

IN THE MATTER OF	*	BEFORE THE
ZAFAR M. MALIK, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D44996	*	Case Number: 7718-0031B
* * * * *	*	* * * * *

**ORDER AFTER SHOW CAUSE HEARING**

On September 18, 2017, Zafar M. Malik, M.D., licensed by the Maryland State Board of Physicians (the “Board”) since 1993, entered into a Consent Order with Disciplinary Panel B of the Board (“Panel B”) wherein he was reprimanded and placed on probation for a minimum of six months, subject to certain terms and conditions. On August 16, 2018, Panel B issued a Violation of Consent Order and Notice of Show Cause Hearing, charging Dr. Malik with violating the terms and conditions of the September 18, 2017 Consent Order. On October 17, 2018, Panel B held a show cause hearing where Dr. Malik had the opportunity to argue why his license should not be subject to further discipline.

**FINDINGS OF FACT**

**Background**

On November 25, 2015, the Board received a complaint from a pharmacist who reported that one of Dr. Malik’s patients attempted to fill multiple prescriptions for controlled dangerous substances (“CDS”) in a short period of time. The Board opened an investigation into the allegations, which included submitting patient records for an independent peer review. The peer reviewers agreed that Dr. Malik failed to meet the standard of care with respect to his prescribing of CDS.

On May 11, 2017, based on the results of the peer review reports, Panel B charged Dr. Malik with failing to meet appropriate standards as determined by appropriate peer review for

the delivery of quality medical care, in violation of Maryland Code Ann., Health Occ. (“Health Occ.”) § 14-404(a)(22). On September 18, 2017, Dr. Malik entered into a Consent Order with Panel B to resolve the charges against him.

### **September 18, 2017 Consent Order**

In the Consent Order, Panel B found that Dr. Malik failed to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical care, in violation of Health Occ. § 14-404(a)(22). Dr. Malik was reprimanded and placed on probation for a minimum of six months, subject to certain terms and conditions, which included, in pertinent part:

1. The Respondent shall not treat patients for chronic pain. In emergency cases of acute pain, the Respondent may prescribe Schedule II and Schedule III opioids, but the prescription may not exceed the lowest effective dose and quantity needed for a duration of **FIVE (5) DAYS**. The prescription may not include refills, nor may it be renewed.
3. The panel will issue administrative subpoenas to the Maryland Prescription Drug Monitoring Program on a quarterly basis for the Respondent’s CDS prescriptions. The administrative subpoena will request the Respondent’s CDS prescriptions from the beginning of each quarter.

The Consent Order also stated:

**AND IT IS FURTHER ORDERED** that if the Respondent allegedly fails to comply with any term or condition of probation or of this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If 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. If there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board or Panel B; and it is further

**ORDERED** that after the appropriate hearing, if the Board or Panel B determines that the Respondent has failed to comply with any term or condition of probation or this Consent Order, the Board or Panel B may reprimand the Respondent, place Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent’s license to practice medicine in Maryland. The Board or Panel B may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon the Respondent[.]

Dr. Malik signed the Consent Order, agreeing and accepting to be bound by the Consent Order and all of its terms and conditions.

#### **Violation of September 18, 2017 Consent Order**

In accordance with the Consent Order, the Board issued a subpoena to the Maryland Prescription Drug Monitoring Program ("PDMP") to review Dr. Malik's CDS prescriptions after the date of the Consent Order. On or about December 26, 2017, the Board received data from the PDMP which indicated that Dr. Malik prescribed Schedule III opioid medications to patients after the date of the Consent Order and maintained other patients on Tramadol, a Schedule IV opioid medication. The Board issued subpoenas for copies of the original prescriptions Dr. Malik issued for the opioid medications that were filled at pharmacies. The prescriptions confirmed that Dr. Malik wrote prescriptions for Schedule III opioid medications after the date of the Consent Order that exceeded the lowest effective dose and duration of five days.

The Board requested a response from Dr. Malik, issued a subpoena to Dr. Malik for the records of five patients who were selected from the PDMP report, and requested that he provide written summaries of care for each patient. Dr. Malik provided the patient records, patient summaries, and a response to the allegations that he prescribed in violation of the terms of the Consent Order. The investigative materials were reviewed by a medical consultant (the "Consultant"), who concluded that Dr. Malik treated patients for chronic pain using Tramadol and issued prescriptions for Tylenol # 3, a Schedule III CDS, in quantities that exceeded a five-day supply, in violation of the Consent Order.

#### **Show Cause Hearing**

On August 16, 2018, Panel B issued a Violation of Consent Order and Notice to Show Cause, alleging a violation of the terms and conditions of the September 18, 2017 Consent Order for treating patients for chronic pain using Tramadol, a Schedule IV CDS, and issuing

prescriptions for Schedule III CDS in quantities that exceeded the lowest effective dose for a five-day period, in violation of the Consent Order.

On October 17, 2018, Dr. Malik appeared at a show cause hearing before Panel B. The State was represented by Administrative Prosecutor, Robert Gilbert. During the hearing, Dr. Malik admitted that he prescribed Tramadol for chronic pain and that ninety to ninety-five percent of his patients were being treated for chronic pain. Dr. Malik explained that he thought that the Consent Order only prohibited him from prescribing Schedule II and III opioids for chronic pain and that it did not include Tramadol because Tramadol is a Schedule IV opioid medication. Dr. Malik also admitted that he prescribed Tylenol # 3 for a duration of greater than five days. Dr. Malik mistakenly thought that Tylenol # 3 was a schedule IV opioid medication, which would have allowed him to prescribe the medication for acute pain for a duration of longer than five days.

In response, the Administrative Prosecutor argued that the Consent Order was abundantly clear when it stated: "The Respondent shall not treat patients for chronic pain." He submitted exhibits of prescriptions that were issued in violation of the Consent Order and noted that Dr. Malik admitted to prescribing Tramadol for chronic pain and Tylenol # 3 for a duration of greater than five days. The Administrative Prosecutor expressed concern regarding Dr. Malik's fundamental knowledge and prescribing of opioids given that Dr. Malik was unaware of the correct schedules of drugs that he was prescribing when, according to Dr. Malik, approximately ninety percent of his patients were being treated for chronic pain. The Administrative Prosecutor asked the Panel to, at a minimum, permanently prohibit Dr. Malik from prescribing any opioids, regardless of the schedule.

The Panel is concerned that Dr. Malik was either unaware of or ignored the conditions of his Consent Order. In either case, Dr. Malik violated the terms of his Consent Order by treating

patients for chronic pain and prescribing a Schedule III opioid medication for a duration of greater than five days. The Consent Order clearly stated that Dr. Malik shall not treat patients for chronic pain, but at the show cause hearing, Dr. Malik admitted that he treated ninety to ninety-five percent of his patients for chronic pain. The Panel is not confident in Dr. Malik's ability or willingness to comply with any restrictions on prescribing or scope of practice, as Dr. Malik admitted that he treats ninety to ninety-five percent of his patients for chronic pain, in complete disregard of the terms of the September 18, 2017 Consent Order. The Panel takes Dr. Malik's violation of the Consent Order very seriously, especially in light of the current opioid epidemic, and believes that revocation is warranted in this case.

#### CONCLUSION OF LAW

Panel B finds that Dr. Malik violated probation condition 1 of the September 18, 2017 Consent Order by treating patients for chronic pain using Tramadol and prescribing Tylenol # 3, a Schedule III opioid medication, for a duration of greater than five days.

#### ORDER

On an affirmative vote of a majority of a quorum of Disciplinary Panel B, it is hereby

**ORDERED** that Dr. Malik's license to practice medicine in Maryland (License Number D44996) is **REVOKED**; and it is further

**ORDERED** that the Revocation goes into effect 90 days after the date of this Order to give Dr. Malik time to transition his patients to other providers; and it is further

**ORDERED** that the probation and probationary conditions imposed by the September 18, 2017 Consent Order are terminated as moot; and it is further

**ORDERED** that this 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).

11/07/2018  
Date

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