IN THE MATTER OF	*	**BEFORE THE**
THOMAS J. RALEY, JR., M.D.	*	**MARYLAND STATE**
Respondent	*	**BOARD OF PHYSICIANS**
License Number: D68746	*	**Case Number: 2220-0229**

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CONSENT ORDER

On May 26, 2022, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") charged **Thomas J. Raley, Jr., M.D.** (the "Respondent"), License Number D68746, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2021 Repl. Vol.). Panel B charged the Respondent under the following provisions of the Act:

Health Occ. § 14-404. License denial, suspension, or revocation.

(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;

. . .

(33) Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel;

. . .

(40) Fails to keep adequate medical records as determined by appropriate peer review[.]

On August 24, 2022, Panel B was convened as a Disciplinary Committee for Case Resolution ("DCCR") in this matter. Based on negotiations occurring as a result of the DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

Panel B finds:

I. BACKGROUND

1. At all times relevant to the charges, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on or about February 27, 2009, under License Number D68746. His license is currently active through September 30, 2023, subject to renewal. The Respondent also holds active medical licenses in California, Georgia, Pennsylvania, Virginia and Washington, D.C.

2. The Respondent is board-certified in orthopaedic surgery.

3. The Respondent practices at a medical office that has several locations in Maryland. He has surgical privileges at an outpatient surgery center in Baltimore County, Maryland and one in Prince George's County, Maryland ("Outpatient Surgery Center").

4. On or about February 6, 2020, the Board received a Mandated 10-Day Report (the "Report") from a health care facility in Anne Arundel County, Maryland (the

"Facility").[1] The Report alleged that the Respondent resigned from the medical staff at the Facility while he was under focused review.

II. INVESTIGATION

5. The Board opened an investigation into the Report.

6. On or about July 22, 2020, the Board notified the Respondent about the Report and requested that he provide a written response to the allegations in the Report. The Board enclosed a *subpoena duces tecum*, which directed the Respondent to transmit to the Board within 10 business days "a complete copy of any and all medical records" for three named patients along with a signed Certification of Medical Records form for each patient.

7. On or about August 25, 2020, the Respondent provided his response to the Report, the requested medical records for the three named patients, and a signed Certification of Medical Records form for each patient.

8. On or about February 17, 2021, the Board issued a *subpoena duces tecum* to the Respondent that directed him to transmit to the Board within 10 business days "a complete copy of any and all medical records" for another three named patients and signed Certification of Medical Records forms for each patient.

9. On or about March 18, 2021, the Respondent transmitted medical records for the three named patients to the Board.

[1] To maintain confidentiality, the names of all witnesses, facilities, employees, and patients will not be used in this document but will be provided to the Respondent on request.

A. Peer Review

10. On or about April 9, 2021, the Board referred the three patient records obtained from the Respondent and the three other patient records obtained through its investigation to a peer review entity for review.

11. Two peer reviewers, each board-certified in orthopaedic surgery, separately reviewed the six patient records and on or about June 30, 2021, submitted their reports to the Board.

12. The peer reviewers concurred that the Respondent failed to meet appropriate standards for the delivery of quality medical and surgical care for one patient ("Patient 5") in that he performed implantation of an intrathecal pain pump in the setting of a lumbar disc herniation when surgery was not completely ruled out and he performed surgeries and procedures without documented clinical or diagnostic findings.

13. The peer reviewers also concurred that the Respondent failed to maintain adequate medical records for Patient 5 because he performed surgeries and procedures without documented clinical or diagnostic findings, some office notes are the same as previous office notes, and some office notes contain inconsistencies.

B. Patient-Specific Allegations

Patient 5

14. On or about August 1, 2012,[2] Patient 5, a man in his mid-60s, presented to the Respondent's office with low back pain, bilateral lower leg pain, and right shoulder pain.

15. On or about June 11, 2018, Patient 5 presented to the Respondent's office for a follow-up visit. Patient 5 reported pain in the right leg, right hip, left shoulder, left arm, neck, and low back.

16. On or about June 26, 2018, the Respondent performed surgery on Patient 5 at Outpatient Surgery Center, which included anterior cervical discectomies and fusions[3] at C4-C5[4], C5-C6, and C6-C7.

17. On or about June 27, 2018, Patient 5 presented to the emergency department at a medical facility in Virginia with a rapidly expanding hematoma following the cervical surgery noted above. Patient 5 was diagnosed with acute hypoxic respiratory failure and was intubated. The Respondent operated on Patient 5 at the Virginia medical facility to evacuate the hematoma and discharged Patient 5 on or about July 1, 2018.

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[2] The Respondent provided a written statement to the Board in which he stated that he saw this patient beginning on August 1, 2012. The medical records provided include office notes from the Respondent beginning on or about June 11, 2018.

[3] A cervical discectomy is a procedure that removes a damaged or herniated disc in the neck. A fusion is a procedure in which the vertebrae, between which the disc has been removed, are fused together.

[4] "C" refers to the cervical spine. "C4" refers to the fourth cervical vertebra, "C5" refers to the fifth cervical vertebra, etc.

18. On or about August 1, 2018, Patient 5 saw the Respondent for a follow-up office visit, at which time he reported his pain improved after surgery, but he had more pain in the lower back and the bilateral lower extremities. The Respondent treated Patient 5 with oral pain medication.

19. On or about July 22, 2019, Patient 5 presented for a follow-up office visit and was seen by a Physician Assistant who noted that Patient 5 had an intrathecal pain pump[5] ("ITP") trial with morphine that caused urinary retention for three days.

20. On or about August 29, 2019, Patient 5 presented for a follow-up office visit, during which he was seen by a Physician Assistant who noted that Patient 5 was interested in a retrial for an ITP, and that he was to follow up with the Respondent about this.

21. On or about September 30, 2019, Patient 5 presented for a follow-up office visit with the Respondent. The Respondent noted, "Pt is interested in re-trialing for ITP w/ dilaudid." Under "Care Plan," he noted that "[f]urther surgical intervention is not indicated[.]"

22. The Respondent's office chart contains an MRI of Patient 5's lumbar spine from on or about October 16, 2019, which determined that Patient 5 had a left-sided L3-L4 subarticular disc extrusion displacing the L4 nerve root.

23. On or about October 28, 2019, Patient 5 presented for a follow-up office visit with the Respondent. The Respondent noted that Patient 5 "wanted to go over the

[5] An intrathecal pain pump is a small device that is implanted under the skin that delivers medicine through a catheter to the cerebrospinal fluid in the intrathecal space around the spinal cord.

MRI of the L spine as well as discuss ITP." Under "Care Plan," the Respondent noted that "[f]urther surgical intervention is not indicated" and "[w]ill get preauth for ITP trial with Dilaudid 0.1mg/ml in 3cc."

24. On or about November 11, 2019, Patient 5 presented for a follow-up office visit with the Respondent. The Respondent noted that Patient 5 "wanted to go over the MRI of the L spine as well as discuss ITP." The office notes include a procedure note for an injection of "Dilaudid 100mcg/ml 2ml" into the L1-L2 intrathecal space. Under "Care Plan," the Respondent noted that "[f]urther surgical intervention is not indicated" and Patient 5 "is interested in re-trialing for ITP w/ Dilaudid."

25. On or about December 23, 2019, Patient 5 presented for a follow-up office visit with the Respondent "on his upcoming ITP surgery on the 1/28/2020." Patient 5 reported "LBP that radiate[s] down both legs to his feet." He reported "good pain relief" from his ITP trial. The Respondent noted that Patient 5 had "LBP over the L3-S1 area" and "[f]lexion to mid tibia w/ pain." Under "Care Plan," the Respondent noted that "[f]urther surgical intervention is not indicated" and Patient 5 "wants to move forward with surgery" for the ITP.

26. On or about January 20, 2020, Patient 5 presented for a follow-up office visit with the Respondent. Due to an increase in his hemoglobin A1c ("HbA1c"),[6] Patient 5 "was instructed to hold off on surgery until diabetes is better controlled." Under "Care

[6] The HbA1c test is a blood test that measures the amount of blood sugar attached to hemoglobin.

Plan," the Respondent noted that Patient 5's ITP surgery will be rescheduled given the increase in his HbA1c.

27. On or about January 27, 2020, Patient 5 presented for a follow-up office visit with the Respondent. The Respondent noted that Patient 5 "is medically clear and wants [ITP] surgery." Under "Care Plan," the Respondent noted that Patient 5 "was told to watch his Blood sugars after surgery." The Respondent again noted that "[f]urther surgical intervention is not indicated[.]"

28. On or about January 28, 2020 at Outpatient Surgery Center, the Respondent implanted an ITP into Patient 5.

29. On or about March 30, 2020, Patient 5 presented for a follow-up office visit with the Physician Assistant during which he reported that his ITP "doesn't seem to help enough with low back and legs." Patient 5 reported that he was still having sciatic pain on both sides, and that his "lower back and leg pain have gotten worse." The Physician Assistant increased Patient 5's ITP dose.

30. On or about April 6, 2020, Patient 5 presented for a follow-up office visit with the Respondent during which he reported that his back is "very sore." Patient 5 "wanted to get an injection but states the lower back is too sore." He also reported left lateral hip pain. The Respondent noted that he "did a L lateral hip injection under US with 20mg dexa and 3cc of 1% lidocaine."

31. On or about April 13, 2020, a procedure note indicates that the Respondent administered a caudal injection to Patient 5.

32. On or about April 20, 2020, Patient 5 presented for a follow-up office visit with the Respondent during which he reported that he has been bedridden since he stopped taking prednisone last week and the pain has gotten worse. The Respondent included a procedure note. Under "Care Plan," the Respondent included an "Intrathecal pump reprogramming note."

33. On or about April 28, 2020, Patient 5 presented for a follow-up office visit with the Respondent. Patient 5 reported that he has pain in the bilateral lower extremities that "is not getting better[,]" that he has "been bedridden for 2 weeks and can barely take care of himself" and that "[h]e feels like something is really wrong." The Respondent included a procedure note. Under "Care Plan," the Respondent included an "Intrathecal pump reprogramming note" and noted that Patient 5 would follow up after he "gets the L spine MRI for the radicular [symptoms]."

34. On or about May 11, 2020, Patient 5 presented for a follow-up office visit with the Respondent, during which he reported having pain in both legs that is "the worst pain he has ever[] had." Patient 5 brought the MRI of his lumbar spine to review with the Respondent. The Respondent administered a transforaminal epidural steroid injection[7] at left L3-L4. Under "Care Plan," the Respondent noted that he discussed "surgery for the L3-L4 HNP" and discussed "interlaminar spacer and discectomy."

35. On or about May 13, 2020, Patient 5 presented for a follow-up visit with the Physician Assistant. The Physician Assistant noted that Patient 5 "has a herniated disc

[7] A transforaminal epidural steroid injection is an injection of a local anesthetic and steroid medication into the area between the spine and the spinal cord in order to reduce inflammation and alleviate pain.

and is in a lot of back pain radiating down [bilateral lower extremities,]" and she increased Patient 5's ITP dose.

36. On or about May 26, 2020, Patient 5 presented for a follow-up visit with the Respondent during which he reported that his pain was not better and he wants to proceed with surgery. Under "Care Plan," the Respondent noted that they discussed "surgery for the L3-4 HNP[,]" "interlaminar spacer and discectomy[,]" and discussed "the spacer due to the pain and the stenosis that is present foraminally."

37. On or about August 25, 2020, the Respondent performed surgery on Patient 5 at Outpatient Surgery Center, including laminectomies at L3 and L4. In the Operative Report, the Respondent noted that "it was felt that interspinous space could not be done."

38. On or about October 12, 2020, Patient 5 presented for a follow-up office visit with the Respondent during which he reported that he is improving after surgery, but not as quickly as he hoped. He reported that he still has left buttocks pain and soreness in the low back.

39. On or about February 25, 2021, Patient 5 presented for a follow-up visit with the Physician Assistant. Patient 5 reported pain radiating down his anterior thigh and shin and in the tailbone. He reported that the ITP was not helping enough and he has been lying in bed more than half of the time. Under "Care Plan," the Physician Assistant noted that she reviewed Patient 5's lumbar spine MRI results, which showed "L sided disc extrusion at L3/4."

40. The Board provided the Respondent an opportunity to review and respond to the peer reviewers' reports. On or about July 20, 2021, the Respondent submitted his

response. The Respondent noted that a peer reviewer commented on "the second criteria for intrathecal pump implantation that further surgical intervention is not indicated." The Respondent stated, "This is a true statement for this patient[']s generalized pain."

41. The Respondent attached additional medical records for Patient 5 with his response, including MRI reports. A May 6, 2020 MRI report of Patient 5's lumbar spine showed moderate generalized disc bulge at L3-L4 with superimposed paracentral disc extrusion which extends downwards behind L4 and "[t]his may compress the traversing left L4 nerve root." It showed moderate central spinal canal stenosis and bilateral lateral recess stenosis. The Report noted that when compared to the previous MRI from October 16, 2019,[8] "the disc extrusion from the L3-L4 level extending downwards behind L4 is significantly larger."

42. A February 20, 2021 MRI Report of Patient 5's lumbar spine showed prior decompression fusion from L4-S1 with a stable chronic degenerative disc disease at L3-4 and a chronic left-sided paracentral disc extrusion.

43. The Respondent failed to meet appropriate standards for the delivery of quality medical and surgical care regarding Patient 5 in that he performed an ITP placement in the setting of a lumbar disc herniation when surgery was not completely ruled out and he performed surgeries and procedures without documented clinical or diagnostic findings.

[8] *See supra* p. 6, ¶ 22.

44. The Respondent failed to keep adequate medical records for Patient 5 because he performed surgeries and procedures without documented clinical or diagnostic findings. For example, while the Respondent's office notes mention MRI results prior to procedures, the records do not document the imaging findings or whether the Respondent reviewed the findings with the patient. Further, some of the Respondent's office notes are the same as previous office notes and some of the progress notes contain inconsistencies. For example, the Respondent's record for the office visit on or about January 20, 2020 states his plan was to postpone the implantation of the ITP until Patient 5's diabetes was better-controlled; however, in the Respondent's subsequent office visit on or about January 27, 2020, he stated that Patient 5 was medically cleared without documenting the reason for clearance.

C. Additional Medical Records

45. The Board provided the peer reviewers' reports to the Respondent and gave him an opportunity to review and respond to the reports. On or about July 20, 2021, the Respondent provided his response. Along with his response, the Respondent submitted over 5,000 pages of additional medical records for the six patients, many of which the Respondent had not previously provided to the Board. For example, the additional medical records included procedure notes and MRI reports that were not previously transmitted to the Board.[9]

[9] The peer reviewers noted that some procedure notes and MRI reports were missing. The Respondent's submission of procedure notes and MRI reports was in response to the peer reviewers' concerns.

46. Nearly all of the additional medical records were dated before the Board's July 22, 2020 and February 17, 2021 *subpoenas duces tecum*, both of which directed the Respondent to "produce . . . documents or objects, which are in your possession or your constructive possession and control, whether generated by you or any other health care entity: a complete copy of any and all medical records" for the six named patients.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel B 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, in violation of Health Occ. § 14-404(a)(22), failed to cooperate with a lawful investigation conducted by the Board or a disciplinary panel, in violation of Health Occ. § 14-404(a)(33), 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 by Disciplinary Panel B of the Board, hereby:

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

ORDERED that 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 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).

09/27/2022
Date

Signature On File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Thomas J. Raley, Jr., M.D., 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.

9/11/22
Date

Signature On File

Thomas J. Raley, Jr., M.D.
Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 11th day of September 2022, before me, a Notary Public of the foregoing State and City/County, personally appeared Thomas J. Raley, Jr., M.D. and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Notary Public

My Commission expires: 2/27/2025