

IN THE MATTER OF

*

BEFORE THE

ALPHONSUS E. OKOLI, M.D.

*

MARYLAND STATE

Respondent

*

BOARD OF PHYSICIANS

License Number: D73032

Case Number: 7718-0124B

* * * * *

CONSENT ORDER

On December 26, 2020, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) charged **Alphonsus E. Okoli M.D.**, (the “Respondent”), License Number D73032, with violating a condition of probation set forth in the Consent Order (Board Case Number: 2016-0298B) into which he had entered with the Board effective June 21, 2018 (the “2018 Consent Order”) and with violating the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.)

The pertinent provisions of the Act under Health Occ. § 14-404(a) provide as follows:

§ 14-404. Denials, reprimands, probations, suspensions, and revocations – Grounds.

(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:

...
(3) Is guilty of

...
(ii) 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 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[.]

On February 24, 2021, 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 the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Panel B finds:

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was originally licensed to practice medicine in Maryland on September 9, 2011. His license is scheduled to expire on September 30, 2021.
2. The Respondent was board-certified in internal medicine in 1996; however, the certification expired on December 31, 2016.
3. The Respondent maintains an office for the solo practice of medicine in Prince George’s County, Maryland.

Prior Disciplinary History

4. On or about October 14, 2015, the Board received a complaint from a former patient of the Respondent alleging that the Respondent failed to care for him appropriately after a motor vehicle accident.
5. The Board initiated an investigation of the complaint that included a peer review of ten patient records and the complainant's record. The peer reviewers found standard of quality care violations in ten of the eleven records¹ reviewed and record keeping violations in all eleven records reviewed. The standard of quality care violations pertained to the Respondent's deficient opioid prescribing practices that included:
 - a) treating patients for pain with the prescription of opioids without the appropriate training and experience;
 - b) initially prescribing the same high does (30 mg, 120 tablets) of oxycodone, a Schedule II Controlled Dangerous Substance ("CDS"), to all ten patients, all of whom stated that they had not been previously taking opioids, with refills given every month, regardless of the nature, severity, or chronicity of the pain;
 - c) failing to incorporate the findings of the patients' subjective responses to the Respondent's "Pain Assessment Questionnaire" into his documentation of the office visit;

¹ The peer reviewers did not find a violation of the standard of quality care with regard to the complainant.

d) failing to document any assessment of the patients' response to oxycodone and/or physical therapy;

e) failing to enforce pain contracts;

f) failing to review the CRISP (Chesapeake Regional Information System for our Patients) database to determine whether patients were receiving opioids from another provider;

g) consistently ignoring, or being unaware of, "red flags," which suggest the possibility of misuse or diversion of opioids;

h) continuing to prescribe oxycodone to patients who declined to accept his referral to pain management clinics;

i) failing to review records of prior care and treatment; and

j) failing to obtain urine drug screens.

6. On June 21, 2018, to resolve the pending charges, the Respondent agreed to, and Panel B issued, the 2018 Consent Order. Panel B concluded that the Respondent failed to meet appropriate standards of delivery of quality medical care and failed to maintain adequate medical records, in violation of Health Occ. § 14-404(a)(22) and (40).

7. The 2018 Consent Order placed the Respondent on probation for a minimum of two years. The terms and conditions of the Respondent's probation provided in pertinent part:

Condition 1 – the Respondent's prescribing of opioids in his solo outpatient medical practice shall be supervised for the duration of probation by a panel-approved peer supervisor who is board-certified in pain medicine....Each month the

supervisor shall review the patient records, chosen by the supervisor, of at least 10 of the Respondent's patients for whom the Respondent is prescribing opioids. The supervisor shall meet in-person with the Respondent at least one time each month...Additionally, the Respondent shall ensure that the supervisor provides the Board with quarterly reports concerning whether there are any concerns with the Respondent's management of pain patients...An unsatisfactory supervisory report may constitute a violation of the terms and conditions of this Consent Order.

...

Condition 3² – The Panel will issue administrative subpoenas to the Maryland Prescription Drug Monitoring Program (“PDMP”) immediately and on a quarterly basis for the Respondent's CDS prescriptions immediately and from the beginning of each quarter;

Condition 4 – The Respondent is subject to a chart and/or peer review conducted by the Board or Board disciplinary panel or its agents. An unsatisfactory chart and/or peer review will constitute a violation of this Consent Order;

Condition 5 – The Respondent shall comply with the Maryland Medical Practice Act, Md. Code Ann., Health Occ. §§ 14-401 – 14-702, and all laws and regulations governing the practice of medicine in Maryland[.]

Current Investigative Findings

I. The Peer Review

8. Pursuant to Condition 4 of the 2018 Consent Order, on January 10, 2020, the Board subpoenaed and subsequently received from the Respondent ten patient records and the Respondent's corresponding summaries of care.
9. The Board referred the records to a peer review entity for review of care the Respondent provided after April 14, 2019.
10. Two peer reviewers, each board-certified in anesthesiology and pain management, independently reviewed the patient records.

² Condition 2 required the Respondent to successfully complete a panel-approved course in opioid prescribing. The Board received confirmation that the Respondent completed the required opioid prescribing course on April 14, 2019.

11. The peer reviewers concurred that the Respondent failed to meet the appropriate standard of quality care for one patient (identified on the peer review reports as "Patient 5") and failed to keep adequate medical records for three patients (identified on the peer review report as "Patient 5," "Patient 8," and "Patient 9").
12. The peer reviewers concurred that the Respondent failed to meet the appropriate standards of quality care for Patient 5 for reasons including, but not limited to:
 - a) On Patient 5's initial visit, the Respondent prescribed oxycodone 20 mg every six hours. Patient 5 had reported that he had been taking oxycodone 15 mg every six hours. The Respondent failed to verify the source of Patient 5's previous prescription and failed to check PDMP prior to prescribing oxycodone at a higher dosage than Patient 5 reported he had previously been prescribed;
 - b) The Respondent failed to provide his medical rationale for increasing Patient 5's oxycodone dosage from 15 mg to 20 mg.
 - c) The Respondent failed to address Patient 5's inconsistent urine drug tests ("UDTs"). Specifically, although Patient 5 reported taking only oxycodone, the results of his initial UDT was positive for morphine, codeine, and marijuana, but negative for oxycodone. The Respondent failed to address a second inconsistent UDT several months later that was positive for opioids and marijuana, and the Respondent failed to conduct a confirmatory test that would have verified the presence of oxycodone as opposed to other opiates;
 - d) The Respondent failed to counsel Patient 5 regarding his marijuana usage;

e) The Respondent prescribed high dosages of oxycodone (120 MME/day³) on a monthly basis despite inconsistent UDTs.

13. The peer reviewers concurred that the Respondent failed to keep adequate medical records for three patients for reasons including, but not limited to:

a) The Respondent failed to document that appropriate imaging studies were in a patient's chart and reviewed prior to the initiation of chronic opioid therapy;

b) The Respondent failed to document that he addressed inconsistent UDT results;

c) In some instances, the Respondent failed to include a copy of an opioid prescription he wrote for a patient in the patient's chart.

14. The Respondent reviewed and responded to the peer review reports in pertinent part:

I believe that with my background and training in general medicine and Internal Medicine Specialty [*sic*], deep community involvement, especially in vulnerable population and communities, 36 years in practice of Medicine, and over 50 CME I obtained on Pain Management and Opioid Prescribing, Opioid risks and addiction, and with the guidance of my peer monitor for the past one year and half (*sic*) now, I am ever confident that I have made considerable progress and marked improvement in managing my patients with chronic pain with opioids with individualized Chronic pain management using Chronic Opioid therapy (COT) with other multimodalities. I am also trained and conversant with interpretation of urine drug tests.

II. Violations of Supervisory Requirements

15. Condition 1 of the Respondent's 2018 Consent Order states in pertinent part:

³ MME is a value assigned to each opioid to represent its relative potency by using morphine as the standard comparison. The *Centers for Disease Control Guideline for Prescribing Opioids for Chronic Pain* uses MME to establish recommended opioid dosing and currently recommends using caution when prescribing opioid doses greater than 50 MME per day and avoiding or carefully justifying a decision to increase opioid doses to greater than or equal 90 MME per day.

Each month the supervisor *shall review the patient records, chosen by the supervisor*, of at least 10 of the Respondent's patients for whom the Respondent is prescribing opioids. *The supervisor shall meet in-person with the Respondent at least one time each month...*
[Emphasis added].

16. On May 15, 2020, the Respondent's supervisor (the "Supervisor") submitted to the Board her 3rd quarterly report of the second year of her supervision of the Respondent (the "May 2020 Report").

17. The Supervisor noted:

Since the COVID-19 pandemic, **March – May 2020**, I have remotely supervised Dr. Okoli's management of chronic pain patients by checking the Maryland Prescription Monitoring Program to determine whether his opioid-prescribing habits have indeed changed and whether he had complied with my recommendation from my January 20th visit. At that visit, I advised Dr. Okoli to cease all prescribing of scheduled drugs such as opioids and benzodiazepines...My last face-to-face supervisory visit was on February 22, 2020. (Emphasis in original).

18. By email dated August 26, 2020, the Supervisor advised the Board that after February 2020, the Respondent and she "have been meeting via phone multiple times a month to discuss his opioid prescribing practices and his previous month's PDMP reports."

19. The Respondent failed to ensure that his Supervisor reviewed the complete medical records of patients selected for review, as he was required to do under Condition 1 of the 2018 Consent Order.

III. Revocation of the Respondent's Controlled Dangerous Substance Registration

20. On August 19, 2019, the Office of Controlled Substances Administration ("OCSA") issued to the Respondent a "Notice of Intent to Revoke Controlled Dangerous Substance Registration (the "Notice of Intent to Revoke"), Case # MDH-OCSA 38-19-26032."⁴
21. OCSA's Notice of Intent to Revoke was based on the Respondent's 2018 Consent Order.⁵
22. On January 15, 2020, an administrative hearing at the Maryland Office of Administrative Hearings ("OAH") was convened to provide the Respondent the opportunity to show cause why OCSA's contemplated enforcement action should not be instituted.
23. On June 25, 2020, after reviewing the exceptions to the OAH Proposed Decision and arguments of the parties, the Designee to the Secretary of the Maryland Department of Health issued the Final Decision and Order ("OSCA Final Order").
24. The OCSA Final Order adopted and affirmed in full the OAH Proposed Decision including, but not limited to, the following findings:
 - a. the Respondent violated Crim. Law § 5-902(c)(2), which requires that CDS be prescribed only in instances that conform to the standards of the Respondent's profession;
 - b. the Respondent continued to violate the standard of quality care during the probationary period imposed in the 2018 Consent Order. Specifically, the

⁴ OCSA enforces the Controlled Dangerous Substance Act, Md. Code Ann., Criminal Law ("Crim. Law") § 5-100 *et seq.* and issues permits to practitioners to dispense and distribute CDS.

⁵ Civil or criminal penalties may be imposed under Section 5-902(e) "is in addition to, and not instead of, any other civil or administrative penalty or sanction authorized by law." Crim. Law § 5-907.

Respondent continued to prescribe oxycodone at high dosages of 20 and 30 milligrams and in quantities of 90 to 120 pills a month, in dosages that far exceed the CDC's MME recommendations. In several instances, the Respondent prescribed high dosages of oxycodone even after the 2018 Consent Order;

c. the Respondent continued to ignore "red flags" that were noted in the 2018 Consent Order;

d. the Respondent appeared to be confused about the appropriate standards of quality care regarding CDS prescribing and often disagreed with his Supervisor's expertise in terms of appropriate standards.

25. In the June 25, 2020 OSCA Final Order, the Secretary's Designee accepted the Proposed Conclusion of Law to revoke the Respondent's CDS registration.

26. On or about August 26, 2020, OCSA staff visited the Respondent's office because he had not returned his CDS registration to OCSA. The purpose of the OCSA visit was to ensure that the Respondent was not continuing to prescribe CDS after the revocation of his CDS registration and to obtain from the Respondent his CDS registration.

27. The Respondent refused to give his CDS registration to OCSA staff.

28. OCSA staff advised the Respondent that he was not permitted to prescribe CDS after the revocation of his CDS registration.

IV. Board Investigation of the Respondent's CDS Prescribing After His CDS Registration was Revoked

29. On or about July 21, 2020, the Board received the OSCA Final Order revoking the Respondent's CDS registration.

30. On or about August 21, 2020, the Board received a PDMP report that showed that the Respondent had prescribed over 200 CDS prescriptions since the June 25, 2020 revocation of his CDS registration.

31. By letter dated August 26, 2020, the Board requested the Respondent to provide a written response as to why he continued to prescribe CDS after his registration was revoked and why he failed to provide his Supervisor with complete medical records for review.
32. The Board received the Respondent's response on September 2, 2020. The Respondent stated that he continued to prescribe CDS after his CDS registration was revoked on the advice of his attorney that he could continue to prescribe CDS pending the outcome of his petition for judicial review of OCSA's Final Order.⁶
33. The Respondent further stated that he had not prescribed any CDS since August 24, 2020, on which date he discovered on the OSCA registration website that his registration was revoked.
34. Board investigation revealed that the Respondent wrote approximately nine CDS prescriptions from August 21, 2020 to September 3, 2020. Board investigation further revealed that the Respondent wrote one CDS prescription after August 24, 2020, the date he stated he had stopped writing CDS prescriptions.
35. With regard to the patient records he sent to the Supervisor, the Respondent stated that he provided PDMP reports to the Supervisor at her request and provided "additional/supporting patient information."

⁶ Crim. Law § 5-309 (c)(2) provides: Except as provided in subsection (d) of this section [which is not applicable to this case], an existing registration...(ii) shall remain in effect pending the outcome of proceedings *under this section.*" (Emphasis added).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel B concludes as a matter of law that the Respondent violated June 21, 2018 Consent Order; is guilty of unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(ii); failed to meet appropriate standards for the delivery of quality medical and surgical care, in violation of Health Occ. § 14-404(a)(22); failed to keep adequate medical records, in violation of Health Occ. § 14-404(a)(40); and violated any rule or regulation adopted by the Board pertaining to the practice of medicine, in violation of Health Occ. § 14-404(a)(43).

ORDER

It is, by an affirmative vote of a majority of a quorum of Disciplinary Panel B, hereby:

ORDERED that the Respondent is **permanently prohibited** from prescribing and dispensing all CDS; and it is further

ORDERED that on every January 31st thereafter if the Respondent holds a Maryland medical license, the Respondent shall provide the Board with an affidavit verifying that the Respondent has not prescribed or dispensed CDS in the past year; and it is further

ORDERED that if the Respondent fails to provide the required annual verification of compliance with this condition:

(1) There is a presumption that the Respondent has violated this permanent condition; and

(2) The alleged violation will be adjudicated pursuant to the procedures of a Show Cause Hearing; and it is further

ORDERED that the Respondent is **permanently prohibited** from certifying patients for the medical use of cannabis; and it is further

ORDERED that if the Respondent fails to provide the required annual verification of compliance with this condition:

(1) There is a presumption that the Respondent has violated this permanent condition; and

(2) The alleged violation will be adjudicated pursuant to the procedures of a Show Cause Hearing; and it is further

ORDERED that upon the effective date of this Consent Order, the Respondent's license to practice medicine is **SUSPENDED** for a minimum of **SIX (6) MONTHS⁷**; and it is further

ORDERED that during the suspension, the Respondent shall comply with the following terms and conditions:

(1) The Respondent shall not:

- (a) practice medicine;
- (b) take any actions after the effective date of this Consent Order to hold himself out to the public as a current provider of medical services;
- (c) authorize, allow or condone the use of the Respondent'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) prescribe or dispense medications;

⁷ If the Respondent's license expires during the period of suspension, the suspension and any conditions will be tolled.

(f) perform any other act that requires an active medical license.

(2) The Respondent shall establish and implement a procedure by which the Respondent's patients may obtain their medical records without undue burden and notify all patients of that procedure.

(3) Within the **SIX (6) MONTHS** period of suspension, the Respondent is required to take and successfully complete a course in medical documentation. The following terms apply:

(a) it is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the course before the course is begun;

(b) the disciplinary panel will accept a course taken in-person or over the internet during the state of emergency;

(c) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;

(d) the course may not be used to fulfill the continuing medical education credits required for license renewal;

(e) the Respondent is responsible for the cost of the course.

ORDERED that the Respondent shall not apply for early termination of suspension; and it is further

ORDERED, that after the minimum period of suspension imposed by the Consent Order has passed and the Respondent has fully and satisfactorily complied with all terms and conditions of the suspension, the Respondent may submit a written petition to the disciplinary panel for termination of suspension. The Respondent may be required to appear before the disciplinary panel to discuss his petition for termination. If the

disciplinary panel determines that the Respondent has complied with the relevant terms of this Consent Order and that it is safe for the Respondent to return to the practice of medicine, the suspension will be terminated through an order of the disciplinary panel; and it is further

ORDERED that upon termination of the suspension, the Respondent shall be placed on **PROBATION** for a minimum period of **TWO (2) YEARS**⁸; and it is further

ORDERED that within the probationary period of **TWO (2) YEARS**, the Respondent shall pay a civil fine of **FIVE THOUSAND DOLLARS (\$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 Respondent shall not apply for early termination of probation; and it is further

ORDERED that, after the Respondent has complied with all terms and conditions of probation and the minimum period of probation imposed by the Consent Order has passed, the Respondent may submit to the Board a written petition for termination of probation. After consideration of the petition, the probation may be terminated through an order of the disciplinary panel. The Respondent may be required to appear before the disciplinary panel to discuss his petition for termination. The disciplinary panel may grant

⁸ If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

the petition to terminate the probation, through an order of the disciplinary panel, if the Respondent has complied with all probationary terms and conditions and there are no pending complaints relating to the charges; and it is further

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

ORDERED that if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent 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, the Respondent 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 the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent'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 on the Respondent; and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; 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 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 Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6)

Signature on File

03/23/2021
Date

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

CONSENT

I, Alphonsus E. Okoli, 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.

Signature on File

Date

03/19/2021

Alphonsus E. Okoli, M.D.
Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF Montgomery

I HEREBY CERTIFY that on this 19 day of March 2021, before me, a Notary Public of the foregoing State and City/County, personally appeared Alphonsus E. Okoli, 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: 02/06/2022