IN THE MATTER OF	*	**BEFORE THE**
HIEN Q. NGUYEN, M.D.	*	**MARYLAND STATE**
Respondent	*	**BOARD OF PHYSICIANS**
License Number: D57210	*	**Case Number: 2219-0138A**

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CONSENT ORDER

Om September 3, 2020, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged **HIEN Q. NGUYEN, M.D.** (the "Respondent"), License Number D57210, with violating Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.).

Specifically, Panel A charged the Respondent with violating the following provisions of the Act under 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; [and]
>
> (40) Fails to keep adequate medical records as determined by appropriate peer review[.]

On December 2, 2020, 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

I. Background

1. At all times relevant, 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 March 13, 2001, under License Number D57210. The Respondent's medical license is scheduled for renewal on September 30, 2021.

2. The Respondent is board-certified in general surgery. The Respondent's self-designated specialty is addiction medicine.

3. At all times relevant, the Respondent was affiliated with an opioid use disorder treatment practice (the "Practice")[1] that has several locations in Maryland. The Practice provides buprenorphine treatment for opioid use disorder patients.

II. Prior Disciplinary History

4. The Board initiated an investigation of the Respondent in 2015 after reviewing a Mandated 10-Day Report from a health care facility (the "Facility") which reported that the Respondent voluntarily agreed to the suspension of his Facility privileges pending its investigation into two surgeries he had performed there. As a result of this investigation, Disciplinary Panel B of the Board issued disciplinary charges against the Respondent, dated January 20, 2016, under Case Number 2015-0632B.

[1] The Practice was formerly was owned and operated by another physician. On or about January 21, 2019, the Respondent reportedly became the Practice's Medical Director and Clinical Manager, and on or about March 12, 2019, reportedly purchased the Practice from the physician.

5. The Respondent requested a contested case hearing on the charges, after which Panel A issued a Final Decision and Order (the "2017 Final Order"), dated May 18, 2017. Panel A concluded as a matter of law that the Respondent violated the following provisions 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 surgical facility, office, hospital, or any other location in this State; and (40) Fails to keep adequate medical records as determined by appropriate peer review. Panel A reprimanded the Respondent and placed him on probation pending his successful completion of a medical recordkeeping course.

6. On July 12, 2017, Panel A terminated the probation it imposed under the 2017 Final Order.

III. Current Allegations

7. The Board initiated an investigation of the Respondent after reviewing a complaint from a physician with whom the Respondent was formerly affiliated, who alleged that the Respondent engaged in inappropriate practices when providing opioid use disorder treatment to patients.

8. Pursuant to its investigation, the Board issued a subpoena to the Respondent for a series of patient records and supporting materials and ordered a practice review. The review was performed by two Board-certified physicians who specialize in the treatment of addiction.[2] The records the Board obtained involved adult patients for

[2] Both reviewers specialize in addiction medicine.

whom the Respondent provided medication-assisted treatment ("MAT") for opioid use disorder at the Practice. The reviewers independently concluded that the Respondent failed to meet appropriate standards for the delivery of quality medical care in nine of the ten cases that were reviewed ("Patients 1 through 9");[3] and failed to keep adequate medical records in six of the ten cases that were reviewed ("Patients 1 and 6 through 10").

9. The Respondent failed to meet appropriate standards for the delivery of quality medical care and failed to keep adequate medical records when providing opioid use disorder treatment to patients at the Practice. The Respondent failed to document or establish a comprehensive treatment plan, other than placing patients on buprenorphine and ordering frequent urine drug screens ("UDS"). The Respondent failed to document or establish an appropriate bio-psycho-social assessment with a problem list. The Respondent failed to ensure that patients received appropriate supportive counseling, failed to document or verify if patients were in counseling and/or failed to coordinate treatment with counselors who were providing treatment to patients. The Respondent used testing that was inadequate to verify compliance, failed to ensure treatment compliance, misinterpreted UDS and/or disregarded inconsistent UDS findings. The Respondent failed to enforce substance abuse contracts, refer patients for more intensive addiction treatment or discharge patients, where indicated. The Respondent failed to modify his treatment plan when patients were non-compliant with treatment. The

[3] For confidentiality purposes, the names of patients will not be identified in this document. The Respondent may obtain the identity of any patient referenced herein by contacting the assigned administrative prosecutor.

Respondent failed to achieve verifiable, sustained sobriety for his patients. The Respondent failed to document or consider whether patients were accumulating or diverting Suboxone after UDS results indicated treatment non-compliance. The Respondent's treatment notes are inadequate, fail to contain necessary information for the treatment of substance abuse and contain inconsistencies and contradictions.

10. Examples of these deficiencies are set forth in the following patient summaries.

Patient 1

11. Patient 1, a woman in her early 30s, entered treatment for opioid abuse at the Practice in or around January 2017, when she was initially evaluated by another Practice provider. Patient 1 reported a prior history that included knee surgery for injuries sustained in an automobile accident in the 1990s. Patient 1 stated that she had "problems with Percocet, Adderall and cocaine" for about 8 years. Patient 1 reported that she was already taking buprenorphine (Subutex) 16 mg per day.

12. Another Practice provider placed Patient 1 on Suboxone for opioid abuse. Patient 1 continued to receive MAT through 2019. In 2017, Patient 1 underwent several UDS that were positive for cocaine. Despite being given a series of verbal and written warnings, including a "Final Written Warning," other Practice providers who were treating Patient 1 did not discharge her after she had an inconsistent test finding, *i.e.*, testing positive for oxycodone.

13. The Respondent began providing treatment for Patient 1 in or around late 2017 in a Delaware office. The Respondent began seeing Patient 1 in Maryland in or

around September 2018 and continued providing MAT to her through 2019. The Respondent failed to adequately document Patient 1's buprenorphine use, her injury history or past addiction treatment or problems associated with drug abuse.

14. The Respondent did not document or establish a bio-psycho-social assessment with a problem list or document an appropriate treatment plan.

15. The Respondent failed to fully document or address Patient 1's reported drug abuse history.

16. On several visits, the Respondent noted discussing a "long term plan" with Patient 1 but did not establish or document a long-term plan or state what the plan was.

17. Patient 1 underwent about 39 UDS during the course of treatment. The majority of those UDS indicated treatment non-compliance. For example, in January 2019, the Respondent interpreted Patient 1's UDS as being in compliance, which was erroneous. The Respondent misinterpreted UDS findings, which at times indicated discordant buprenorphine/norbuprenorphine level findings.

18. When providing treatment to Patient 1, the Respondent noted that she was undergoing counseling with a licensed clinical social worker. There is no evidence that the Respondent verified this assertion.

19. Patient 1 was also being prescribed Lyrica, a Schedule III controlled dangerous substance ("CDS"), and Flexeril, a prescription-only muscle relaxant. The Respondent did not investigate or document investigating the interactions between Lyrica, Flexeril and buprenorphine.

20. On May 30, 2019, the Respondent noted that Patient 1 had been prescribed Vyvanse, a stimulant and Schedule II CDS, by another physician. The Respondent did not document or explore the appropriateness of this medication in light of Patient 1's previous history of Adderall abuse. On this visit, the Respondent ordered a UDS that was negative for amphetamines and positive for THC (tetrahydrocannabinol). The Respondent did not document or follow up on this inconsistent UDS, discuss this with Patient 1's therapist or revise Patient 1's treatment plan. On the follow-up visit of June 13, 2019, the Respondent did not document or address the prior inconsistent UDS or why Vyvanse became a current medication.

Patient 2

21. Patient 2, a woman in her late 20s, entered treatment for opioid abuse at the Practice in or around mid-2016, during which time she was seen by other Practice providers. Patient 2 reported abusing opioid pills for about 10 years. Patient 2's initial UDS was positive for several non-prescribed/illicit drugs. Another Practice provider placed Patient 2 on a Suboxone regimen.

22. The Respondent began providing treatment for Patient 2 in late 2017, which he continued through in or around July 2019. The Respondent's initial note for Patient 2 is unclear in that he documented that Patient 2 was in treatment with a counselor, but also documented that she was in the process of finding a new counselor. In subsequent entries, the Respondent noted that Patient 2 was in counseling. In other entries, though, he stated that she was both in counseling and also was "in the process of finding a counselor," indicating that she was not in counseling and needed assistance in finding

counseling. The Respondent did not document or verify Patient 2's compliance with counseling.

23. The Respondent did not document or establish a bio-psycho-social assessment with a problem list or document or record an appropriate treatment plan.

24. During the course of providing MAT treatment to Patient 2, the Respondent ordered frequent UDS screens to evaluate Patient 2's treatment compliance. The Respondent's testing, interpretation of the testing and patient monitoring were inadequate. There were numerous instances when the Respondent ordered basic screens that only detect positive and negative levels, without numeric values. Some of the tests were inadequate to measure compliance in that they do not test for the presence of norbuprenorphine. The Respondent misinterpreted UDS results as indicating compliance, despite the lack of testing for norbuprenorphine. At times, the Respondent misinterpreted UDS findings indicating compliance when the buprenorphine or norbuprenorphine finding was either low or discordant, or when buprenorphine and/or norbuprenorphine was not found in the UDS. At other times, the Respondent inappropriately concluded that Patient 2 was compliant with treatment when buprenorphine values were negative or when buprenorphine/norbuprenorphine values did not indicate treatment compliance. The Respondent failed to appropriately address Patient 2's treatment non-compliance.

25. During treatment, Patient 2's UDS showed the presence of various illicit substances, such as cocaine, PCP and amphetamines. The Respondent did not

appropriately investigate Patient 2's relapses or refer her to an addiction treatment program.

26. During the course of treatment, Patient 2 reportedly became pregnant. The Respondent's treatment entries are unclear in that he stated that Patient 2 was being prescribed Subutex, while in other entries, he stated she was being prescribed Zubsolv.

Patient 3

27. Patient 3, a man in his early 30s, entered treatment for opiate abuse at the Practice in or around November 2018. Patient 3 reported abusing Percocet, Oxycontin, marijuana, Ecstasy and heroin for about two years prior to seeking treatment. Another Practice provider placed Patient 3 on a Suboxone regimen. Patient 3 underwent UDS which, in at least two instances, was negative for the presence of buprenorphine, for which he was given warnings.

28. The Respondent began providing treatment to Patient 3 on or about December 19, 2018. In his treatment note for this date, as in subsequent dates, the Respondent noted discussing a "long term plan" with Patient 3. The Respondent, however, did not record a long-term plan or state what the plan was. In this and in subsequent treatment notes, the Respondent failed to investigate the details of Patient 3's addiction history.

29. The Respondent did not document or establish a bio-psycho-social assessment with a problem list or document or record an appropriate treatment plan.

30. By the end of January 2019, Patient 3 had several inconsistent UDS, indicating treatment non-compliance. Despite this, the Respondent failed to adequately address Patient 3's treatment non-compliance.

31. During the time the Respondent provided treatment to Patient 3, Patient 3 underwent about 35 UDS, virtually all of which indicated non-compliance. Inconsistencies in the UDS include negative buprenorphine findings, negative norbuprenorphine findings, discordant buprenorphine/norbuprenorphine levels or adulterated urine samples, indicating Patient 3's non-compliance with treatment. On a consistent basis, the Respondent failed to appropriately address these inconsistencies with Patient 3. At other times, the Respondent misinterpreted UDS findings as indicating that Patient 3 was compliant with treatment, which was erroneous. Also, the Respondent did not refer Patient 3 to an addiction treatment program.

32. On April 24, 2019, the Respondent gave Patient 3 a "final warning" after Patient 3's UDS indicated non-compliance. The Respondent did not contact or document contacting Patient 3's counselor to address his non-compliance or whether he was actually in treatment.

33. Thereafter, the Respondent continued to provided MAT to Patient 3 through August 2019. During this treatment interval, Patient 3's UDS findings were frequently inconsistent, indicating treatment non-compliance. Despite this, the Respondent failed to enforce Patient 3's drug contract or appropriately address Patient 3's persistent treatment non-compliance.

Patient 4

34. Patient 4, a man in his early 60s, entered treatment for opiate abuse at the Practice on or about December 26, 2018. Patient 4 reported using heroin for at least 30 years, most recently the night before his initial visit. Another Practice provider assessed Patient 4 on this visit. Patient 4 underwent UDS screening, which was positive for cocaine and methadone. During this intake, the other Practice provider did not explore or document exploring Patient 4's substance abuse in any depth. Patient 4 was placed on a Suboxone regimen.

35. The Respondent began providing treatment to Patient 4 on January 2, 2019. The Respondent did not take any further history regarding Patient 4's drug abuse history, did not address Patient 4's positive methadone findings or explore whether Patient 4 was in a methadone program. The Respondent failed to address Patient 4's prior claim of disability. In his note for this date, the Respondent stated that Patient 4 was undergoing counseling pursuant to his treatment contract but in contradiction, also stated that Patient 4 was in the process of finding a counselor. The Respondent failed to assist Patient 4 in finding addiction counseling. The Respondent also stated that Patient 4 "has been taking the Suboxone," but UDS results were negative for norbuprenorphine, indicating treatment non-compliance. The Respondent did not appropriately address Patient 4's treatment non-compliance.

36. The Respondent did not document or establish a bio-psycho-social assessment with a problem list or document or record an appropriate treatment plan.

37. In treatment notes dated January 9, 2019, and January 16, 2019, the Respondent erroneously concluded that Patient 4 was compliant with treatment and was taking his Suboxone, despite UDS results showing absence of norbuprenorphine, indicating treatment non-compliance.

38. On January 23, 2019, the Respondent noted that Patient 4's UDS was negative for buprenorphine, for which he gave him a "documented verbal warning." The Respondent did not document or specifically address why Patient 4 was not taking his Suboxone.

39. On January 30, 2019, the Respondent again stated that Patient 4 was receiving counseling while also stating that he was "in the process of finding a counselor," casting doubt as to whether Patient 4 was receiving counseling. The Respondent failed to investigate whether Patient 4 was receiving counseling or assist him in finding counseling.

40. On subsequent visits, Patient 4 underwent additional UDS. These UDS findings were inconsistent, often consisting of negative norbuprenorphine findings or adulteration of the UDS. Despite this, the Respondent misinterpreted the findings and erroneously concluded that Patient 4 was compliant in treatment. The Respondent failed to appropriately address Patient 4's treatment non-compliance.

41. The Respondent continued to provide MAT to Patient 4 through March 2019. Despite a number of inconsistent UDS findings, the Respondent failed to enforce Patient 4's substance abuse contract. Patient 4's substance abuse contract required that he produce proof of counseling and that his UDS would be supervised, which is unlikely

in view of evidence that Patient 4's UDS had been adulterated. Additionally, the Respondent did not establish adequate proof that Patient 4 was in counseling.

42. Upon Patient 4's treatment cessation, the Respondent failed to record a discharge or transfer note.

Patient 5

43. Patient 5, a man in his early 50s, entered treatment for opiate abuse at the Practice on or about November 27, 2018. Patient 5 had reportedly used heroin for the past 15 years. On intake, Patient 5 underwent UDS that was positive for methadone. Another Practice provider placed Patient 5 on a Suboxone regimen.

44. The Respondent began providing treatment to Patient 5 on January 2, 2019. The Respondent's note for that date states that Patient 5's UDS from December 26, 2018, was negative for norbuprenorphine and he gave him a "verbal warning," despite stating earlier in the same note that Patient 5 was "doing well." The Respondent did not document or explore further Patient 5's prior drug usage or history of addiction. The Respondent continued Patient 5 on Suboxone.

45. The Respondent did not address or document addressing Patient 5's initial positive UDS methadone finding, whether Patient 5 was using methadone or whether he was in a methadone treatment program. The Respondent did not explore Patient 5's use of methadone before continuing him on Suboxone.

46. Patient 5 stated on intake that he was disabled. The Respondent did not document or explore the details of his purported disability.

47. The Respondent did not document or establish a bio-psycho-social assessment with a problem list or document or record an appropriate treatment plan.

48. The Respondent continued to follow Patient 5 through May 24, 2019. During that time, the Respondent gave Patient 5 a written warning on January 30, 2019, after Patient 5's UDS was negative for buprenorphine, and a second written warning on May 24, 2019, when Patient 5's UDS was positive for cocaine and methadone.

49. During the course of providing MAT to Patient 5, the Respondent ordered a series of UDS, a total of 18, all of which had inconsistent results, indicating treatment non-compliance. These inconsistences included negative buprenorphine and/or norbuprenorphine findings, or positive findings for methadone, benzodiazepines and/or cocaine. Despite these findings, the Respondent, aside from the warnings noted above, at times erroneously stated in his treatment notes that Patient 5 was compliant with treatment. The Respondent either ignored or failed to appropriately address Patient 5's inconsistent UDS findings. The Respondent did not alter his treatment program in response to these findings. In addition, the Respondent failed to enforce the substance abuse contract that Patient 5 signed.

50. The Respondent failed to contact the facility where Patient 5 was obtaining addiction counseling after Patient 5's UDS indicated treatment non-compliance.

51. On May 24, 2019, another Practice provider saw Patient 5 and noted that Patient 5's UDS was negative for buprenorphine and positive for methadone and cocaine. He concluded that Patient 5 was not compliant with treatment and instructed him to return in one week.

52. The next and last treatment note, however, was dated July 31, 2019. The note indicates that the Respondent saw Patient 5 on this visit. The Respondent did not document or address Patient 5's absence from treatment during this interval or his previous positive UDS for illicit drugs. For reasons that are unclear, the Respondent noted an April 24, 2019 UDS, which he stated was positive for buprenorphine. In fact, the April 24, 2019 UDS, while positive for buprenorphine, was negative for norbuprenorphine, indicating treatment non-compliance, which the Respondent failed to appropriately address. Despite the above inconsistent UDS findings, the Respondent erroneously stated that Patient 5 was compliant with treatment.

Patient 6

53. Patient 6, a woman in her early 50s, entered treatment for opiate abuse at the Practice on October 27, 2017. Patient 6 reported that she had been a daily heroin user for about the past 23 years. Patient 6 was placed on Suboxone and was followed by other Practice providers for about the next year, during which time there were inconsistencies noted in her UDS.

54. The Respondent took over Patient 6's treatment on December 12, 2018. In his note for this date, Patient 6's UDS, taken on December 6, 2018, indicated an inordinately high buprenorphine level and a negative norbuprenorphine level. Despite this inconsistency, the Respondent erroneously concluded that Patient 6 was "compliant with treatment and contract at this point." The Respondent noted that he discussed a "long term plan" with Patient 6, but the Respondent did not record a long-term plan or state what the plan was. The Respondent also noted that Patient 6 was being prescribed a

benzodiazepine by her primary care provider. This information is contained in the "Allergy" section of the note. The Respondent did not comment on this discrepancy in his note or counsel Patient 6 about concomitant Suboxone and alprazolam usage.

55. The Respondent did not document or establish a bio-psycho-social assessment with a problem list or document or record an appropriate treatment plan.

56. Patient 6 reported that she was receiving intensive (four times per week) counseling for post-traumatic stress disorder. The Respondent did not document or coordinate his treatment and case management with Patient 6's counselor.

57. Patient 6 was also being prescribed a significant dosage of alprazolam by another physician. The Respondent failed to document or address Patient 6's use of this medication in conjunction with Suboxone or contact the prescriber of the alprazolam.

58. The Respondent continued to follow Patient 6 and order UDS for her, all of which indicated that she was not compliant with her treatment or her substance abuse contract. On numerous occasions, the Respondent noted that he would discharge Patient 6 for her failed UDS but did not follow through with his plan to do so. For example, on January 2, 2019, the Respondent noted that he was giving Patient 6 a "last and final warning." In a visit on January 24, 2019, the Respondent noted that Patient 6 had a negative buprenorphine finding from a UDS taken on January 17, 2019. Despite this, the Respondent did not discharge Patient 6. He continued to see Patient 6 and order further UDS, all of which indicated non-compliance.

59. The Respondent did not document or re-evaluate Patient 6 or her treatment regimen, or refer her for more intensive addiction treatment, after her UDS indicated relapses/treatment non-compliance.

60. After the Respondent saw Patient 6 on March 27, 2019, other Practice providers took over Patient 6's treatment. Patient 6's UDS continued to indicate treatment non-compliance, and on April 29, 2019, another Practice provider discharged her from treatment.

61. The next note in the chart, which the Respondent wrote, was dated August 26, 2019. The Respondent's note is deficient in that he does not reference Patient 6's discharge, whether she was actually discharged, or the circumstances of her re-enrollment in treatment. The Respondent failed to appropriately address Patient 6's departure from treatment or any possible treatment changes upon her re-entry into treatment.

62. The Respondent failed to treat Patient 6 in an appropriate manner. The Respondent persistently misinterpreted Patient 6's UDS findings to indicate treatment compliance, when in fact Patient 6 was not compliant. The Respondent overlooked Patient 6's non-compliance for months and it took another provider from the Practice to discharge her. The Respondent regularly threatened Patient 6 with discharge but failed to enforce his threats or enforce the substance abuse contract into which she had entered.

Patient 7

63. Patient 7, a woman in her early 30s, entered treatment for opiate abuse at the Practice on or about October 3, 2018. Patient 7 reported that she "sniffs heroin" and "gets SBX off streets." She also reported that she was formerly enrolled in a Suboxone

treatment program in West Virginia and was seeking to re-enroll in Suboxone treatment. Patient 7's initial UDS was positive for benzodiazepines and cocaine. Patient 7 was placed on a Suboxone regimen.

64. The Respondent took over Patient 7's treatment on December 19, 2018. The Respondent did not document further history of Patient 7's drug usage or document or address her use of benzodiazepines while also using Suboxone. In his note for this date, the Respondent stated that Patient 7's UDS for November 7, 2018 was "positive for buprenorphine" and that she was compliant with treatment, but he failed to address Patient 7's December 5, 2018 UDS (reported on December 9, 2018) that was negative for both buprenorphine and norbuprenorphine and presumptively positive for alprazolam. The Respondent failed to document or address this inconsistent finding during this patient encounter. The Respondent also noted contradictory information regarding Patient 7's counseling status. He stated that she was in counseling while also stating that she was "in the process of finding a counselor." The Respondent failed to ensure that Patient 7 was receiving counseling and did not coordinate the treatment he was providing with the counselor, if in fact Patient 7 was receiving counseling. In this first encounter, the Respondent did not document or undertake a reassessment of Patient 7's history and treatment plan, particularly in view of the scant information elicited when Patient 7 initiated treatment.

65. The Respondent's plan on his initial encounter was for Patient 7 to return in two weeks, which the Practice typically ordered for compliant patients. But Patient 7's

recent UDS of December 5, 2018, was negative for buprenorphine and norbuprenorphine and presumptively positive for benzodiazepines, indicating patient non-compliance.

66. The Respondent did not document or establish a bio-psycho-social assessment with a problem list or document or record an appropriate treatment plan.

67. The Respondent continued to provide treatment to Patient 7 and during those visits ordered UDS, which at times was positive for illicit drugs including cocaine and opiates. 10 of 15 UDS results showed non-compliance with treatment. The Respondent gave Patient 7 a warning on January 2, 2019.

68. The Respondent gave further warnings to Patient 7 on January 16, 2019 and January 23, 2019 but did not modify his treatment plan in response to Patient 7's non-compliance. When Patient 7's January 30, 2019 UDS was negative for norbuprenorphine, the Respondent failed to give a warning to Patient 7 regarding her inconsistent UDS finding.

69. The Respondent continued to provide treatment to Patient 7 until May 28, 2019, when Patient 7 announced that she was going to visit a relative in West Virginia for about one month. During this interval, Patient 7's UDS was consistently negative for norbuprenorphine, indicating treatment non-compliance. The Respondent ordered a UDS for this date, which was positive for buprenorphine, cocaine, methadone, morphine and fentanyl. The Respondent failed to notify Patient 7 of these important findings or consult with or address these findings with any subsequent treatment providers.

70. During the entire time the Respondent provided treatment to Patient 7, the Respondent did not confirm that Patient 7 was enrolled in or was receiving counseling

services. The Respondent failed to arrange or facilitate such counseling, particularly in light of Patient 7's frequent treatment non-compliance. The Respondent did not coordinate his treatment with any counselor who was providing counseling to Patient 7. During the Respondent's treatment of Patient 7, Patient 7's UDS indicated frequent non-compliance, such as negative findings for buprenorphine and/or norbuprenorphine, and positive findings for opiates and cocaine. Other than providing warnings to Patient 7, the Respondent did not document or adequately address Patient 7's treatment non-compliance with her or modify his treatment in response to Patient 7's non-compliance. The Respondent failed to address Patient 7's possible accumulation or diversion of Suboxone, based on her inconsistent UDS.

71. The Respondent failed to acknowledge abnormal UDS throughout the chart. There were a total of 10 UDS that were either negative for both buprenorphine and norbuprenorphine or indicated an adulterated urine specimen. The Respondent failed to appropriately explore these inconsistent findings.

Patient 8

72. Patient 8, a man in his early 40s, entered treatment for opioid/opiate abuse at the Practice on or about September 14, 2017. Patient 8 reportedly had used opiates for eight years. Patient 8 reported having had one prior in-patient admission for treatment and was previously in a Suboxone program for one year. Patient 8 also had high blood pressure, for which he was being prescribed anti-hypertensive medications. Patient 8 was placed on a Suboxone regimen. Although Patient 8 showed initial compliance with treatment, subsequent UDS showed positive findings for non-prescribed amphetamines

on one occasion, and opiate/oxycodone, for which he received warnings in November 2017.

73. The Respondent began providing treatment to Patient 8 on January 2, 2018. In his treatment entry for that date, the Respondent noted that Patient 8's UDS was positive for amphetamines and that he issued him a verbal warning. The Respondent did not document any details about the warning and whether he warned Patient 8 about the dangers of taking non-prescribed amphetamines while having high blood pressure.

74. The Respondent next saw Patient 8 in Maryland on March 19, 2018. The Respondent stated that Patient 8 had no diagnoses by history, which was inaccurate. Patient 8 had been previously diagnosed with hypertension, for which he had been prescribed anti-hypertensive medications. The Respondent also inaccurately noted that Patient 8 was compliant with treatment in that Patient 8's UDS had been positive for non-prescribed amphetamines.

75. The Respondent saw Patient 8 until in or around August 2018, after which other Practice providers provided Suboxone treatment, which extended into 2019. During this interval, Patient 8's UDS was at times positive for amphetamines.

76. During the time the Respondent provided treatment to Patient 8, he failed to adequately document or address Patient 8's amphetamine misuse with Patient 8 or with Patient 8's counselor. In addition, Patient 8's UDS in May 2018 was positive for THC, which the Respondent did not address.

77. The Respondent did not document or establish a bio-psycho-social assessment with a problem list or document or record an appropriate treatment plan.

78. The Respondent also noted in his treatment notes that "long term plan discussed." The Respondent failed to document or formulate a long-term plan in Patient 8's record or state what the plan was, if it existed.

79. While Patient 8's record indicated that he received counseling from one counseling service, there was no documentation that the Respondent consulted a second counseling service noted in the records.

Patient 9

80. Patient 9, a man in his late 20s, entered treatment for opiate abuse at the Practice on or about October 2, 2018. Patient 9 reported having been a heroin user for about eight years. He also stated that he had an ulcer, depression and bipolar illness. Patient 9 underwent UDS, which was positive for benzodiazepines, morphine and norfentanyl. Another Practice provider placed Patient 9 on a Suboxone regimen and scheduled him to return in one week.

81. Although Patient 9 was directed to return for follow-up in one week, the next treatment note was dated December 11, 2018, when he was again seen by another Practice provider. There was no comment on the two-month gap in the chart entry. Patient 9 was continued on the Suboxone regimen.

82. The Respondent took over Patient 9's treatment on January 2, 2019. The Respondent's note contains contradictory information in that he stated that Patient 9 was undergoing counseling while also stating that Patient 9 was in the process of finding a counselor. The Respondent continued Patient 9 on his Suboxone regimen and stated that he was compliant with treatment. The Respondent failed to further document or explore

Patient 9's report that he was bipolar, take an additional history of his illness or communicate with Patient 9's counselors to coordinate care.

83. Thereafter, the Respondent continued to see Patient 9 in conjunction with other Practice providers. During this time, Patient 9 often had UDS that were either negative for buprenorphine and/or positive for illicit substances. The Respondent gave Patient 9 a series of warnings, including threats of discharge, but never enforced Patient 9's substance abuse contract or appropriately altered his treatment regimen in light of these inconsistent findings, all while continuing to prescribe Suboxone.

84. The Respondent next saw Patient 9 on January 9, 2019. He stated that Patient 9's January 2, 2019 UDS was negative for buprenorphine and gave him a verbal warning. The Respondent stated that he discussed Patient 9's long-term plan with him; however, there is no documentation of a long-term plan in the record.

85. The Respondent next saw Patient 9 on January 16, 2019 and noted that Patient 9's January 9, 2019 UDS was again negative for buprenorphine and positive for cocaine, non-prescribed benzodiazepines and opiates. The Respondent gave Patient 9 his first written warning and again noted that he discussed Patient 9's long-term plan with him, but the actual plan was not documented in the record.

86. The Respondent next saw Patient 9 on February 6, 2019 and noted that Patient 9's January 29, 2019 UDS was negative for buprenorphine and positive for opiates. The Respondent noted that he gave Patient 9 his "last and final warning."

87. The Respondent next saw Patient 9 on February 19, 2019 and noted that Patient 9's February 6, 2019 UDS was positive for buprenorphine, cocaine, non-

prescribed benzodiazepines and opiates. The Respondent gave Patient 9 a verbal warning.

88. The Respondent next saw Patient 9 on February 26, 2019 and noted that his February 12, 2019 UDS was positive for buprenorphine. The Respondent mischaracterized this UDS, however. The UDS for this date was negative for buprenorphine and trace positive for norbuprenorphine, which is an inconsistent finding. The Respondent also noted that Patient 9's February 19, 2019 UDS was positive for buprenorphine, cocaine and opiates. In fact, the UDS for this date was negative for buprenorphine. The Respondent gave Patient 9 another "last and final warning." During this visit, Patient 9 admitted to using "street marijuana."

89. The Respondent next saw Patient 9 on March 6, 2019 and noted that his February 26, 2019 UDS was positive for buprenorphine and opiates. The Respondent misinterpreted Patient 9's UDS, which was negative for buprenorphine. The Respondent gave Patient 9 his "absolute last and final warning."

90. The Respondent next saw Patient 9 on March 13, 2019 and noted that Patient 9's March 6, 2019 UDS was positive for buprenorphine, which was incorrect. While Patient 9's UDS was presumptively positive for buprenorphine, the confirmatory test indicates that it was negative.

91. The Respondent continued to see Patient 9 in conjunction with other Practice providers until July 2019. During this interval, Patient 9 continued to use illicit substances, as indicated by UDS. The Respondent gave Patient 9 at least three additional warnings but did not substantially alter his treatment regimen or enforce Patient 9's

substance abuse contract. In addition, there were instances where the Respondent mischaracterized Patient 9's UDS findings to indicate buprenorphine use.

92. The Respondent failed to document or coordinate his treatment of Patient 9 with Patient 9's counselors. For example, in a note dated May 29, 2019, the Respondent stated that Patient 9 was enrolled in a new counseling service. The Respondent did not contact or document contacting the counseling service to coordinate care.

93. The Respondent failed to appropriately treat Patient 9. He misinterpreted numerous UDS; continued to allow Patient 9 to violate his substance abuse contract, without consequence; failed to coordinate Patient 9's care with his counselors or take more active steps to connect Patient 9 with addiction counseling and/or social services; failed to appropriately address Patient 9's use of illicit substances other than giving him non-consequential warnings; failed to consider that Patient 9 was accumulating or diverting Suboxone; failed to appropriately modify Patient 9's treatment in light of his treatment non-compliance; or refer him for more intensive addiction treatment.

94. The Respondent failed to enforce his treatment contract's final warning. Patient 9 had 11 additional relapses confirmed by UDS findings after this final warning.

95. In a summary of care the Respondent provided to the Board, the Respondent stated that Patient 9 died of an overdose.

Patient 10

96. Patient 10, a man in his late 30s, entered treatment at the Practice for opiate and crack cocaine abuse on or about January 16, 2019. Patient 10 reported illicit drug use for "30+" years. Patient 10 reported using heroin on the morning of his visit. The

Respondent ordered a UDS that was presumptively positive for cocaine, opiates and methadone, which on confirmation were all negative. In his intake questionnaire, Patient 10 reported that he had undergone prior methadone treatment. The Respondent placed Patient 10 on a Suboxone regimen.

97. The Respondent continued to see Patient 10 at weekly intervals, which progressed to two-week intervals. The Respondent continued to see Patient 10 in conjunction with other Practice providers until August 14, 2019, after which other Practice providers treated him.

98. The Respondent did not document or establish a bio-psycho-social assessment with a problem list or document or record an appropriate treatment plan.

99. The Respondent noted on treatment entries that "long term plan discussed with patient." The Respondent, however, failed to document the substance of the long-term plan or state what the plan was.

100. The Respondent failed to elaborate on Patient 10's substance abuse history, past withdrawal issues or problems associated with drug abuse. The Respondent failed to document adequate instructions about when to start his Suboxone regimen to prevent precipitating withdrawal, instructions on sublingual Suboxone use, side effects and medicine interactions. The Respondent failed to record or elaborate on Patient 10's self-report of methadone treatment. The Respondent did not document recommendations on drug treatment programs or document verification that Patient 10 was attending counseling.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel A of the Board 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 and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State, in violation of Health Occ. § 14-404(a)(22) and 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, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel A, hereby

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

ORDERED that the Respondent is placed on **PROBATION** for a minimum of **TWO (2) YEARS**.[4] During probation, the Respondent shall comply with the following terms and conditions of probation:

1. The Respondent shall be subject to supervision for **ONE (1) YEAR**[5] by a disciplinary panel-approved supervisor who is board-certified in addiction medicine as follows:

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

[5] If the Respondent is not practicing medicine, the supervision shall begin when the Respondent resumes the practice of medicine and the disciplinary panel has approved the proposed supervisor. The Respondent shall submit the name of a proposed supervisor within 30 days of resuming the practice of

(a) within **30 CALENDAR DAYS** of the effective date of this Consent Order, 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 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 calendar 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, and written notice of confirmation from 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 from a list of all patients, 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 Respondent has submitted the name and professional background, and written notice of confirmation, from a proposed replacement supervisor to the disciplinary panel;

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medicine and shall be subject to supervision by a disciplinary panel approved supervisor upon the return to the practice of medicine.

(i) it shall be the Respondent's responsibility to ensure that the supervisor:

(1) reviews the records of ten (10) patients each month, such patient records to be chosen by the supervisor and not the Respondent;

(2) meets in-person or virtually[6] with the Respondent at least once each month and discuss in-person or virtually with the Respondent the care the Respondent has provided for these specific patients;

(3) be available to the Respondent for consultations on any patient;

(4) maintains the confidentiality of all medical records and patient information;

(5) 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

(6) immediately reports to the Board any indication that the Respondent may pose a substantial risk to patients;

(j) the Respondent shall follow any recommendations of the supervisor;

(k) if the disciplinary panel, upon consideration of the supervisory reports and the Respondent's response, if any, has a reasonable basis to believe that the Respondent is not meeting the standard of quality care or failing to keep adequate medical records in his or her practice, the disciplinary panel may find a violation of probation after a hearing.

2. Within **SIX (6) MONTHS**, the Respondent is required to take and successfully complete a course in medical recordkeeping. 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;

[6] The meeting may take place virtually during the state of emergency.

(b) the disciplinary panel will accept a course taken in person or over the internet during the state of emergency;

(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;

(e) the Respondent is responsible for the cost of the course.

3. Within **SIX (6) MONTHS**, the Respondent is required to take and successfully complete a course in medication assisted treatment of opioid use disorder. 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 accept a course taken in person or over the internet during the state of emergency;

(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;

(e) the Respondent is responsible for the cost of the course.

4. Within **ONE (1) YEAR,** the Respondent shall pay a civil fine of $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 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 to the Board 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 petition for termination. The disciplinary panel may grant the petition to terminate the probation, 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 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 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 the 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 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 this Consent Order is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

Signature on File

01/06/2021
Date

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

CONSENT

I, Hien Q. Nguyen, 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.

Signature on File

12/30/20
Date

Hien Q. Nguyen, M.D.

NOTARY

STATE OF: Delaware

CITY/COUNTY OF: New Castle

I HEREBY CERTIFY that on this 30th day of December, 2020, before me, a Notary Public of the State and City/County aforesaid, personally appeared Hien Q. Nguyen, M.D. and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

MARIBETH J SACHETTI
Notary Public
State of Delaware
My Commission Expires on Oct 23, 2021

Notary Public

My commission expires: 10/23/21