

IN THE MATTER OF

*

BEFORE THE

Janet M. O'Mahony, M.D.

*

MARYLAND STATE

Respondent

*

BOARD OF PHYSICIANS

License Number: D46389

*

Case Number: 2218-0088B

* * * * *

CONSENT ORDER

On March 7, 2019, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physician's (the "Board") charged Janet M. O'Mahony, M.D. (the "Respondent") with violating the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. §14-404(a)(22) (2014 Repl. Vol. & 2018 Supp.).

The Respondent was charged under the following provisions of the Act:

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 May 22, 2019, Panel B 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 and Order.

FINDINGS OF FACT

Panel B finds the following:

I. BACKGROUND

1. At all times relevant to these charges, the Respondent was a physician licensed to practice medicine in the State of Maryland. She was initially licensed in Maryland on July 12, 1994 and is presently licensed through September 30, 2019.
2. The Respondent is board-certified in Internal Medicine. She is a member of a hospital-based practice group in Baltimore, Practice A, and holds privileges at the hospital, Hospital A.¹
3. On or about October 2, 2017, a daughter of a patient of the Respondent (identified as Patient A in the charges) filed a complaint with the Board alleging that the Respondent had engaged in inappropriate prescribing for her father.
4. On receipt of the complaint, the Board initiated an investigation which included requesting a written response from the Respondent, interviewing the Respondent, subpoenaing ten patient medical records chosen from a prescription drug monitoring program (“PDMP”) report (including Patient A), and transmitting records to a peer review organization to conduct a peer review.

¹ Patient and facility names will not be used in this document in order to maintain confidentiality but will be provided to the Respondent on request.

5. On or about August 6, 2018, the Board received the peer review reports regarding the Respondent's care and treatment of Patients 1-10. The results of the peer review are set forth below.²

6. On or about August 15, 2018, the Board sent the peer review reports to the Respondent, providing her an opportunity to file a supplemental response with the Board.

7. On September 4, 2018, the Respondent submitted a supplemental response to the Board regarding the peer reviews.

II. PATIENT-RELATED ALLEGATIONS

STANDARD OF QUALITY CARE VIOLATIONS

8. The peer reviewers concurred that the Respondent failed to meet the standard of quality medical care in eight patient records (Patients 1 through 8) reviewed for reasons in whole or in part as follows:

- The Respondent conducted inadequate patient surveillance with high dose opioid therapy including urine toxicology screening, pill counting and/or PDMP monitoring (Patients 1-8);
- The Respondent failed to adequately address the presence of cannabinoids in urine testing (Patients 1, 3, 5);
- The Respondent prescribed opioids in high doses concomitantly with benzodiazepines or sedatives without adequate justification and/or without adequate counseling about the side effects and/or despite the side effects (Patients 1, 2, 3, 6, 8);
- The Respondent prescribed an excessive amount of opioids to a patient at one time which increases the potential for diversion (Patient 2, 3, 4, 5, 6, 7); and

² The reviewers did not concur on deficiencies relating to Patient A, and therefore Patient A was not included in the patient charges set forth below. Additionally, the peer reviewers did not concur on deficiencies relating to Patients 9 and 10, and therefore those patients were not included in the charges.

- The Respondent ignored red flags signaling possible abuse or diversion (Patients 2, 3, 7).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel B concludes as a matter of law that that the Respondent violated the following provision of the Act under Health Occ. §14-404(a)(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 facility, office, hospital, or any other location in this State.

ORDER

Based upon the Findings of Fact and Conclusions of Law, it is, on the affirmative vote of a majority of the quorum of Disciplinary Panel B, **HEREBY:**

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

ORDERED that the Respondent is placed on **PROBATION** for a minimum period of **ONE YEAR**.³ During probation, the Respondent shall comply with the following terms and conditions:

1. The Respondent is required to take a comprehensive course in controlled dangerous substance ("CDS") prescribing. 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 shall enroll in and successfully complete a panel-approved course within six months;
 - (d) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;

³ If the Respondent's license expires while the Respondent is on probation, the probationary period and any probationary conditions will be tolled.

- (e) the course may not be used to fulfill the continuing medical education credits required for license renewal;
 - (f) the Respondent is responsible for the cost of the course.
- 2. The Respondent shall be subject to supervision by a disciplinary panel-approved supervisor who is board-certified in pain medicine as follows:
 - (a) within 30 calendar days, the Respondent shall provide the disciplinary panel with the name, pertinent professional background information of the supervisor whom the Respondent is offering for approval, and written notice to the disciplinary panel from the supervisor confirming his or her acceptance of the supervisory role of the Respondent and attestation that there is no personal or professional relationship with the supervisor;
 - (b) The Respondent's proposed supervisor, to the best of the Respondent's knowledge, should not be an individual who is currently under investigation, and has not been disciplined by the Board within the past five years;
 - (c) if the Respondent fails to provide a proposed supervisor's name within 30 days from the effective date of the order, the Respondent's license shall be automatically suspended from the 31st day until the Respondent provides the name and background of a supervisor;
 - (d) the disciplinary panel, in its discretion, may accept the proposed supervisor or request that the Respondent submit a name and professional background, notice of confirmation, and attestation of a different supervisor;
 - (e) the supervision begins after the disciplinary panel approves the proposed supervisor;
 - (f) the disciplinary panel will provide the supervisor with a copy of this Consent Order and any other documents the disciplinary panel deems relevant;
 - (g) the Respondent shall grant the supervisor access to patient records selected by the supervisor, which shall, to the extent practicable, focus on the type of treatment at issue in the Respondent's charges;
 - (h) if the supervisor for any reason ceases to provide supervision, the Respondent shall immediately notify the Board and shall not practice medicine beyond the 30th day after the supervisor has ceased to provide supervision and until the disciplinary panel the Respondent has submitted the name and professional background, notice of confirmation, and attestation of a proposed replacement supervisor to the disciplinary panel;
 - (i) it shall be the Respondent's responsibility to ensure that the supervisor:

- (i) reviews the records of 10 patients each month, such patient records to be chosen by the supervisor and not the Respondent;
 - (ii) meets in-person with the Respondent at least once each month and discuss in-person with the Respondent the care the Respondent has provided for these specific patients;
 - (iii) be available to the Respondent for consultations on any patient;
 - (iv) maintains the confidentiality of all medical records and patient information;
 - (v) provides the Board with quarterly reports which detail the quality of the Respondent's practice, any deficiencies, concerns, or needed improvements, as well as any measures that have been taken to improve patient care; and
 - (vi) immediately reports to the Board any indication that the Respondent may pose a substantial risk to patients.
3. The disciplinary panel may issue administrative subpoenas to the Maryland Prescription Drug Monitoring Program on a quarterly basis for the Respondent's Controlled Dangerous Substances ("CDS") prescriptions. The administrative subpoena will request the Respondent's CDS prescriptions from the beginning of each quarter; and it is further

ORDERED 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 probation may be terminated through an order of the disciplinary panel. The Respondent may be required to appear before the disciplinary panel to discuss his or her petition for termination. The disciplinary panel may grant the petition to terminate the probation, through an order of the disciplinary panel if there are no pending complaints relating to the charges; and it is further

ORDERED that the Respondent shall comply with the Maryland Medical Practice Act, Md. Code Ann., Health Occ. §§ 14-101—14-702, and all federal and state laws and regulations governing the practice of medicine in Maryland; and it is further

ORDERED that a violation of probation constitutes a violation of the 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 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 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 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 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 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 his 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).

07/26/2019
Date

Signature on File

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

CONSENT

I, Janet O'Mahony, acknowledge that I am represented by counsel and 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 these rights 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.

7/23/19
Date

Signature on File

Janet O'Mahony, M.D.

NOTARY

STATE OF: Maryland

CITY/COUNTY OF: Baltimore

I HEREBY CERTIFY that on this 23rd day of July, 2019,
before me, a Notary Public of the State and City/County aforesaid, personally appeared
Janet O'Mahony, M.D. and made oath in due form of law that the foregoing Consent Order
was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Janine D. Miller
Notary Public

My commission expires: 11/13/2019