

IN THE MATTER OF

*

BEFORE THE

Majid Fotuhi, M.D.

*

MARYLAND STATE

Respondent

*

BOARD OF PHYSICIANS

License Number: D59507

*

Case Number: 2220-0280

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

The Maryland Board of Physicians (the “Maryland Board”) received information that Majid Fotuhi, M.D., (the “Respondent”) License Number D59507, was disciplined by the Virginia Board of Medicine (the “Virginia Board”). In a Consent Order dated May 26, 2020, the Virginia Board disciplined the Respondent by reprimand, subject to terms and conditions.

Based on the above referenced Virginia Board sanction, the Maryland Board has grounds to charge the Respondent with violating the following provisions of the Maryland Medical Practice Act (the “Act”), under H. O. § 14-404(a):

- (a) 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:
 - (21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veteran’s Administration for an act that would be grounds for disciplinary action under this section,

The Maryland Board has determined that the acts for which the Respondent was disciplined in Virginia would be grounds for disciplinary action under H.O. § 14-404(a).

The grounds for disciplinary action under H.O. § 14-404(a) are as follows:

- (3ii) Is guilty of unprofessional conduct in the practice of medicine.
- (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.
- (40) Fails to keep adequate medical records as determined by appropriate peer review.
- (43) Except for the licensure process described under Subtitle 3A of this title, violates any provision of this title, any rule or regulation adopted by the Board, or any State or federal law pertaining to the practice of medicine.

Based on the action taken by the Virginia Board, the Respondent agrees to enter into this Consent Order with the Maryland Board of Physicians, consisting of Procedural Background, Findings of Fact, Conclusions of Law, and Order of reciprocal action.

I. FINDINGS OF FACT

The Board finds the following:

1. At all times relevant hereto, the Respondent was a physician licensed to practice psychiatry and neurology in the State of Maryland. The Respondent was initially licensed in Maryland on or about October 28, 2002.

2. In its May 26, 2020 Consent Order the Virginia Board found the following:

a. On January 13 and March 14, 2018, the Respondent prescribed Percocet to a patient but failed to perform a physical examination appropriate

to the patient's complaints, query the Virginia Prescription Monitoring Program ("PMP"), or assess the patient's risk of substance misuse.

b. In January and August 2018, the Respondent prescribed a patient percocet (C-II), clonazepam (C-IV), diazepam (C-IV), alprazolam (C-IV), gabapentin (C-V), and other controlled substances. During this period the Respondent registered with the Virginia Prescription Monitoring Program ("PMP), as required by Virginia Code § 54.1-2522.1.

c. Between May 2017 and August 2018, outside of a bona-fide patient-practitioner relationship, the Respondent prescribed a family member hydrocodone (C-II), tramadol (C-IV), phentermine (C-IV), diazepam (C-IV), lunesta (C-IV), and gabapentin (C-V).

d. Per the PMP and the Respondent's own admission, that he self-prescribed diazepam (C-IV) without documenting a patient record.

e. Between October 2017 and September 2018, the Respondent prescribed multiple Schedule II – VI controlled substances, including benzodiazepines and methylphenidate, to patients without documenting and/or providing information to the patient about the benefits and risk of the drugs prescribed.

3. By Order dated May 26, 2020, the Virginia Board disciplined the Respondent by reprimand. A copy of the Virginia Board Consent Order is attached hereto.

II. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Maryland Board concludes as a matter of law that the disciplinary action taken by the Virginia Board against the Respondent was for an act or acts that would be grounds for disciplinary action under Health Occ. § 14-404(a)(3ii), (22), (40), and (43) had those offenses been committed in this state, and would thus subject him to discipline under Health Occ. §14-404(a)(21).

III. ORDER

It is hereby:

ORDERED that the Respondent's be and is hereby **REPRIMANDED**, subject to the following terms and conditions:

a. The Respondent shall comply with terms and conditions of the May 26, 2020 Virginia Board Order;

b. If the Respondent fails to comply with any term or condition of this Consent Order, a Board panel, after notice and an opportunity to be heard, may take any action prescribed under Section §14-404(a) of the Maryland Medical Practice Act which includes a reprimand, probation, or the suspension or revocation of the Respondent's medical license; and it be further

ORDERED that this **CONSENT ORDER** is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§4-101 through 4-601 (2014).

07/15/2020
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland Board of Physicians

CONSENT

I, Majid Fotuhi, M.D., assert that I am aware of my right to consult with and be represented by counsel in considering this Consent Order and in any proceedings that would otherwise result from the charges currently pending. I have chosen to proceed without counsel and I acknowledge that the decision to proceed without counsel is freely and voluntarily made.

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

7.6.20
Date

Majid Fotuhi, M.D.
Respondent

NOTARY




NADIA M OMARI
NOTARY PUBLIC 7714618
COMMONWEALTH OF VIRGINIA

MY COMMISSION EXPIRES FEBRUARY 28, 2021

STATE OF Virginia
CITY/COUNTY OF Fairfax

I HEREBY CERTIFY that on this 6th day of July, 2020, before me, a Notary Public of the State and City/County aforesaid, personally appeared Majid Fotuhi, 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 notarial seal.


Notary Public

My Commission expires: February 28, 2021

BEFORE THE VIRGINIA BOARD OF MEDICINE

IN RE: MAJID FOTUHI, M.D.
License Number: 0101-258288
Case Number: 188559

CONSENT ORDER

JURISDICTION AND PROCEDURAL HISTORY

The Virginia Board of Medicine ("Board") and Majid Fotuhi, M.D., as evidenced by their signatures hereto, in lieu of proceeding to an informal conference, enter into the following Consent Order affecting Dr. Fotuhi's license to practice medicine and surgery in the Commonwealth of Virginia.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Majid Fotuhi, M.D., was issued License Number 0101-258288 to practice medicine and surgery on May 14, 2015, which is scheduled to expire on September 30, 2020.
2. Dr. Fotuhi violated Virginia Code § 54.1-2915(A)(3) and (18), and the Regulations Governing the Prescribing of Opioids and Buprenorphine ("Opioid Regulations") in that, on January 13 and March 14, 2018, he prescribed Percocet to Patient A, a 17-year-old female, but failed to perform a physical examination appropriate to Patient A's complaints, query the Virginia Prescription Monitoring Program ("PMP"), or assess her risk of substance misuse, in violation of 18 VAC 85-21-30(B) of the Opioid Regulations. Dr. Fotuhi further failed to document extenuating circumstances or a tapering plan when he concurrently prescribed clonazepam (C-IV) on January 19, 2018; diazepam (C-IV) on February 5, 2018; and diazepam (C-IV) on April 6, 2018, in violation of 18 VAC 85-21-40(A)(1) and (C) of the Opioid Regulations.
3. By letter to the Board dated November 11, 2019, Dr. Fotuhi, by counsel, stated that he prescribed Percocet to Patient A on two occasions to address the pain she experienced following a traumatic car accident, and that his prescribing was not indiscriminate or careless. Dr. Fotuhi further

stated that he worked with a pain management specialist and a neurosurgeon to address the patient's complaints, and in or after March 2018, Dr. Fotuhi ceased prescribing Percocet due to the patient's report of less severe pain and the ability of the pain management physician to address any future needs.

4. Dr. Fotuhi violated Virginia Code § 54.1-2915(A)(3) and (17) in that, between January and August 2018, he prescribed to Patient A Percocet (C-II), clonazepam (C-IV), diazepam (C-IV), alprazolam (C-IV), gabapentin (C-V), and other controlled substances. During this period he had not registered with the Virginia Prescription Monitoring Program ("PMP"), as required by Virginia Code § 54.1-2522.1.

5. In his response, Dr. Fotuhi explained that several of these issues developed from gaps in understanding of the requirements for utilizing the PMP. After reviewing the Opioid Regulations, Dr. Fotuhi acknowledges that his clinical documentation should have been more detailed to address all of the required elements clearly. Dr. Fotuhi reported that he has hired a medical scribe to aid in maintaining detailed records of interactions with patients. He has also incorporated the PMP into his electronic medical recordkeeping system and routinely refers patients with severe pain to physicians who specialize in pain management.

6. Dr. Fotuhi violated Virginia Code §§ 54.1-2915(A)(3) and (18), and 54.1-3303; and 18 VAC 85-20-25(A), (B), and (C) of the Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic ("the Regulations") in that, on several occasions between May 2017 and August 2018, outside of a bona-fide patient-practitioner relationship, he prescribed to Individual Z, a family member, hydrocodone (C-II), Tramadol (C-IV), phentermine (C-IV), diazepam (C-IV), Lunesta (C-IV), and gabapentin (C-V).

7. Dr. Fotuhi reported that he no longer prescribes any medications to family members, and referred Individual Z to a pain specialist. He also understands that he is responsible for properly documenting a bona-fide practitioner-patient relationship.

8. Dr. Fotuhi violated Virginia Code § 54.1-2915(A)(18), and 18 VAC 85-20-25(B) and (C) of the Regulations in that, per the PMP and his own admission, Dr. Fotuhi self-prescribed diazepam (C-IV) without documenting a patient record.

9. Dr. Fotuhi stated that this incident of self-prescribing represented “a single episode of an acute illness,” namely, to treat a single episode of back spasms. Dr. Fotuhi reported that he no longer self-prescribes medication and regrets not maintaining documentation of his acute illness.

10. Dr. Fotuhi violated Virginia Code §§ 54.1-2915(A)(3) and (18); 54.1-3303(B)(ii) and 18 VAC 85-20-25(A) of the Regulations in that between in or about October 2017 through in or after September 2018, he prescribed multiple Schedule II – VI controlled substances, including benzodiazepines and methylphenidate, to Patients A – E without documenting and/or providing information to the patient about the benefits and risks of the drugs prescribed.

11. Dr. Fotuhi stated that he routinely spends sixty (60) minutes with new patients, and thirty (30) minutes with existing patients, and it has been his routine practice to explain risks and benefits of drugs prescribed to every patient. However, at the time of these prescriptions, his electronic medical recordkeeping system did not include a designated section to document that the risks and benefits of drugs that were discussed with patients. The system has been updated to prompt him to enter this information.

12. According to a letter from Dr. Fotuhi’s counsel dated November 11, 2018, Dr. Fotuhi has registered with PMP, ceased prescribing to himself and family, and understands he is responsible for documenting the existence of the bonafide practitioner-patient relationship.

13. On November 4, 2018, Dr. Fotuhi participated in a two-credit continuing education course entitled "SCOPE of Pain: Safe and Competent Opioid Prescribing Education".

CONSENT

Majid Fotuhi, M.D., by affixing his signature to this Consent Order, agrees to the following:

1. I have been advised to seek advice of counsel prior to signing this document and am represented by Nathan C. Mortier, Esquire;
2. I am fully aware that without my consent, no legal action can be taken against me or my license except pursuant to the Virginia Administrative Process Act, Virginia Code § 2.2-4000 *et seq.*;
3. I acknowledge that I have the following rights, among others: the right to an informal fact-finding conference before the Board; and the right to representation by counsel;
4. I waive my right to an informal conference;
5. I admit to the Findings of Fact and Conclusions of Law contained herein and waive my right to contest such Findings of Fact and Conclusions of Law and any sanction imposed hereunder in any future judicial or administrative proceeding in which the Board is a party;
6. I consent to the entry of the following Order affecting my license to practice medicine and surgery in the Commonwealth of Virginia.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Medicine hereby ORDERS as follows:


1. Majid Fotuhi, M.D., is hereby REPRIMANDED.
2. Within 30 days from the date of entry of this Order, Dr. Fotuhi shall provide a statement to the Board certifying that he has read and will comply with the Drug Laws for Practitioners and the Regulations Governing the Prescribing of Opioids and Buprenorphine (18 VAC 85-21-10 *et seq.*).

3. Within 60 days from the date of entry of this Order, Dr. Fotuhi shall submit evidence of successful completion of ten (10) Board-approved credit hours of continuing education in the subject of record keeping. Such course(s) shall be approved in advance of registration by the Executive Director of the Board. All continuing education hours/courses shall be completed through face-to-face, interactive sessions (i.e., no home study, journal, or Internet courses). Continuing education obtained through compliance with this term shall not be used toward licensure renewal.

4. Any violation of this Order or any statute or regulation governing the practice of medicine shall constitute grounds for further disciplinary action.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD



Jennifer Heschenes, J.D., M.S.
Deputy Executive Director
Virginia Board of Medicine

ENTERED: 5/26/20

SEEN AND AGREED TO:

Majid Fotuhi
Majid Fotuhi, M.D.

COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF Fairfax TO WIT:

Subscribed and sworn to before me, a notary public in and for the Commonwealth of Virginia at large,
on this 13th day of May, 2020.

Maqsood Ghanawi
Notary Public

My commission expires: Jan 31 2024

Registration No.: 7524989

HADEER GHANAWI
NOTARY PUBLIC
REG. #7524989
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES JANUARY 31, 2024