

IN THE MATTER OF

*

BEFORE THE

KHONDKER M. SHAMSUZZOHA, M.D.

*

MARYLAND STATE

Respondent

*

BOARD OF PHYSICIANS

License Number: D57162

*

Case Number: 2218-0087A

* * * * *

CONSENT ORDER

On January 30, 2019, Disciplinary Panel A of the Maryland State Board of Physicians (the “Board”) charged Khondker M. Shamsuzzoha, M.D., (the “Respondent”), License Number D57162, under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.).

The Respondent was charged under the following provisions of Health Occ. § 14-404(a):

**§ 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 of the Board, 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 March 13, 2019, 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 and Order.

I. FINDINGS OF FACT

Disciplinary Panel A finds:

1. At all times relevant, the Respondent was licensed to practice medicine in the State of Maryland. The Respondent was originally licensed to practice medicine in Maryland on March 1, 2001. His license is active through September 30, 2019.
2. At all times relevant, the Respondent practiced in a group practice in Frederick, Maryland and held hospital privileges at Hospital A.¹ The Respondent is board-certified in anesthesiology.

First Report from Hospital A

3. In a report dated July 19, 2017, Hospital A sent a mandated 10-day report to the Board notifying the Board of the Respondent's restriction of hospital privileges ("privileges") as a result of deficiencies in the Respondent's practice ("Report 1").
4. The Board initiated an investigation of the Respondent's practice which included reviewing Hospital A's records about the incidents that led to the restriction of his privileges.² Based on its investigative findings, Hospital A had imposed restrictions on the Respondent's privileges which included that he not practice in a supervisory role, not have the ability to take calls from the Emergency Department, that he

¹ To maintain confidentiality, the name of the hospital or patients will not be identified in this charging document. The Respondent may obtain the identity of the hospital or patients referenced herein by contacting the assigned administrative prosecutor.

² Hospital A's action was based on its review of three cases.

arrange for immediate physician back-up, and that he not provide anesthesia to patients in high-risk cases.

Second Report from Hospital A

5. In a report dated October 17, 2017, Hospital A sent a mandated 10-day report to the Board notifying the Board of the Respondent's voluntary resignation of his privileges ("Report 2").
6. The Board initiated an investigation of the Respondent's practice which included reviewing Hospital A's investigative findings regarding an incident that preceded the Respondent's decision to resign.

Board Peer Review

7. The Board's investigation included referring the matter for a peer review. The two peer reviewers, board-certified in anesthesiology, were asked to review the records regarding four patient incidents reported by Hospital A to the Board.
8. The peer reviewers concurred that the Respondent failed to meet the appropriate standards for the delivery of quality medical or surgical care for the incident that formed the basis for Report 2. The peer reviewers did not concur as to any deficiencies in care relating to the other three patients reviewed.
9. The incident from Report 2 involved Patient A, a male patient who was undergoing surgery for the removal of a skin lesion from his nose. During surgery, the Respondent administered oxygen to Patient A through a nasal prong. The surgeon, Doctor A, used an electrosurgical device, known as a Bovie, to address bleeding through cauterization. While Doctor A was using the Bovie on Patient A, a flash

fire occurred due to the flow of oxygen. As a result of the flash fire, Patient A sustained first-degree burns to his mouth and nose. Doctor A terminated the procedure due to the flash fire and the Respondent intubated Patient A. As a consequence of the burns, Patient A was admitted to the Intensive Care Unit of Facility A.

10. Both peer reviewers concurred that the Respondent's conduct failed to meet the appropriate standards for the delivery of quality medical or surgical care for the following reasons:

- A "time out" prior to surgery is required, and the peer reviewers concluded that the Respondent did not utilize a "time out" to clarify whether the surgeon planned to use a Bovie;³ and
- Ineffective communication between the Respondent and the surgical team resulted in a flash fire, harming Patient A.

II. CONCLUSIONS OF LAW

The Respondent failed to meet appropriate standards of care, in violation of § 14-404(a)(22).

III. ORDER

It is thus by Panel A, hereby:

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

³ The peer reviewers concurred as to the Respondent's deficiencies in care despite discrepancies between the testimony of the Respondent and Doctor A regarding whether there was a cover between them that blocked the Respondent's view of the Bovie setup procedure and whether Doctor A announced the use of the Bovie before proceeding with the procedure.

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 **Workplace Communication**. 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 begins;
- (b) The disciplinary panel will not accept a course taken over the internet;
- (c) The Respondent shall 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.

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. 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 upon the Respondent; and it is further

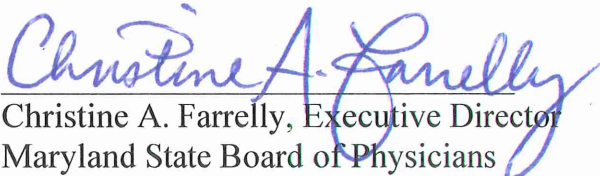
ORDERED that The Respondent shall comply with the Maryland Medical Practice Act, Md. Code Ann., Health Occ. II §14-101 - §14-702, and all federal and state laws and regulations governing the practice of medicine in Maryland; and it is further

ORDERED that Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; 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 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) (2014 & Supp. 2017).

04/03/2019
Date


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

CONSENT

I, Khondker M. Shamsuzzoha, 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 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 their 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 understands the language
and meaning of its terms.

3/26/2019
Date

Signature on File

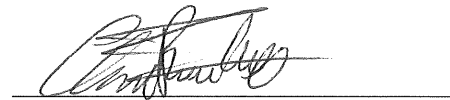
Khondker M. Shamsuzzoha, M.D.

STATE/ DISTRICT OF Virginia

CITY/COUNTY OF: Fairfax

I HEREBY CERTIFY that on this 26th day of March, 2019, before me, a Notary Public of the State/District and County aforesaid, personally appeared Khondker M. Shamsuzzoha, 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.



Notary Public

My Commission expires: 03/31/2023



ANDERSON REYES-EUCEDA
NOTARY PUBLIC
Commonwealth of Virginia
ID# 7813832
My Commission Expires
March 31, 2023