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| IN THE MATTER OF | * | BEFORE THE |
| BRANDT ERIC RICE, M.D. | * | MARYLAND STATE BOARD |
| Respondent | * | OF PHYSICIANS |
| License Number: D66068 | * | Case Number: 2218 - 0156 B |
| * * * * * | * | * * * * * |

**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 medical license of Brandt Eric Rice, M.D. (the "Respondent"), License Number D66068, to practice 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)(i) (2014 Repl. Vol. & 2017 Supp.), concluding that the public health, safety, or welfare imperatively requires emergency action.

INVESTIGATIVE FINDINGS¹

I. Introduction

Based on information received by the Board, and made known to Panel B, and the investigatory information obtained by and received by the Board, and made known to and available to Panel B and the Office of the Attorney General, including the instances described below, Panel B has reason to believe that the following facts are true:

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 regarding this matter.

On February 22, 2018, the Board received a complaint from a detective from the Montgomery County Police Department, Special Investigations Division, Pharmaceutical Unit (the "MCPD") regarding the Respondent's prescribing large amounts of oxycodone to an allegedly fictitious patient. Subsequently, based on the investigation of MCPD, on May 15, 2018, the Respondent was arrested and charged in the District Court for Montgomery County, criminal case number 6C00456567, with four counts of obtaining or attempting to obtain a prescription drug by the counterfeiting or altering of a prescription or written order; and four counts of possession of CDS ("controlled dangerous substance"), other than marijuana. The Respondent's case is scheduled for trial on July 12, 2018.

Moreover, despite several subpoenas requiring the Respondent to produce the alleged patient's medical record and a subpoena requiring the Respondent to appear at the Board and be interviewed, the Respondent has failed to cooperate with the Board's lawful investigation of these serious criminal charges.

II. Background of Licensure

1. The Respondent was originally licensed to practice medicine in Maryland on May 16, 2007, under license number D66068. He last renewed his license in or about September 2017; and, his license is active through September 30, 2019.

2. The Respondent also is licensed to practice medicine in Maine, having initially been licensed in 2008. The Respondent's license in Maine is active through December 1, 2019.

3. Until approximately November 2017, the Respondent maintained an office for the solo practice of medicine under the name of "Coastal Family Medicine of Maine

PLLC” in, Blue Hill, Maine.

4. Since moving to Maryland in December 2017, the Respondent now maintains a practice under the name of “Concierge Medicine of Maryland and Maine.” The Respondent has provided to the medical boards in both Maine and Maryland his home address as his “primary practice setting”²

5. The Respondent was board-certified in Family Medicine from July 9, 2004 to December 31, 2011 but did not participate in maintenance of the certification.

III. Complaint to the Board

6. As stated above, on or about February 22, 2018, MCPD notified the Board that it was investigating the Respondent. The Detective from MCPD reported that on December 19, 2017, the Respondent went to a pharmacy, Pharmacy 1³, in Maryland and attempted to fill a prescription for oxycodone for a patient, Patient 1⁴, who he had allegedly been treating in Maine for many years with pain medication for prostate cancer. The MCPD investigation revealed that in Maine, the Respondent had been obtaining 1000 tablets of oxycodone 30 mg per month for Patient 1. The Respondent and Patient 1, independently, had recently moved to the Bethesda area. The Respondent claimed that Patient 1 was bedridden, so he was trying to get the same type of treatment arranged in Maryland as he had previously arranged in Maine, whereby he picked up Patient 1’s medication for him. Since the Respondent was unable to produce Patient 1, or any form of identification for him, Pharmacy 1, after

² It is not known whether the Respondent has a medical office in his home where he is seeing patients.

³ The names of the pharmacies are not identified in the Order of Summary Suspension but are available to the Respondent in a Confidential Identification List.

⁴ Patient names are confidential and are not used in the Order of Summary Suspension. The Respondent is aware of the identity of Patient 1.

initially filling one prescription on December 14, 2017, refused to fill anymore prescriptions written by the Respondent for Patient 1 and reported their concern to the MCPD. The Respondent had been successful in obtaining oxycodone at two other Maryland pharmacies in December 2017.

IV. Board Investigation

7. On March 13, 2018, the Board issued subpoenas to three pharmacies in Maryland, Pharmacy 1, Pharmacy 2, and Pharmacy 3, for a computer printout of all prescriptions for CDS written by the Respondent for Patient 1 from January 1, 2015, to the date of the subpoena. Pharmacy 1 and Pharmacy 2, national chain pharmacies, also have branches in Maine; and, the Board was able to obtain the Respondent's prescribing information from both Maryland and Maine.

8. According to the printouts, the Respondent consistently prescribed opiates to Patient 1 in Maine from July 6, 2015 through December 3, 2017, predominately using Pharmacy 1 for these prescriptions. The Respondent only utilized Pharmacy 2 in Maine for these prescriptions for five months, from July 31, 2015 through December 28, 2015.

9. According to the printouts, the Respondent prescribed opiates to Patient 1 in Maryland from December 14, 2017 through December 23, 2017, utilizing all three pharmacies. On December 23, 2017, the last day the Respondent was able to fill a prescription for oxycodone for Patient 1 in Maryland, Pharmacy 2 refused to fill the prescription for 100 tablets of oxycodone 30 mg, and instead, dispensed only 10 tablets. By then, Pharmacy 1 had already reported the Respondent to the MCPD.

10. On April 4, 2018, the Board issued subpoenas to Pharmacy 1, 2, and 3 and obtained copies of the original prescriptions written by the Respondent in Maryland for Patient 1 for oxycodone on December 14, 15, 20 and 23, 2017.

A. Investigatory Information from Pharmacies 1 , 2 and 3 in Maryland

11. The Board received a copy of the prescription from Pharmacy 1 which was written by the Respondent on December 14, 2017, for Patient 1 for oxycodone 15 mg, 20 tablets, four to eight tablets as needed for “cancer pain, medically necessary.” Pharmacy 1 filled the prescription on December 14, 2017.⁵

12. The Board received copies of two prescriptions for Patient 1 for oxycodone which the Respondent presented to Pharmacy 2, at two different Maryland locations, as follows:

- a. On December 15, 2017, the Respondent wrote a prescription for Patient 1 for oxycodone 30 mg, 100 tablets, two to four tablets as needed for “cancer pain, chronic pain, medically necessary, palliative care.” Pharmacy 2 filled the prescription on December 16, 2017 for 100 tablets; and
- b. On December 23, 2017, the Respondent wrote a prescription for Patient 1 for oxycodone 30 mg, 100 tablets, two to four tablets as needed for “cancer pain, chronic pain, medically necessary, palliative care.” Pharmacy 2 filled the prescription on December 23, 2017 with only 10 tablets.⁶

13. The Board received a copy of one prescription from Pharmacy 3, a local independent pharmacy in Maryland, written by the Respondent on December 19, 2017, for Patient 1 for oxycodone 30 mg, 100 tablets, two to four tablets as needed for “cancer

⁵ The Respondent provided a full birthdate for Patient 1, which is confidential. The birth year, however, was written as “1951.”

⁶ The Respondent provided the birth year as 1951 on both prescriptions.

pain, chronic pain, medically necessary.”⁷ Pharmacy 3 filled the prescription on December 20, 2017 for 100 tablets.

B. Investigatory Information from Pharmacies 1 and 2 in Maine

14. The computer printout from Pharmacy 1 revealed that between July 6, 2015 and December 14, 2017, the Respondent wrote approximately 300 prescriptions in Maine for Patient 1 which were filled at a branch of Pharmacy 1 in Maine, predominately for oxycodone 30 mg, but also for hydrocodone/acetaminophen 10/325, and several kinds of non-CDS Schedule II medications.⁸ Of the total number of prescriptions filled, in 2015, at Pharmacy 1, the Respondent wrote only six prescriptions for Patient 1 for Schedule II CDS (oxycodone 30 mg and hydrocodone/acetaminophen 10/325). In 2016, however, the Respondent wrote 179 prescriptions for Patient 1 for Schedule II CDS (oxycodone 30 mg and hydrocodone/acetaminophen 10/325), generally between 40 to 100 tablets per prescription. In 2017, the Respondent wrote 125 prescriptions for Patient 1 for Schedule II CDS (oxycodone 30 mg only) and escalated the frequency of prescriptions and the amounts. The Respondent wrote these prescriptions for 250 tablets each, which were filled four times a month, providing

⁷ The Respondent wrote a completely different full birthdate on this prescription from the prescriptions he wrote and presented at Pharmacy 1 and Pharmacy 2. The birthyear on the prescription he presented at Pharmacy 3 was written as 1967, not 1951, as previously provided.

⁸ The prescriptions included: Metoprolol tartrate, a blood pressure medication; Paroxetine (Paxil), an antidepressant; Estradiol, a steroid estrogen hormone; Sumatriptan (Imitrex), used to treat migraine headaches; Prednisone, a corticosteroid used to treat certain inflammatory diseases; Furosemide (Lasix), a diuretic; and triamcinolone, a topical cream used to treat a variety of skin conditions.

Patient 1 with 1000 tablets of oxycodone a month during 2017.⁹

15. The computer printout from Pharmacy 2, another national chain pharmacy, revealed that a total of 36 prescriptions were written in Maine by the Respondent for Patient 1 and filled at a location of Pharmacy 2 in Maine between July 31, 2015 and December 28, 2015. The Respondent wrote twenty-three of those prescriptions for oxycodone 30 mg for amounts between 15 tablets to 50 tablets approximately every two weeks, although sometimes more frequently. The Respondent wrote 15 of those prescriptions for hydrocodone/acetaminophen 10/325 for amounts between 50 to 200 tablets approximately every two weeks but sometimes more frequently.

C. Investigatory information from MCPD

16. Board staff obtained the following documents from MCPD:

- a. a copy of a letter of December 13, 2017, which the Respondent presented to Pharmacy 1 in Maryland to obtain "ongoing palliative cancer care" for Patient 1;
- b. a copy of an interview of the Respondent conducted by MCPD detectives on March 7, 2018; and
- c. Application for Statement of Charges against the Respondent filed in District Court of Maryland for Montgomery County (undated).

17. The MCPD determined that the address in Maryland for Patient 1 that the Respondent provided to Maryland pharmacies does not exist; and, MCPD was unable to locate any person with Patient 1's name and either birthdates in a search of private and government databases.

⁹ According to the Statement of Charges, the database for Pharmacy 1 revealed that the Respondent had been obtaining oxycodone or hydrocodone for Patient 1 since 2011 and that all prescriptions dispensed to the Respondent for Patient 1 were paid for by the Respondent.

18. Investigation by MCPD also revealed that the Respondent had been prescribing and obtaining oxycodone for Patient 1 in Maine, prior to the Respondent and Patient 1 moving to Maryland. The Respondent presented an identification card from the "National Association for the Self-Employed" (the Association") for Patient 1 that the Respondent presented to Pharmacy 2 in Maine, which was not issued by the Association.¹⁰

19. The Respondent's December 13, 2017, letter to Pharmacy 1 in Maryland was "to request ongoing support of (the Pharmacy) for the palliative care of (Patient 1)." The Respondent further stated that he has been caring for Patient 1 over the last ten years, including the last several for palliative care of metastatic prostate cancer. In the past, Patient 1 "divided his time between Maine and Washington, D.C. area." Over the last several years, Patient 1 has remained in Maine "due to the severity of his medical conditions." He has recently been "sufficiently stable to travel south, likely for the last time." The Respondent described the assistance he obtained from the "pharmacy director" of Pharmacy 1 at their location in Maine, including "keeping Patient 1's cancer pain at bay" and "discount strategies the staff was able to secure." The Respondent expressed hope that by continuing with the branch of Pharmacy 1 in Maryland, Patient 1 could "continue to benefit from these financial savings." The Respondent further stated that "the patient is unable to venture out of his home at this point but has been stable with his current regimen of care."

20. In the interview of the Respondent conducted by two detectives from MCPD, on March 7, 2018, the Respondent admitted the following facts:

¹⁰ The Detective contacted the Association and was informed that no person with the name of Patient 1 was a current member and the membership number on the card expired in 2008. The Association does not include a photograph on their membership cards.

- a. He worked in Maine as a general practitioner for the past seven to eight years;
- b. Approximately five years ago, Patient 1, who resided in Maine and Maryland, contacted him for medical care. He diagnosed Patient 1 with prostate cancer. Patient 1 refused to see any specialist for treatment;
- c. Patient 1 would drive to his medical office and he examined Patient 1 in the parking lot;
- d. Because of Patient 1's limited mobility he took all of Patient 1's prescriptions to Pharmacy 1 in Maine to be filled and brought them back to Patient 1 in the parking lot;
- e. He prescribed increasing amounts of pain medicine, up to oxycodone 30 mg, 150 tablets every two to three weeks;
- f. He also prescribed a female hormone¹¹ and blood pressure medication;
- g. He closed his practice about two years ago and was doing *locum tenans*¹² work in the area;
- h. In early December 2017, he met with Patient 1 and told Patient 1 he was moving to Maryland and he would not be able to provide treatment anymore;
- i. In early December 2017, he moved to Maryland;
- j. Shortly after returning to Maryland, Patient 1, who had also moved to Maryland, contacted him because Patient 1 needed to continue to be treated;
- k. He was able to get a small amount of oxycodone 30 mg for Patient 1 who picked it up at his home in Maryland;
- l. A few days later, Patient 1 contacted him again and requested more medication;

¹¹ Estrogens are used in the treatment of prostate cancer to suppress the produce of testosterone.

¹² *Locum Tenens* is a Latin phrase for "to hold a place." In healthcare, the term is used when a healthcare employer faces temporary staffing shortages due to vacancies, illness, or other causes, they hire locum tenens physicians and other part-time clinicians to fill those vacancies.

- m. He went to several pharmacies to get more and was able to get another prescription filled for a small amount of oxycodone 30 mg;
- n. He wrote the prescriptions on forms using his office address in Maine;
- o. He then told Patient 1 he could no longer provide treatment;
- p. He has not since heard from Patient 1;
- q. He has no information regarding where Patient 1 is staying in Maryland;
- r. He has never obtained any identification from Patient 1;
- s. He does not have access to any files for Patient 1; and
- t. He does not have any contact information for Patient 1 because Patient 1 had provided him with a prepaid cellphone and after he refused to fill any more prescriptions for Patient 1, he threw the cellphone away.

D. Attempts to Obtain Patient Medical Records and to Interview Respondent

21. On April 11, 2018, the Board notified the Respondent that it was investigating an allegation that he was overprescribing CDS. Included in the correspondence was a subpoena for the complete medical record of Patient 1, a request for a summary of his care of Patient 1, and an Information Form to be completed to provide the Board with his current practice information.

22. The Respondent did not respond.

23. On May 7, 2018, the Board sent correspondence by electronic mail ("email") and first-class mail to the Respondent regarding his lack of response, reiterated its request for a summary of care and practice information and re-issued the subpoena for medical records for Patient 1. The Board informed the Respondent that his failure to fully comply with the Board's subpoena could be construed as a violation of

Section 14-404(a)(33) of the Act for failing to cooperate with a lawful investigation of the Board.

24. The Respondent did not respond.

25. Also, on May 7, 2018, the Board issued a subpoena to the Respondent to appear and give testimony in an interview with Board staff at the Board on May 17, 2018.

26. The Respondent did not appear on May 17, 2018.

27. On May 25, 2018, Board staff received the following email from the Respondent:

I am sorry for the late reply, however I have not yet had the chance to meet with my attorney and get this situation figured out.
Appreciate your patience.

Brandt

28. On May 31, 2018, the Board issued a subpoena by regular mail, certified mail, and email to the Respondent to appear and give testimony in an interview with Board staff at the Board on June 14, 2018.

29. On June 12, 2018, counsel for the Respondent informed Board staff that the Respondent would be unable to appear at the Board on June 14, 2018.

30. To date, the Respondent has not submitted the medical records for Patient 1.

IV. Summary of Investigative Findings

31. The Respondent's prescribing and obtaining large amounts of opioids, for over two years, for an allegedly fictitious individual, identified herein as Patient 1, and/or his failing to provide Patient 1's medical records pursuant to the Board's subpoena, or produce any explanation regarding the records or any summary of his care of Patient 1;

and the Respondent's failure to appear on May 17, 2018 to be interviewed regarding serious the allegations about his prescribing, poses a substantial likelihood of a risk of serious harm to the public health, safety or welfare.

CONCLUSION OF LAW

Based on the foregoing facts, Panel B concludes that the public health, safety or welfare imperatively requires emergency action in this case, pursuant to Md. Code Ann., State Gov't. § 10-226 (c)(2)(i) (2014 Repl. Vol. & 2017 Supp.).

ORDER

It is, by the affirmative vote of a majority of the quorum of Panel B considering this case:

ORDERED that pursuant to the authority vested by Md. Code Ann., State Gov't § 10-226(c)(2), the Respondent's medical license, D66068, to practice as a physician in the State of Maryland be and is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED that a post-deprivation hearing in accordance with Md. Code Regs. 10.32.02.08B(7)(c), D and E on the Summary Suspension, in which Panel B will determine whether the summary suspension will continue, has been scheduled for **June 27, 2018, at 1:00 p.m.**, at the Maryland State Board of Physicians, 4201 Patterson Avenue, Baltimore, Maryland 21215-0095; and be it further

ORDERED that after the **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 of Summary Suspension shall be filed with
the Board in accordance with Md. Code Ann., Health Occ. § 14-407 (2014 Repl. Vol. &
2017 Supp.); and be it further

ORDERED that this is an Order of Panel B, and, as such, is a **PUBLIC
DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014 & 2017
Supp.).

June 15, 2018
Date

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