphine milligram equivalents.
[6] Methadone is an opioid used for opioid maintenance therapy and to treat pain. Methadone is a Schedule II CDS.
[7] Lortab is brand name for an opioid medication containing hydrocodone, a Schedule II CDS.
[8] Diazepam (trade name, Valium) is a benzodiazepine and Schedule IV CDS.

until 2012 and did not initiate random toxicology screening until 2015. The Respondent ended treating Patient B in 2016 when she moved to another locality.

9. The Respondent failed to meet appropriate standards for the delivery of quality medical care, in violation of Health Occ. § 14-404(a)(22), with respect to Patient B, for reasons including:

(a) the Respondent failed to discuss, or document discussing, risks associated with chronic opioid therapy;

(b) the Respondent failed to have Patient B execute an opioid treatment contract upon beginning opioid treatment;

(c) the Respondent failed to timely initiate toxicology screening and failed to consistently use, or document consistently using, random toxicology screening;

(d) the Respondent failed to consistently query, or document consistently querying, the PDMP; and

(e) the Respondent failed to order an EKG when prescribing methadone.

Patient C

10. The Respondent began treating Patient C, a woman then in her early 60s, in or around 2006, for chronic stable medical problems including peripheral vascular disease, chronic obstructive pulmonary disease and chronic knee pain. The Respondent's office notes for Patient C continue through April 2018.

11. During the course of treatment, the Respondent treated Patient C with a combination of diazepam and hydrocodone/acetaminophen, despite Patient C's issues

with cardiac and pulmonary disease with episodes of syncope and falling. In 2017, the Respondent discontinued prescribing diazepam and advised Patient C to use Buspar.[9] Once the Respondent discontinued Patient C's diazepam prescription, he continued to prescribe opioid medications.

12. The Respondent failed to meet appropriate standards for the delivery of quality medical care, in violation of Health Occ. § 14-404(a)(22), with respect to Patient C, for reasons including:

(a) the Respondent failed to consistently use, or document consistently using, random toxicology screening;

(b) the Respondent failed to consistently query, or document consistently querying, the PDMP;

(c) the Respondent failed to have Patient C execute an opioid treatment contract upon beginning opioid treatment; and

(d) the Respondent failed to avoid prescribing opioids and benzodiazepines concurrently when possible.

Patient D

13. The Respondent began treating Patient D, a man then in his early 50s, in or around 2007, for chronic back pain. The Respondent treated Patient D's pain initially with Lortab, then tramadol. The Respondent began treating Patient D's anxiety with alprazolam in 2015 after Patient D reported that he used a family member's Xanax

[9] Buspar is a prescription-only anxiolytic medication.

(alprazolam). The Respondent also prescribed zolpidem[10] 10 mg at bedtime for sleep. The Respondent continued treating Patient D into 2018.

14. During the course of treatment, the Respondent continued to prescribe opioids without alteration in treatment despite Patient D's admission to using alprazolam without a prescription. The Respondent did not document that he counseled Patient D regarding the use of a family member's Xanax.

15. The Respondent stated in a summary of care for this patient that he discontinued the patient's alprazolam prescription in 2018 after noting that the United States Food and Drug Administration warned against concurrent prescribing of alprazolam and tramadol.

16. The Respondent failed to meet appropriate standards for the delivery of quality medical care, in violation of Health Occ. § 14-404(a)(22), with respect to Patient D, for reasons including:

(a) the Respondent failed to discuss, or document discussing, risks associated with chronic opioid therapy;

(b) the Respondent failed to have Patient D execute an opioid treatment contract upon beginning opioid treatment;

(c) the Respondent failed to discuss, or document discussing, the risk of using opioids concurrently with benzodiazepines;

(d) the Respondent failed to use, or document using, random toxicology screening; and

[10] Zolpidem is a sedative-hypnotic and Schedule IV CDS.

(e) the Respondent failed to document that he counseled Patient D regarding the use of a family member's alprazolam.

Patient E

17. The Respondent began treating Patient E, a woman then in her early 70s, in or around 2012, for chronic pain related to her diagnosis of rheumatoid arthritis. The Respondent treated Patient E with fentanyl patch 100 micrograms and hydrocodone 20 mg daily (total MME 260) until he referred Patient E to a pain management practice in 2013.

18. The Respondent resumed providing care of Patient E in 2017, which continued into 2018. During this course of treatment, the Respondent prescribed MS Contin[11] and oxycodone, which he titrated from 310 MME to 160 MME.

19. The Respondent failed to meet appropriate standards for the delivery of quality medical care, in violation of Health Occ. § 14-404(a)(22), with respect to Patient E, for reasons including:

(a) the Respondent failed to have Patient E execute an opioid treatment contract upon beginning opioid treatment; and

(b) the Respondent failed to prescribe naloxone for the prevention of unintentional opioid overdose.

[11]MS Contin is an extended-release opioid medication and Schedule II CDS.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel B concludes as a matter of law that the Respondent failed to meet appropriate standards for the delivery of quality medical care, in violation of Health Occ. § 14-404(a)(22).

ORDER

It is thus by Disciplinary Panel B 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 **SIX (6) MONTHS**.[12] During probation, the Respondent shall comply with the following terms and condition of probation:

(1) Within **SIX (6) MONTHS**, the Respondent is required to take and successfully complete a course in appropriate prescribing of controlled dangerous substances. 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 disciplinary panel will not accept a course taken over the internet;

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

(d) the course may not be used to fulfill the continuing medical education credits required for license renewal;

(e) the Respondent is responsible for the cost of the course; and it is further

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

ORDERED that the Respondent shall not apply for early termination of probation; and it is further

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 a violation of probation constitutes a violation of the Consent Order; and it is further

ORDERED that after the termination of probation, the disciplinary panel, it its discretion, may order a chart and/or peer review conducted by the disciplinary panel or its agents as follows:

(a) the Respondent shall cooperate with the peer review process;

(b) the disciplinary panel, in its discretion, may change the focus of the chart and/or peer review if the Respondent changes the specialty of his practice;

(c) a peer and/or chart review indicating that the Respondent has not met the standard of quality care may be deemed, by a disciplinary panel, a violation of Health Occ. § 14-404(a)(22); 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 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).

09/19/2019
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Fernando J. Ferro, 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.

9/12/19
Date

Signature on File

Fernando J. Ferro, M.D.
Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF Harford

I HEREBY CERTIFY that on this 12 day of September 2019, before me, a Notary Public of the foregoing State and City/County, personally appeared Fernando J. Ferro, 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.

Maria y Marklin Kostre
Notary Public

My Commission expires: 2/25/21