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| **IN THE MATTER OF** | * | **BEFORE THE** |
| **VITALIS O. OJIEGBE, M.D.** | * | **MARYLAND STATE** |
| **Respondent** | * | **BOARD OF PHYSICIANS** |
| **License Number: D65418** | * | **Case Number: 2219-0113B** |

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## ORDER FOR SUMMARY SUSPENSION OF LICENSE TO PRACTICE MEDICINE

Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** the license of **VITALIS O. OJIEGBE, M.D.** (the "Respondent"), license number D65418, to practice medicine in the State of Maryland.

Panel B takes such action pursuant to its authority under Md. Code Ann., State Gov't § 10-226(c)(2) (2014 Repl. Vol. & 2018 Supp.) concluding that the public health, safety or welfare imperatively requires emergency action.

## INVESTIGATIVE FINDINGS

Based on information received by, and made known to Panel B and the investigatory information obtained by, received by and made known to and available to Panel B, including the instances described below, Panel B has reason to believe that the following facts are true:[1]

[1] The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the basis of the suspension. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

## BACKGROUND

1. At all times relevant hereto, the Respondent has been licensed to practice medicine in Maryland. The Respondent was initially licensed to practice medicine in Maryland on December 18, 2006. His license is active, with probationary conditions since March 12, 2015, and is scheduled to expire on September 30, 2019.

2. At all times, the Respondent has practiced at Sunrise Medical Clinic, LLC, located at 9821 Greenbelt Road, Suite 207, Lanham, Maryland 20706.

## PRIOR DISCIPLINARY HISTORY

3. On March 12, 2015, the Board executed a Consent Order, which reprimanded the Respondent, placed him on probation for a minimum of two years, required that he cease practicing pain management and limit his prescribing of CDS[2] opioid pain medication to seven (7) days until he completed a course on pain management as well as complete a course on recordkeeping. As part of the Consent Order, the Board made the following Findings of Fact:

   a. The Respondent "dispensed prescription drugs including phentermine, a weight-loss drug and schedule IV CDS, without a valid dispensing permit and failed to comply with State and federal laws and regulations when dispensing."

   b. A peer review of ten pain management patients determined that the Respondent failed to meet the standard of care for nine patients and failed to keep adequate documentation for all ten patients.

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[2] CDS stands for "Controlled Dangerous Substances".

4. On September 17, 2015, the Board issued an Order Terminating Probationary Condition A. of Consent Order, which terminated the restriction on the Respondent's ability to prescribe opioids.

**COMPLAINT**

5. On or about January 4, 2019, the Board received a complaint alleging that the Respondent was prescribing high dosages of opioids to cash-paying patients, many of whom had criminal histories relating to CDS or had previously received or were currently receiving opioid dependence treatment. The complaint further alleged that many of the Respondent's patients were receiving 90 MME/day[3] or more and that many of the patients lived together or were friends on Facebook.

6. Based on the complaint, the Board began an investigation.

**INVESTIGATION**

7. In furtherance of the investigation, the Board issued a subpoena to the Prescription Drug Monitoring Program ("PDMP"), for the period beginning on June 21, 2017 until January 31, 2019, and obtained and reviewed the Respondent's prescriptions including those for CDS for twenty (20) patients. The information obtained revealed that the Respondent had written over 7,300 new prescriptions for CDS between June 21, 2017 and January 31, 2019 and had prescribed opioids to approximately 190 different patients since November 1, 2018.

[3] MME stands for Morphine Milligram Equivalents and is used to measure the daily intake of opioids for patients. The CDC cautions against prescribing 90 MME/day or more.

8. In furtherance of the investigation, Board staff conducted an unannounced site visit to the Respondent's practice on February 7, 2019, to subpoena patient appointment logs and medical and billing records from the Respondent. Board staff also witnessed unsecured patient records throughout the practice.

9. On February 8 and 11, 2019, the Respondent provided the Board with original medical records for 20 patients, but did not provide any billing records.

10. On February 14, 2019, the Respondent submitted a letter to the Board stating that he did not keep billing records for any of the 20 patients, the patients either did not have health insurance or had health insurance that his practice did not participate with, and that the patients "made payments as services were rendered to them."

**BOARD INTERVIEW**

11. On March 28, 2019, Board staff conducted an in-person interview with the Respondent under oath. During the interview, the Respondent reported the following:

a. He believed the medical records kept at his practice were "secure" because they were kept behind a door that separates the patient waiting area from the back of the practice, which he had the key to. He further stated that "it's always locked when we are not there and when we are there, it's secured."[4] The Respondent also stated that he has not observed patients walking unaccompanied around the practice and has no concerns about them doing so.

[4] The door the Respondent was referring to was not locked when Board staff arrived at the practice before the Respondent's arrival on February 7, 2019.

b. He does not participate in Medicare or Medicaid, but could not remember which insurances he accepted. When asked about how he bills patients who do not have insurance, the Respondent stated that the patients could pay by cash, check, or credit card, but no record was kept of cash transactions.

c. He does not have any patients that see him just for pain.

d. When he writes prescriptions to a patient for opioids, he conducts random urine monitoring, randomly makes his patients complete a pain questionnaire, and only writes prescriptions for a 30-day supply at a time. He also makes the patients sign a pain contract, but he never updates their contract.

e. If a new patient comes to him and has not been prescribed opioids by another prescriber, first he tries other modalities such as non-opioid pain medications (for example Tylenol or Tramadol) and/or physical therapy before he prescribes the patient opioids.

f. After he begins prescribing opioids to patients, he verifies whether patients are also receiving CDS from other sources by "random[ly]" checking CRISP – typically "within two, three months."

g. If he discovers that a patient is also receiving opioids from another prescriber, tests positive for an illegal substance during a random urine drug screen, or does not test positive for the opioid that he is prescribing the patient, first he will warn the patient and document it, and "if it continues as a habit, we discharge the patient." He continues to prescribe to the patient

until the patient is discharged because "I don't just usually send them out real quick for withdrawal symptom."

h. He admitted that the CDC recommends only prescribing between 50 and 90 MME per day. He will refer a patient to whom he is prescribing opioids in higher doses than what the CDC recommends to a pain management specialist if the patient also presents other factors such as the length of time of their pain, whether they have had surgery, and the level of their pain.

i. The Respondent was presented with the medical record of a patient who tested positive for Methadone on three occasions between February 24, 2017 and September 1, 2018. When asked why he continued to prescribe opioids to this patient, the Respondent stated that after the second positive test he warned the patient, and then after the third positive test, he believed he had suspended the prescribing of opioids to the patient, but could find no evidence in the patient's medical record to prove that claim.[5]

j. He reports on his public Board profile, prescription pads, and letterhead that he is board-certified in internal medicine despite his certification being expired since 2011 because he considered himself to be board-certified

[5] Notably, according to the medical records submitted for the patient, after the second positive urine drug screen, the Respondent continued to prescribe Oxycodone 15 mg 120 tablets every month until December 4, 2018, when the Respondent began prescribing Oxycodone 15 mg 90 tablets every month. There are no notations in the patient's medical records to indicate why the quantity of tablets was reduced beginning December 4, 2018. Moreover, after the positive urine drug screen was submitted on September 1, 2018, the patient did not submit to any other drug screens. However, the Respondent continued to prescribe Oxycodone to the patient as recently as February 4, 2019, which is when the medical records were submitted to the Board.

since he only needed to apply to renew the certification in order for it to be active again.

**EXPERT REVIEW**

12. On April 3, 2019, the Board referred the complaint and all relevant materials to a board-certified expert in pain management (the "Expert") for a review of the Respondent's care. The review focused on the period subsequent to June 27, 2016. Based on his review, the Expert stated that the Respondent committed unprofessional conduct in the practice of medicine, is professionally incompetent in regard to his prescribing practices, prescribes medication for illegal or illegitimate medical purposes, and prescribes medications in such a way that poses risk or serious harm to the public health, safety, or welfare of patients in Maryland.

13. The Expert based his opinion on the Respondent's:

> pervasive theme of prescribing high potency opioid medications without supporting medical reasoning, without proper compliance monitoring, and blatantly ignoring compliance issues, thus putting these patients at risk for overdose. [The Respondent's] behavior in combination with accepting cash payments for medical services from patients with established medical assistance insurance supports that [the Respondent] is aware that patients are trying to obtain prescription opioid medications for illicit use, abuse, or diversion.

## CONCLUSION OF LAW

Based on the foregoing investigative findings, Panel B concludes that the public health, safety or welfare imperatively require emergency action in this case, pursuant to Md. Code Ann., State Gov't § 10-226(c)(2) (2014 Repl. Vol. & 2018 Supp.), and Md. Code Regs. 10.32.02.08(B)(7)(a).

## ORDER

Based on the foregoing investigative findings and conclusions of law, it is, by a majority of the quorum of Panel B, hereby:

**ORDERED** that pursuant to the authority vested by Md. Code Ann., State Gov't § 10-226(c)(2) and Md. Code Regs 10.32.02.08(B)(7)(a), the Respondent's license to practice medicine in the State of Maryland be and is hereby **SUMMARILY SUSPENDED**; and be it further

**ORDERED** that a post-deprivation Summary Suspension Hearing in accordance with Md. Code Regs. 10.32.02.08E has been scheduled for **Wednesday, June 26, 2019, at 11:15 a.m.** before Disciplinary Panel B at the Maryland State Board of Physicians, 4201 Patterson Avenue, Baltimore, Maryland 21215-0095; and be it further

**ORDERED** that at the conclusion of the post-deprivation Summary Suspension Hearing held before Panel B, the Respondent, if dissatisfied with the result of the hearing, may request within ten (10) days an evidentiary hearing, such hearing to be held within thirty (30) days of the request, before an Administrative Law Judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and be it further

**ORDERED** that a copy of this Order for Summary Suspension shall be filed with the Board in accordance with Md. Code Ann., Health Occ. § 14-407 (2014 Repl. Vol. & 2018 Supp.); and be it further

**ORDERED** that this is an Order of Panel B, and, as such, is a **PUBLIC DOCUMENT.** *See* Health Occ. §§ 1-607, 14-411.1(b)(2), and Md. Code Ann., Gen. Prov. § 4-333(b)(6).

06/18/2019
Date

***Signature on File***

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