

IN THE MATTER OF

*

BEFORE THE

ROBERT SCHNITZLEIN, M.D.

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MARYLAND STATE

Respondent

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BOARD OF PHYSICIANS

License Number: D62487

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Case Number: 7720-0120

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ORDER ON PETITION TO TERMINATE SUSPENSION OF MEDICAL LICENSE

I. INTRODUCTION

Robert Schnitzlein, M.D. was originally licensed to practice as a physician in Maryland in 2004, has practiced as a psychiatrist, and worked as a locum tenens physician at a Maryland hospital in 2019. On May 20, 2020, Dr. Schnitzlein and Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) entered into a Consent Order. Under the terms of the Consent Order, Panel B suspended Dr. Schnitzlein’s Maryland medical license for a minimum period of one year and referred him to the Maryland Professional Rehabilitation Program (“MPRP”). On May 20, 2021, Dr. Schnitzlein filed a petition to terminate the suspension. On August 25, 2021, he appeared before Panel B for consideration of his petition. Panel B reviewed Dr. Schnitzlein’s file and heard oral presentations from Dr. Schnitzlein, his counsel, and the administrative prosecutor for the State.

II. BACKGROUND AND DISCIPLINARY HISTORY

Summary Suspension January 14, 2020

Panel B summarily suspended Dr. Schnitzlein’s medical license on January 14, 2020 after an investigation revealed that he engaged in a sexual relationship with a female patient soon after her discharge from a hospital where he had been her treating psychiatrist during her involuntary admission for serious mental health issues. The Board began that investigation in June, 2019, based on a complaint from a psychologist stating that a female patient of hers had discussed an intimate

relationship between the patient and Dr. Schnitzlein after she was discharged from the hospital on January 18, 2019. In the complaint, the psychologist described text messages she reviewed between the patient and Dr. Schnitzlein, some of which discussed meeting at a nearby hotel where Dr. Schnitzlein was staying. The patient told the psychologist that she met Dr. Schnitzlein at the hotel for “treatment, swimming, conversation, and sex.”

In July, 2019, the Board received a complaint from the patient who alleged having a personal relationship with Dr. Schnitzlein after he had treated her at the hospital. The patient said that Dr. Schnitzlein suggested that they exchange personal cell phone numbers so they could communicate after her discharge, and described her various encounters with him at his hotel where they swam in the hotel pool, kissed in an outside whirlpool, and engaged in multiple sex acts in his hotel room. The patient explained that as she recovered, she “understood the gravity of [his] behavior,” and began to have negative flashbacks to her encounters with Dr. Schnitzlein which prompted her discussion of their relationship with her psychologist.

In addition to reviewing the complaints from the psychologist and the patient, the Board’s investigation included obtaining text messages between the patient and Dr. Schnitzlein, the patient’s medical records from the hospital, voicemails left for the patient from Dr. Schnitzlein in August, 2019, written responses from Dr. Schnitzlein to the Board, and interviews of the psychologist, the patient, and Dr. Schnitzlein.

Text Messages

The text messages between Dr. Schnitzlein and the patient from January 23, 2019 to about May 20, 2019 included heart emojis and plans to meet in-person for a swim at the hotel where Dr. Schnitzlein was staying and setting up times for “a warm bath” and “another evening bath”

together. At one point, Dr. Schnitzlein asked the patient to delete the text messages they had sent each other.

Psychologist and Patient Interviews

At a sworn interview on July 12, 2019, the psychologist stated that she began treating the patient following her discharge from the hospital and observed the patient was “quite distressed” on June 7, 2019. The patient revealed that she had been involved in an intimate relationship with Dr. Schnitzlein, expressed guilt for not resisting the relationship and questioned whether she should blame herself. According to the psychologist, the patient was “incredibly vulnerable.” At the patient’s interview on August 19, 2019, she told Board staff that Dr. Schnitzlein was her treating psychiatrist at the hospital, and he offered to exchange personal cell phone numbers just before her discharge so that she could update him on her status. They exchanged text messages for a few weeks before he invited her to his hotel “to enjoy the amenities.” She described meeting Dr. Schnitzlein at the hotel [at his invitation], swimming in the hotel pool, going to his room, and engaging in various sexual activities over several weeks.

Voicemails from Dr. Schnitzlein to the patient

The Board obtained recordings of a series of voicemails left by Dr. Schnitzlein for the patient on August 26, 2019, which revealed that he called the patient six times between 11:29 a.m. and 11:46 a.m. Among other things, Dr. Schnitzlein told the patient that he deeply cared and missed her, that he was “responsible,” that he felt this was “a novel, life-changing experience,” and wished for “a creative solution,” versus having one “forced upon us through legal or insurance” avenues. He also stated to the patient that “if you go this route, I won’t be able to see or talk to you again. And I can’t deal with that . . .”

Written Responses from Dr. Schnitzlein

On September 6, 2019, the Board notified Dr. Schnitzlein about the complaint and ongoing investigation. The Board requested a written response and issued a subpoena for the patient's records. On September 17, 2019, the Board received a handwritten "Statement" from Dr. Schnitzlein stating that it "Has been a toothpick in my eye" that he "had not been able to successfully complete an outpatient therapy task with [the patient]." He said he knew how to do it but he "could not execute." He did not directly address the complaint but discussed his stressors and desire to "rebuild [his] integrity." He enclosed five pages of handwritten notes that he claimed were the records he maintained for the patient.

On November 20, 2019, Dr. Schnitzlein provided a supplemental written response to the complaint including statements that: he "categorically denies the allegation that he had a sexual relationship with [the patient]"; he "reluctantly agreed to let [the patient] check in with him once a week until she found a therapist and medication provider in the community . . ."; he "now believes that he was manipulated by [the patient] into a compromising situation which [he] did not sufficiently recognize at the time." Dr. Schnitzlein also admitted that "by the fourth session, in a mis-guided attempt to build trust, [he] did engage in what he acknowledges was inappropriate contact with the patient. While they did not engage in sexual intercourse, they did remove most of their clothes. As soon as [he] realized what he had been led into, [he] ended the session and did not see the patient again, nor respond to her attempts to contact him. . ."

Interview of Dr. Schnitzlein

The Board interviewed Dr. Schnitzlein under oath on November 25, 2019 in the presence of his attorney. When asked to describe the nature of his relationship with the patient, Dr. Schnitzlein said he did not remember anything, and did not remember treating her as a patient "to

the level of certainty . . . that would allow [him] to say it's a fact." When asked about the written notes he provided in response to the Board's subpoena, he said he wasn't sure and that "[his] memory is wiped." According to Dr. Schnitzlein, he could not recall details about his treatment or personal contact with the patient after her discharge and did not remember the content of his text messages with her. When shown copies of the specific text messages, including heart emojis and references to baths, he stated: "Good question; don't know." In response to a question about any intimate contact with the patient, he answered: "I can't because its wiped from my memory." When questioned about text messages that may have had sexual innuendo, Dr. Schnitzlein said that he would have sent such messages to the patient for "her therapy." He stated that he was trying to understand what happened but had "trauma symptoms" of "dissociation" and "memory loss." He admitted calling the patient in August 2019 and leaving her voicemails but could not recall what he said.

Summary Suspension January 14, 2020

On January 14, 2020, Panel B summarily suspended Dr. Schnitzlein's medical license. Dr. Schnitzlein did not challenge the summary suspension.

Consent Order May 20, 2020

On February 5, 2020, Panel B charged Dr. Schnitzlein with immoral and unprofessional conduct in the practice of medicine, in violation of Md. Code Ann., Health Occ. § 14-404(a)(3)(i) and (ii), and the Board's sexual misconduct regulations. COMAR 10.32.17. On May 20, 2020, Dr. Schnitzlein entered into a Consent Order to resolve the charges. Panel B concluded that Dr. Schnitzlein was guilty of immoral and unprofessional conduct in the practice of medicine and that he had engaged in sexual misconduct, in violation of COMAR 10.32.17.03. Panel B suspended Dr. Schnitzlein's medical license for a minimum period of one year, required him to take and

successfully complete a professional ethics course, referred him to MPRP for enrollment and participation in the rehabilitation program, and imposed a \$15,000 civil fine.

The Consent Order also provided that upon submission of a written petition to terminate his suspension, and Panel B's determination that it was safe for Dr. Schnitzlein to return to the practice of medicine, Panel B would terminate the suspension and impose any terms and conditions deemed appropriate by the Panel on his return to practice. In the event that the Panel determined it was not safe for Dr. Schnitzlein to return to the practice of medicine, the Consent Order provided that the suspension would be continued with the imposition of any additional terms and conditions it deemed appropriate. The Consent Order further provided that the suspension would not be terminated until the Panel determined it was safe for Dr. Schnitzlein to return to the practice of medicine.

PETITION FOR TERMINATION OF SUSPENSION

On May 20, 2021, Dr. Schnitzlein submitted a written petition to terminate his suspension stating that he had successfully completed the requirements of the Consent Order. Panel B reviewed Dr. Schnitzlein's petition, the multi-phase forensic assessments from the professional coaching and educational program to which MPRP had referred Dr. Schnitzlein, an independent medical evaluation report, a letter from MPRP on June 10, 2021 endorsing Dr. Schnitzlein's return to the practice of medicine under certain conditions, a recommendation of the Administrative Prosecutor dated July 30, 2021, a response from Dr. Schnitzlein's attorney to that recommendation dated August 3, 2021, and a letter from Dr. Schnitzlein also dated August 3, 2021.

CONSIDERATION OF PETITION

A. Multi-Phase Forensic Assessments

Based on MPRP's referral of Dr. Schnitzlein to a professional coaching and educational program, Dr. Schnitzlein participated in coaching encounters, completed various phases of the program via a telemedicine platform beginning in September, 2020, and was scheduled for a final phase on October 6-8, 2021. A fitness to practice evaluation dated October 1, 2020 did not find that Dr. Schnitzlein had any memory or cognitive deficits but found that he distanced himself from his misconduct and tried to "mitigate his culpability." The program's evaluating team concluded that he was unsafe to practice medicine unless he received treatment for a health condition. A Summary Report included observations that: Dr. Schnitzlein lacked psychic integration and the perceptual insight expected of a psychiatrist and that health factors that may have predisposed him to engage in such unprofessional, unethical conduct did not excuse his conduct. Reports from subsequent evaluations in 2020 and 2021 concluded that a severe health condition¹ was the likely cause of Dr. Schnitzlein's unprofessional conduct and specified the need for Dr. Schnitzlein to engage in ongoing treatment for his condition, and develop skills to remain accountable to the professional-ethical role of being a physician.

In terms of a return to practice, the evaluating team recommended any of the following: a male only practice - in-person and telepsychiatry, a prison or jail setting with chaperone, a clinic setting with a workplace oversight monitor and polygraphs every 3-6 months, or practice with a psychiatric nurse practitioner and chaperone for female patients and polygraphs every 3-6 months.

¹ The details of the health condition are not disclosed in this document.

B. Independent Evaluation Report

An independent evaluation on November 10, 2020 noted that “it was striking” that [Dr. Schnitzlein] “was not self-critical” and “is detached in his view” of his boundary violations, which he attributed to poor memory and an inability to understand how he was feeling. Of major concern was Dr. Schnitzlein’s statement that he still did not have a “scenario” that explained his behavior and had no credible understanding of what occurred and why. The evaluation report also noted a possible injury from a prior automobile accident, and a health condition with a high risk for recurrence. Recommendations included further workup, and weekly psychotherapy geared to understanding the reasons for his violations.

C. MPRP Letter

In a letter dated June 10, 2021, MPRP endorsed Dr. Schnitzlein’s return to practice with terms and conditions that included continuing participation in MPRP and an approved workplace monitor, continuing treatment with a psychologist, clinical polygraphs every 6 months, limiting his clinical practice to male patients, and having a chaperone if he practices in prison or correctional facilities.

D. Administrative Prosecutor Letter

A letter from the Administrative Prosecutor on July 30, 2021 recommended denial of Dr. Schnitzlein’s petition and continuance of his suspension. The letter summarized the various reports from the coaching program and expressed reservations about the conclusions drawn from Dr. Schnitzlein’s own accounts and his continued reliance on health conditions to justify his actions. The letter also noted the lack of any appropriate further testing as recommended by the independent evaluator and concerns that Dr. Schnitzlein’s resumption of the practice of medicine would pose

too substantial a risk to the public health, safety, and welfare unless his possible underlying health issues were properly addressed.

E. Responses from Dr. Schnitzlein and his Attorney

The Board received written responses from Dr. Schnitzlein and his attorney on August 3, 2021. The attorney disputed the Administrative Prosecutor's remarks that Dr. Schnitzlein did not take responsibility for his actions and stated that the panel members should rely on opinions of those who have worked with and provided therapy to Dr. Schnitzlein. In his response, Dr. Schnitzlein stated that he is solely responsible for his actions, understands the potential harm that could come of them, and that his recovery was a priority for him going forward. During the meeting with the disciplinary panel on August 26, 2021, when asked about his memory of events, Dr. Schnitzlein did not explain or indicate that he remembered any specific details.

The critical questions before the disciplinary panel are Dr. Schnitzlein's understanding of the nature and causes of the serious boundary violations that led to the summary suspension of his medical license, and whether the panel is confident that repeat offenses can be ruled out in the future. Based on Dr. Schnitzlein's presentation, the panel is not persuaded that he appreciates or understands the gravity of his violations, or that he has integrated his professional and ethical responsibilities as a physician with health conditions that may create risks for his future practice. Considering his answers, the panel concludes that Dr. Schnitzlein requires further diagnostic testing and individualized treatment for conditions that remain significantly unresolved. Based on its expertise, the panel is not reassured that he has acquired any meaningful insight into the possible motivations for his behavior, or that his rehabilitation process has been sufficiently comprehensive to ensure that he will safely practice medicine. Nor does the panel have confidence that the public would be protected if Dr. Schnitzlein is allowed to resume the practice of medicine at this time.

Panel B concludes that it is not safe for Dr. Schnitzlein to return to the practice of medicine at this time and therefore the suspension of his medical license will not be terminated under this order.

ORDER

It is, by Disciplinary Panel B, hereby:

ORDERED that the Petition for Termination of Suspension of the Medical License of Robert Schnitzlein, M.D. is **DENIED**; and it is further

ORDERED that the Suspension of Dr. Schnitzlein's license to practice medicine in Maryland is continued for a minimum of **ONE (1) YEAR**² from the date of this Order; and until Dr. Schnitzlein has satisfactorily complied with the following terms and conditions:

1. Dr. Schnitzlein 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 Dr Schnitzlein'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) Dispense medications;
 - (f) Perform any other act that requires an active medical license.
2. Dr. Schnitzlein shall remain enrolled in MPRP as follows:
 - (a) Dr. Schnitzlein shall continue his Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP or be entered into an amended Participant Rehabilitation Agreement and Participant Rehabilitation Plan as determined by MPRP;

² If Dr. Schnitzlein's license expires during the period of suspension, the suspension and any conditions will be tolled.

(b) Dr. Schnitzlein shall comply with a referral for a comprehensive, in-person neuropsychological evaluation;

(c) Dr. Schnitzlein shall comply with a referral for a psychiatric evaluation and individual treatment by a board-certified, Maryland-licensed psychiatrist;

(d) Dr. Schnitzlein shall continue in weekly psychotherapy with the treating psychiatrist during the period of suspension and follow all treatment recommendations by the treating psychiatrist;

(e) Dr. Schnitzlein shall fully and timely cooperate and comply with all of MPRP's referrals, rules, and requirements, including, but not limited to, the terms and conditions of the Participant Rehabilitation Agreement and Participant Rehabilitation Plan entered into with MPRP, and he shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by MPRP;

(f) Dr. Schnitzlein shall sign and update the written release/consent forms requested by the Board and MPRP, including release/consent forms to authorize MPRP to make verbal and written disclosures to the Board and to authorize the Board to disclose relevant information from MPRP records and files in a public order. A failure to, or withdrawal of consent, is a violation of this Order;

(g) Dr. Schnitzlein shall also sign any written release/consent forms to authorize MPRP to exchange with (i.e., disclose to and receive from) outside entities (including all of Dr. Schnitzlein's current therapists and treatment providers) verbal and written information concerning Dr. Schnitzlein and to ensure that MPRP is authorized to receive the medical records of Dr. Schnitzlein, including, but not limited to, mental health and drug or alcohol treatment records. A failure to, or withdrawal of consent, is a violation of this Order; and

(h) Dr. Schnitzlein's failure to comply with any of the above terms or conditions, including terms or conditions of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s), constitutes a violation of this Order; and it is further

ORDERED that Dr. Schnitzlein shall not apply for early termination of suspension; and it is further

ORDERED that a violation of suspension constitutes a violation of this Order; and it is further

ORDERED that, after a minimum period of **ONE (1) YEAR**, and after Dr. Schnitzlein has complied with all terms and conditions of suspension, and upon a report from MPRP that Dr. Schnitzlein has complied with all of the requisite referrals and treatment, Dr. Schnitzlein may submit a written petition to the Board requesting termination of suspension. Dr. Schnitzlein may be required to appear before the disciplinary panel to discuss his petition for termination. After consideration of the petition, and if the disciplinary panel determines that is safe for Dr. Schnitzlein to return to the practice of medicine, the suspension will be terminated through an order of the disciplinary panel, and the disciplinary panel may impose any terms and conditions it deems appropriate on Dr. Schnitzlein's return to the practice of medicine, including, but not limited to, probation and/or continuation of Dr. Schnitzlein's enrollment in MPRP. If the disciplinary panel determines that it is not safe for Dr. Schnitzlein to return to practice of medicine, the suspension shall be continued through an order of the disciplinary panel for a length of time determined by the disciplinary panel, and the disciplinary panel may impose any additional terms and conditions it deems appropriate; and it is further

ORDERED that, if Dr. Schnitzlein allegedly fails to comply with any term or condition imposed by this Order, Dr. Schnitzlein 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, Dr. Schnitzlein 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 Dr. Schnitzlein has failed to comply with any term or condition of this Order, the disciplinary panel

may reprimand Dr. Schnitzlein, place Dr. Schnitzlein on probation with appropriate terms and conditions, or suspend or revoke Dr. Schnitzlein'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 Dr. Schnitzlein; and it is further

ORDERED that Dr. Schnitzlein is responsible for all costs incurred in fulfilling the terms and conditions of this Order; and it is further

ORDERED that, unless stated otherwise in the order, any time period prescribed in this order begins when this Order goes into effect. This Order goes into effect upon the signature of the Board's Executive Director, who signs on behalf of Panel B; and it is further

ORDERED that this Order on Petition to Terminate Suspension of Medical License is a public document. Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

11/19/2021
Date

Signature on File

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