IN THE MATTER OF	*	**BEFORE THE**
ANTHONY R. JOSEPH, M.D.	*	**MARYLAND STATE**
Respondent	*	**BOARD OF PHYSICIANS**
License Number: D47529	*	**Case Number: 2219-0151 A**

* *

CONSENT ORDER

On January 17, 2020, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged **Anthony R. Joseph, M.D.** (the "Respondent"), License Number D47529, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.), pursuant to the following provisions of the Act:

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

On March 11, 2020, Panel A was convened as a Disciplinary Committee on 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 the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

Panel A finds:

1. At all relevant times, the Respondent was and is licensed to practice medicine in the State of Maryland. The Board initially issued the Respondent a license to practice medicine in Maryland on June 14, 1995, under License Number D47529. His license is active through September 30, 2020.

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

3. Since 2004, the Respondent has owned and operated a medical practice, "Anthony R. Joseph, M.D., LLC," with an office in Baltimore, Maryland. The Respondent's practice focuses on internal medicine and substance abuse treatment.

COMPLAINT

4. The Board initiated an investigation of the Respondent after reviewing a complaint (the "Complaint") dated November 12, 2018 from a former patient of the Respondent (the "Complainant")[1] who alleged that the Respondent would not treat her low potassium levels and discharged her from the practice. The Complainant also alleged that the Respondent did not have "credentials" to prescribe Xanax.

BOARD INVESTIGATION

5. As part of its investigation, the Board obtained a series of patient records, interviewed the Respondent and ordered a peer review of his practice.

[1] To maintain confidentiality reasons, the names of the Complainant or any patients referenced herein will not be identified in this Consent Order, but are known to the Respondent.

Patient Records

6. By letter dated December 3, 2018, the Board notified the Respondent that it had opened a preliminary investigation of the matter and provided him a copy of the Complaint. The Board directed the Respondent to provide a response to the allegations raised in the Complaint and issued him a subpoena for the Complainant's medical records.

7. On or about January 3, 2019, the Board received the Complainant's medical records from the Respondent. The Respondent, however, did not provide a written response that addressed the Complaint.

8. By letter dated March 26, 2019, the Board notified the Respondent that it had initiated an investigation, issued him a subpoena for an additional nine (9) patient records and directed him to provide summaries of care for those patients.

9. On or about April 15, 2019, the Respondent submitted the additional patient records to the Board but declined to provide summaries of care.

Interview of the Respondent

10. On May 1, 2019, Board staff interviewed the Respondent under oath, during which the Respondent disclosed that he had never taken any formal course work in pain management. He further stated that he utilizes drug contracts and urine drug screens at every visit for patients to whom he prescribes Suboxone or provides pain management treatment.

Peer Review

11. As part of its investigation, the Board referred ten (10) patient records obtained from the Respondent (referenced *infra* as "Patients 1-10") and related materials for peer review.

12. The peer review was performed by two peer reviewers who are board-certified in addiction medicine ("Peer Reviewer 1" and "Peer Reviewer 2," respectively). On or about October 25, 2019, the peer reviewers submitted their reports to the Board.

13. The peer reviewers independently concluded that the Respondent failed to meet appropriate standards for the delivery of quality medical care in nine (9) of the ten (10) patients whose records were reviewed.

14. The peer reviewers identified five major areas of concern with respect to the Respondent's prescribing practices:

i. The Respondent prescribed various combinations of controlled dangerous substances ("CDS"), such as benzodiazepines, opioids and sedative-hypnotics, to patients, and failed to provide appropriate informed consent or document or disclose the risk for concomitant use of these medications. *See e.g.,* Patient 2 (tramadol and Suboxone); Patient 3 (tramadol and Suboxone); Patient 5 (tramadol and Suboxone); Patient 8 (Ambien and Xanax); and Patient 10 Percocet and Xanax).

ii. The Respondent did not perform comprehensive assessments to include detailed histories, thorough physical examinations or make timely referrals when necessary. *See e.g.,* Patients 1, 2, 3, 5, 6, 7, 8, 9, 10.

iii. The Respondent regularly prescribed CDS, such as benzodiazepines and opioids, to patients with a history of substance abuse, with little justification or documentation supporting their need or efficacy, particularly when non-abusable alternatives were available. *See e.g.,* Patients 2, 3, 5 and 9.

iv. The Respondent practiced substandard and dangerous addiction medicine when he:

a. Ordered urine drug screens but ignored or failed to address results indicating that patients took dangerous combinations of abusable drugs and/or had not complied with prescribed medication directions. *See e.g.*, Patients 1, 2, 5, 6, 9, 10.

b. Provided inadequate counseling to patients who abused alcohol and/or illicit drugs. *See e.g.,* Patients 2, 3, 6.

c. Prescribed CDS to patients with a known history of substance abuse and patients currently abusing prescription or illicit drugs, which risked relapses and/or drug overdoses. *See e.g.,* Patients 1, 2, 3, 5, 6, 9.

d. Mismanaged patients' Suboxone therapy when he provided inadequate instruction regarding the proper use of Suboxone therapy; neglected to alter his prescribed dosage based on adequacy and/or effectiveness; and failed to consider known medical conditions or non-compliance when he continued prescribing Suboxone. *See e.g.,* Patients 2, 3, 5.

v. The Respondent failed to treat, manage and undertake follow-up plans for patients' chronic medical conditions. *See e.g.,* Patients 1, 7, 10.

15. The peer reviewers also independently concluded that the Respondent failed to keep adequate medical records in five (5) of the ten (10) patients whose records were reviewed.

16. The peer reviewers identified five major areas of concern with respect to the Respondent's medical documentation of his prescribing practices:

i. The Respondent failed to document urine drug screen results that indicated the patients often ingested dangerous combinations of abusable drugs and/or had not complied with prescribed medication. *See e.g.,* Patients 5, 6, 9.

ii. The Respondent failed to adequately document patients' drug abuse history. *See e.g.,* Patients 3, 5, 6, 9.

iii. The Respondent failed to document his evaluation and rationale for (a) deciding the starting dose of Suboxone, (b) combining Suboxone with other potentially abusable medicines and (c) combining Suboxone with other prescription medications which potentially

could have placed the patients at risk for serious drug interactions. *See e.g.,* Patients 3, 5

iv. The Respondent failed to document a risk assessment when he prescribed CDS to patients with known histories of substance abuse and patients currently abusing prescription or illicit drugs. *See e.g.,* Patients 3, 5, 6, 9.

vi. The Respondent failed to document a comprehensive evaluation, including a detailed medical history and physical exam of patients' physical complaints prior to prescribing CDS. *See e.g.,* Patients 3, 5, 6, 7, 9.

The Respondent's Response

17. The Board provided the Respondent with the peer reviewers' findings. By letter dated November 20, 2019, the Respondent submitted his response. In his cover letter, the Respondent stated, "working in the inner city of Baltimore has been my toughest and most demanding challenge yet" and "the stress of working has left me with a burnt-out feeling." The Respondent also affirmed that he reviewed each urine drug screen for the patients whose charts were peer reviewed.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent failed to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical care performed in an office or other location in this State, in violation of Health Occ. § 14-404(a)(22), and that the Respondent 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 by Disciplinary Panel A of the Board, hereby:

ORDERED that the Order of Summary Suspension of License to Practice Medicine, dated January 8, 2020, is terminated as moot; and it is further

ORDERED that the Respondent's license to practice medicine is **SUSPENDED** for **NINETY (90) DAYS**, retroactive to January 8, 2020;[2] and it is further

ORDERED that during the suspension, the Respondent shall comply with the following terms and conditions of the suspension:

1. During the suspension period, the Respondent shall not:

   (a) practice medicine;

   (b) take any actions after the effective date of this Order to hold himself out to the public as a current provider of medical services;

   (c) authorize, allow or condone the use of the Respondent's name or provider number by any health care practice or any other licensee or health care provider;

   (d) function as a peer reviewer for the Board or for any hospital or other medical care facility in the state;

   (e) prescribe or dispense medications; or

   (f) perform any other act that requires an active medical license.

2. The Respondent shall establish and implement a procedure by which the Respondent's patients may obtain their medical records without undue burden and notify all patients of that procedure; and

3. If applicable, the Respondent shall notify in writing all athletic trainers with whom there is an evaluation and treatment protocol, all physician assistants with whom

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

there is a delegation agreement, and all Naturopathic Doctors with whom there is a collaboration agreement that all Evaluation and Treatment Protocols for Athletic Trainers, all Delegation Agreements for Physician Assistants, and all collaboration agreements are terminated; and it is further

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

ORDERED that after the minimum period of suspension imposed by the Consent Order has passed and the Respondent has fully and satisfactorily complied with all terms and conditions for the suspension the Respondent may submit a written petition for termination of suspension. After determination that the Respondent has complied with the relevant terms of the Consent Order, the disciplinary panel may administratively terminate the Respondent's suspension through an order of the disciplinary panel. Upon termination of the suspension, it is further

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

ORDERED that the Respondent is permanently prohibited from prescribing and dispensing all opioids and benzodiazepines under Criminal Law § 5-401 *et seq.*; 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 prescribed or dispensed any opioids and

benzodiazepines or 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 these conditions:

(1) There is a presumption that the Respondent has violated these permanent conditions; 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 agrees that the Controlled Dangerous Substances ("CDS") Registration issued by the Office of Controlled Substances Administration will be restricted to the same categories of CDS as limited by this Order; and it is further

ORDERED that 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 subpoenas will request the Respondent's CDS prescriptions from the beginning of each quarter; and it is further

ORDERED that within **SIX (6) MONTHS** of the effective date of this Consent Order, the Respondent is required to take and successfully complete a panel-approved course in 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 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; and

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

ORDERED that within **TWO (2) YEARS** of the effective date of this Consent Order, the Respondent shall pay a civil fine of **FIVE THOUSAND DOLLARS ($5,000.00)**. 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 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 the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board. 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, 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) (2014 & 2019 Supp.).

05/11/2020
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland Board of Physicians

CONSENT

I, Anthony R. Joseph, 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.

5/4/2019
Date

Signature on File

Anthony R. Joseph, M.D.

NOTARY

STATE OF MD

CITY / COUNTY OF Howard

I HEREBY CERTIFY that on this 4 day of MAY 2019, before me, a Notary Public of the foregoing State and City/County, personally appeared Anthony R. Joseph, 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.

ROBERT M. WARNER NOTARY PUBLIC MY COMMISSION EXPIRES NOV. 12, 2022 HARFORD COUNTY, MD

Robert M. Warner
Notary Public

My Commission expires: _____