IN THE MATTER OF	*	BEFORE THE
IAN NEWBOLD, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D41112	*	Case Number: 2220-0127A

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

CONSENT ORDER

On August 2, 2022, Disciplinary Panel A of the Maryland State Board of Physicians (the "Board") charged **IAN NEWBOLD, M.D.** (the "Respondent"), License Number **D41112**, with violating the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. § 14-101 *et seq.* (2021 Repl. Vol.). The pertinent provisions of the Act provide the following:

> **Health Occ. § 14-404. Denials, reprimands, probations, suspensions, and revocations -- Grounds.**
>
> (a) 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;
>
> . . . .
>
> (40) Fails to keep adequate medical records as determined by appropriate peer review[.]

On November 2, 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. BACKGROUND

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was originally licensed to practice medicine in Maryland on December 17, 1990, under License Number D41112. The Respondent's license is currently active and scheduled to expire on September 30, 2023.

2. The Respondent is not board-certified in any medical specialty.

3. The Respondent currently owns and operates a medical practice with an office located in Hagerstown, Maryland. The Respondent's practice focuses on family medicine. He does not hold any hospital privileges.

II. COMPLAINTS

4. Between September 28, 2019, and March 5, 2020, the Board received three (3) complaints regarding the Respondent's practice, including two (2) complaints regarding his opioid prescribing practices and one (1) complaint regarding his failure to file an emergency petition on a patient who was making suicidal and homicidal comments during an office visit.

5. On or about September 28, 2019, the Board received a complaint ("Complaint 1") from the Maryland Office of Controlled Substances Administration (OCSA). In its complaint, OCSA summarized the findings it made over the course of two inspections at a pharmacy ("Pharmacy A")[1] in Washington County, Maryland. Inspectors reviewed prescriptions written by the Respondent and found that his prescriptions had multiple "red flags," including the fact that *all* of his patients were prescribed either Oxycodone/Acetaminophen 10/325mg or Oxycodone 10mg. Additional "red flags" included prescriptions that were written to every patient for 5-7 days in length; were paid for mostly in cash (not billed through insurance even though the patients had insurance); and the prescriptions were written for patients under 40 years old who were coming to the pharmacy at or around the same time to fill their prescriptions.

6. OCSA learned that the owner of Pharmacy A's location and four others had stopped filling the Respondent's prescriptions due to the red flags.

7. On October 2, 2019, an anonymous individual submitted a complaint through the Office of Health Care Quality's (OHCQ) website. OHCQ reviewed the complaint, noted that the complaint was against a physician, and forwarded it to the Board the same day. The complaint ("Complaint 2") stated in part:

> Dr. Newbold is running a pill mill! Pay $150 for a new patient appt and complain about some sort of pain and you are guaranteed to walk out of that office with a RX for some sort of narcotic without him verifying PDMP (Physicians Drug Monitoring Program), past medical records, x[-]rays, MRIs, or even doing a drug test. And that RX, you will have a very hard time getting filled due to pharmacies having him blocked as a Dr that over

[1] For confidentiality and privacy purposes, the names of individuals and health care facilities involved in this case are not disclosed in this Consent Order.

> prescribes. Pay $100 a week to keep getting that RX. He also charges [M]edicare patients $50 co pay that they can not afford. He creates at least 1 drug addict a week. He sees on average, 15 patients a day in a 5 hr span, and 98% of them get a narcotic RX.

8. On or about March 5, 2020, the Board received a complaint ("Complaint 3") from a law enforcement officer located at the Veterans Affairs hospital ("VA Hospital") located in Martinsburg, West Virginia. Complaint 3 stated in part:

> Dr. Newbold called the [VA Hospital] on 3/5/2020 at approximately 1200 HRS stating [Patient 11] was in his office at this time making suicidal and homicidal statements. I informed Dr. Newbold several times & on another phone call, he could emergency petition [Patient 11] at his office in Hagerstown, MD. Dr. Newbold refused each time [I] informed him of that. Dr. Newbold stated [Patient 11] was a VA patient and he would not get involved in these matters.

III. BOARD INVESTIGATION

9. After receiving and reviewing the above complaints, the Board initiated an investigation of the Respondent. As part of its investigation, the Board obtained a series of patient records, interviewed the Respondent, and obtained a peer review of his practice.

Patient Records

10. By letter dated February 4, 2020, the Board notified the Respondent that it had opened a full investigation of the matter and provided him with a copy of the three complaints. The Board directed the Respondent to provide a written response to the allegations within ten (10) business days. The Board also issued a Subpoena Duces Tecum that directed the Respondent to transmit to the Board within ten (10) business days "a complete copy of any and all medical records for [Patients 1-11]."

11. On or about March 6, 2020, the Respondent transmitted to the Board medical records, a signed certificate of medical records, and a summary of patient care for each of the eleven (11) patients.

Written Response

12. By letter dated March 6, 2020, the Respondent provided a written response to the allegations outlined in Complaint 1 and Complaint 2. The Respondent admitted that the majority of his patients have pain issues but rejected the allegation that he is over-prescribing controlled dangerous substances or running a pill mill. The Respondent stated he has written a textbook on pain management and documentation and believes he can manage chronic pain patients as well as colleagues with certifications in pain management.

13. He stated that the issues with the pharmacies stemmed from the fact that he is not a pain management specialist. He stated that once he explained to the pharmacies his practices and the types of patients he sees, the pharmacies once again began filling his prescriptions.

14. By letter dated April 24, 2020, the Respondent provided a written response to the allegations in Complaint 3. The Respondent explained that on or about February 25, 2020, Patient 11 abruptly left the visit. The Respondent stated he asked Patient 11's wife, who usually accompanied Patient 11 to his visits if she had observed any unusual or concerning behavior. He stated that Patient 11's wife informed the Respondent that Patient 11 had access to loaded guns. At the March 5, 2020, visit, Patient 11 was in a hurry to "receive his electronic prescription and go" to a dental appointment at the VA Hospital. The Respondent stated that he called the dental clinic to confirm and then asked to speak

to the psychiatry department to see if his providers there were aware of Patient 11's access to loaded guns. The Respondent denied saying that Patient 11 was making homicidal and suicidal statements.

Interview

15. As part of the Board's investigation, the Respondent was interviewed under oath on October 1, 2020. As part of that interview, the Respondent provided the following:

a. He has been in private practice for over 30 years. His current hours are Monday through Thursday, from 11:00 a.m. to 3:00 p.m. Prior to COVID, he was seeing 15-20 patients per day.

b. He stated that he has "a lot of professional training in pain management . . . and my field has been in neurology and neurosurgery with just almost always [*sic*] presenting with pain . . . every patient I've seen for the last, probably 40 years has had some kind of pain issue . . . so I have a lot of experience with the evaluation of pain."

c. He is also a member of the International Association on the Study of Pain[2] located in Washington, D.C., a professional organization of pain treatment providers.

d. Chronic pain management patients make up approximately eighty-five (85) percent of his practice. He believes "75 or 80 percent of the prescriptions [he] writes were for [treatment of] pain of some kind."

e. He stated that he never prescribes more than 39 pills. He typically gives a 14-day prescription.

f. He stated that he uses a form titled Policy: Opioid (Narcotic) Analgesics & Benzodiazepines and has specific language on his prescriptions that inform patients: "Do not ever exceed this dose. Only take when absolutely necessary, if low pain do not take. . . Do not share or sell this medication . . . If you have a criminal record do NOT take this medicine."

[2] According to their website (https://www.iasp-pain.org/about/), the International Association on the Study of Pain (IASP) is the leading global organization supporting the study and practice of pain and pain relief. IASP brings together scientists, clinicians, health care providers, and policymakers from around the world in pursuit of their mission to bring relief to those who are in pain.

g. When asked if he currently treats pain management patients, the Respondent stated: "I don't nowadays. I rather stopped, because of what happened . . . with your letter [with copies of the complaints] . . . I mean, if somebody calls, I tell them to . . . go to a pain clinic and I send them to whoever's appropriate."

h. When asked about the patient in Complaint #3, he stated: "emergency petition, in my judgment, is not the – and I have a lot of experience, that is not the way to handle a man who may be psychotic or, you know, dangerous."

Peer Review

16. In furtherance of its investigation, the Board submitted the eleven (11) patient records (referenced *supra* as "Patients 1-11") and related materials to a peer review entity for a practice review to determine if the Respondent complied with appropriate standards for the delivery of quality medical care and kept adequate medical records. Two peer reviewers, each board-certified in pain management ("Peer Reviewer 1" and "Peer Reviewer 2" respectively), independently reviewed the materials and submitted their reports to the Board.

17. In their reports, the two physician peer reviewers concurred that the Respondent failed to meet appropriate standards for the delivery of quality medical care, in violation of Health Occ. § 14-404(a)(22), for eleven (11) out of eleven (11) patients. The peer reviewers further concurred that the Respondent failed to keep adequate medical records, in violation of Health Occ. § 14-404(a)(40), for eleven (11) out of eleven (11) patients.

18. Specifically, the peer reviewers found that for the eleven (11) patients, the Respondent failed to meet the standard of quality medical care for reasons including but not limited to the following:

a. The Respondent utilized opioids as the first-line treatment at unconventional dosing, increasing the risk of opioid-induced hyperalgesia, opioid-use disorder, abuse, diversion, and overdose. *See e.g.,* Patients 1-11.

b. The Respondent failed to consider adjuvant medication options including multimodal care, physical therapy, and referrals to specialists (i.e., psychiatry/psychology, radiology, surgery, gynecology) when developing treatment plans. *See e.g.,* Patients 1-11.

c. The Respondent prescribed pain medication, especially high-dose opioids, without review of potential interactions with other medications and comorbid diseases. *See e.g.*, Patients 1-11.

d. The Respondent prescribed high-dose short-acting opioids where long-acting agents should have been considered. *See e.g.*, Patients 1-11.

e. The Respondent prescribed and maintained non-cancer patients on high doses of opioids over the recommended MME[3] per day. *See e.g.,* Patient 4 (112-320 MME/day), Patient 5 (112-135 MME/day), Patient 6 (90 MME/day), and Patient 7 (90 MME/day).

f. The Respondent saw patients at a frequency, generally weekly, that was not medically necessary or appropriate considering risk status. *See e.g.,* Patients 2-8, 10, and 11.

g. The Respondent provided patients with frequent, often weekly, prescriptions that resulted in approximately 120-140 opioid pills dispensed per month (averaging 4-6 pills per day). *See e.g.*, Patients 1-11.

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[3] Morphine Milligram Equivalence ("MME") is a value assigned to each opioid to represent its relative potency by using morphine as the standard comparison. The CDC Guideline for Prescribing Opioids for Chronic Pain (the "CDC Guideline") uses MME to establish a recommended opioid dosing and recommends using precaution when prescribing opioid doses greater than or equal to 50 MME per day and avoiding or carefully justifying a decision to increase opioid doses greater than or equal to 90 MME per day.

h. The Respondent prescribed various combinations of controlled dangerous substances ("CDS"), such as benzodiazepines, opioids, and sedative-hypnotics to patients, and failed to document or disclose the risk for concomitant use of these medications. *See e.g.,* Patients 4, 5, 7, 9, 10, and 11.

i. The Respondent failed to prescribe Naloxone for prevention of unintentional opioid overdose for patients being treated with Chronic Opioid Therapy (COT) and educate the patient and family/friends on how to use it. *See e.g.,* Patients 4, and 5.

j. The Respondent failed to monitor patient compliance with opioid therapy by periodically checking the Prescription Drug Monitoring Program (PDMP); conducting routine, random urine toxicology screens; and conducting pill counts. *See e.g.,* Patients 1-11.

k. The Respondent failed to take appropriate action when urine drug screens were negative for prescribed narcotics and/or positive for non-prescribed substances. *See e.g.,* Patients 1, 4, 5, 7, and 9.

19. The peer reviewers also independently concluded that the Respondent failed to keep adequate medical records in all eleven (11) patients whose records were reviewed. Peer Reviewer 2 added: "Respondent's clinic records are hand-written and, many times, illegible . . . The vast majority of the clinic notes appear to be copies with slight modification."

20. The peer reviewers identified several areas of concern with respect to the Respondent's medical documentation, including but not limited to the following:

a. The Respondent failed to maintain legible, cohesive records that were accurate and updated at each visit to include current information. *See e.g.,* Patients 1-11.

b. The Respondent failed to include Past Medical History (PMH) and complete medication profiles with dosing in visit notes. *See e.g.,* Patients 1-11.

c. The Respondent failed to document physical examinations (including vital signs, musculoskeletal and neurologic evaluations relevant to the

case), assessments, and treatment plans in visit notes. *See e.g.,* Patients 1-11.

d. The Respondent failed to document consideration of non-narcotic medications and multi-modal care, inclusive of physical therapy, before or during treatment to mitigate/minimize opioid use. *See e.g.,* Patients 1-11.

e. The Respondent failed to document education or counseling when the urine drug screen was negative for prescribed narcotics and/or positive for non-prescribed substances. *See e.g.,* Patients 1, 4, 5, 7, and 9.

f. The Respondent failed to document medications that were being prescribed during visits in the visit notes. *See e.g.,* Patients 2, 3, 4, 5, 7, 8, 9, 10, and 11.

g. The Respondent failed to document efforts to monitor compliance including toxicology, CRISP,[4] and PDMP monitoring. *See e.g.,* Patients 1-11.

21. In addition, Peer Reviewer 2 noted: "It appears from these cases that Respondent's practice does center on Pain Medicine/Management, yet apparently his training is in Internal Medicine. Even referral documentation addresses Respondent as 'Primary Care,' yet Respondent has rarely prescribed anything but pain medication, specifically opioids in the cases reviewed."

Respondent's Supplemental Written Response

22. The Board provided the Respondent with the peer reviewers' findings. By letter dated February 5, 2021, the Respondent submitted his response. The Respondent noted:

> I feel that I did use all of the tools and aspects of standard practice with these patients. I recognize that at times my documentation, such as documenting

[4] CRISP (Chesapeake Regional Information System for our Patients) is the designated Health Information Exchange (HIE) in Maryland and the District of Columbia. An HIE is a way of instantly sharing health information among doctors' offices, hospitals, labs, radiology centers, and other healthcare organizations.

> checking CRISP, could have been better. . . In my experience weekly monitoring ensures compliance. Also, I tell my patients to not take the medications daily. . . I certainly appreciate that I could have made my clinical decision-making and thought process more evident to the reviewers with better documentation, and I will work to improve my documentation in the future[.]

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent is guilty of failing to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care, in violation of Health Occ. § 14-404(a)(22); and failing to keep adequate medical records as determined by appropriate peer review, in violation of Health Occ. § 14-404(a)(40).

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 **PERMANENTLY PROHIBITED** from prescribing and dispensing Opioids; and it is further

ORDERED that 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 opioids in the past year; and it is further

ORDERED that 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; and it is further

ORDERED that the Respondent is **PERMANENTLY PROHIBITED** from certifying patients for the medical use of cannabis; and it is further

ORDERED that 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; and it is further

ORDERED that 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; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum of **ONE YEAR.**[5] During probation, the Respondent shall comply with the following terms and conditions of probation:

(1) Within **SIX (6) MONTHS**, the Respondent is required to take and successfully complete two courses, (1) a course in recordkeeping and (2) a course in prescribing 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 courses before the courses have begun;

(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 course.

(2) Within **ONE YEAR** the Respondent shall pay a **$2,500** 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

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[5] 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); and it is further

02/16/2023
Date

Signature On File

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

CONSENT

I, Ian Newbold, 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.

2/13/2023
Date

Signature On File

Ian Newbold, M.D.

NOTARY

STATE OF Maryland

CITY/COUNTY OF Montgomery

I HEREBY CERTIFY that on this 13th day of February, 2021, before me, a Notary Public of the State and County aforesaid, personally appeared Ian Newbold, 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.

LYNN ELIZABETH KAKALEC
Notary Public-Maryland
Montgomery County
My Commission Expires
August 09, 2025

Lynn Kakalec
Notary Public

My Commission Expires: 8/9/25