

IN THE MATTER OF
EYAKO WURAPA, M.D.

Respondent

License Number: D76100

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2222-0051A

CONSENT ORDER

On February 15, 2022, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged **EYAKO WURAPA, M.D.** (the "Respondent"), License Number **D76100**, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2021 Repl. Vol.).

The pertinent provisions of the Act provide the following:

Health Occ. § 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;
- (4) Is professionally, physically, or mentally incompetent;
- (7) Habitually is intoxicated;
- (9) Provides professional services:
 - (i) While under the influence of alcohol; or
 - (ii) While using any narcotic or controlled dangerous substance, as defined in § 5-101 of the

Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;

- (11) Willfully makes or files a false report or record in the practice of medicine[.]

On March 9, 2022, Panel A was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Panel A finds:

I. BACKGROUND

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 May 21, 2013, under License Number D76100. The Respondent’s license is currently suspended as of January 27, 2022.¹

2. The Respondent is board-certified in family medicine.

3. At all times relevant hereto, the Respondent was employed as a physician at an urgent care center that provides immediate walk-in treatment for illnesses and injuries,

¹ On January 27, 2022, the Board issued an Order for Summary Suspension of License to Practice Medicine. By letter dated February 10, 2022, following a post-deprivation hearing held on February 9, 2022, before Panel A, the Board reaffirmed the summary suspension order.

wellness exams, and employer health services (the "Center")² located in Washington County, Maryland.

4. On or about September 10, 2021, the Board received a Mandated 10-Day Report (the "Report") from the Center which reported that the Respondent's employment was terminated following a violation of the Center's policy and procedure and for providing professional services while appearing to be under the influence or otherwise in an unsafe state of mind to practice medicine.

5. On receipt of the Report, the Board initiated an investigation into the allegations.

I. BOARD INVESTIGATION

Respondent's Written Response

6. Shortly after receiving the Mandated 10-Day Report, Board staff reached out to the Respondent and requested that he provide a response to the assertions made in the Report that he appeared to be providing professional services while under the influence or otherwise in an unsafe state of mind.

7. By letter dated October 4, 2021, the Respondent provided the following information:

During my service in the US Army I sustained a left knee injury. I recently had a procedure to help with the pain and was given pain medications (Percocet) that I have used sparingly for pain control. On the said date I did use the medication due to pain and insomnia. Have

² For confidentiality and privacy purposes, the names of individuals and health care facilities involved in this case are not disclosed in this document. The Respondent may obtain the names of all individuals and health care facilities referenced in this document by contacting the administrative prosecutor.

since stopped the medication and using motrin 800mg for pain control.

Respondent's Medical Record

8. As part of its investigation, Board staff obtained the Respondent's permission to subpoena his recent hospital records.

9. According to subpoenaed records, on May 5, 2021, the Respondent underwent a left knee arthroscopic medial meniscectomy. The Respondent was prescribed Percocet 5/325mg upon discharge.³

Quality Assurance/Risk Management File

10. In furtherance of the investigation, Board staff obtained the Quality Assurance/Risk Management file (the "File") the Center maintained on the Respondent. The File documented that on August 30, 2021, the Respondent reported to the Center for his shift, reporting in late,⁴ and saw a few patients. According to the File, the Center Manager contacted the Regional Medical Director (the "RMD") regarding concerns that the Respondent appeared to be under the influence or otherwise in an unsafe state of mind to practice. The RMD contacted the Respondent and after talking to him, restricted him from seeing additional patients.

11. The RMD remotely reviewed the patient charts for the patients the Respondent had already seen that morning and noted that the "documentation was poor." Additionally, the RMD found that the Respondent had "prescribed an incorrect antibiotic

³ The record is silent on the number of tablets prescribed.

⁴ Employee time punches for August 30, 2021, reveal that the Respondent clocked in at 9:02am. According to the Respondent's appointment log, his first patient checked-in at 8:07am.

in a patient who had a known allergy for the antibiotic. The patient called out the error during the visit The patient was upset with the provider's behavior." The RMD noted several other issues with the Respondent's documentation including: inappropriate labs and studies ordered; diagnosis inconsistent with documented history and physical; plan inappropriate for diagnosis; appropriate follow-up plan was not clearly documented.

Interviews of Center Employees Present on August 30, 2021

12. The Board interviewed three (3) Center employees who interacted with the Respondent on August 30, 2021: a medical assistant/radiographer (the "Assistant"), a certified registered nurse practitioner (the "CRNP"), and a registered nurse (the "RN").

13. On January 4, 2022, the Assistant was interviewed by Board staff under oath. The Assistant stated that shortly after the Respondent's knee surgery, she had to wake him when he was sleeping at the desk. On that date, the Respondent disclosed to her that he had taken his pain medication that day.

14. On August 30, 2021, the Assistant explained how she once again found the Respondent sleeping at his desk and tapped him on the shoulder to inform him that a patient was waiting for him.

15. It was approximately 10:00am when the Respondent was asked to stop seeing patients and to consent to a breathalyzer. The Assistant explained that at 4:42pm she was asked to perform a breathalyzer on the Respondent. The first breathalyzer was positive (BAC .182) and so was a second conducted at 4:45pm (BAC .175).

16. On January 7, 2022, the CRNP was interviewed by Board staff under oath. The CRNP stated that she had worked with the Respondent approximately ten (10) times

including on August 30, 2021. The CRNP added that the Respondent would often come to work “very drowsy” and would be “an hour or two late.” On one occasion, approximately one month prior to the incident, the CRNP asked the Respondent why he was so sleepy. The CRNP recalled the Respondent saying that he had knee surgery and had taken his Percocet around 3:00am or 4:00am that morning.

17. Recalling August 30, 2021, the CRNP explained that on other occasions when the Respondent fell asleep at work, she could easily wake him to remind him that he had patients waiting, however on that day, it was different. The CRNP added:

[H]e was harder to arouse . . . nothing was startling him. Like if you try to wake him . . . he’d be right back to sleep. So, it’s, like, he wasn’t even there. Like, he didn’t hear you at all.

....

We have phones going off constantly, people talking, patients coming up to the desk. And he was just slouched down in his chair like this asleep.

18. In addition, the CRNP observed one of the Respondent’s patients at the front desk complaining about the care she received from the Respondent that morning. Among the patient’s complaints was the fact that the Respondent gave the patient paperwork that had the wrong name on it, he prescribed a medication that she was allergic to, and the medication prescribed did not address the reason for her visit.⁵

19. The CRNP noted that at that time she, the Center Manager, and the Assistant made the decision to alert the RMD of the Respondent’s concerning behavior.

⁵ Records indicate the patient arrived at the Center complaining of *lower back pain*. The Respondent diagnosed the patient with *acute pharyngitis* and prescribed an antibiotic: “PRESCRIBED cyclobenzaprine 10mg tablet: *Take 1 tablet (Oral) every 8 hours PRN – Muscle Spasm*; Total 20 (Twenty) tablet[.]” (Emphasis added)

20. The CRNP added that after the Respondent was informed that he was no longer permitted to see patients, he sat at his desk for the rest of the day and slept. The CRNP explained that

[T]here were a couple [of times] that when he woke up, he would wake up and pull a patient – almost like he forgot he wasn't supposed to take the patient . . . I think that happened twice, and I spoke to my manager, I said, you know, he took another patient. And [the RMD] called him right away, told him not to see that patient . . . So I took the patient.

21. On December 23, 2021, the RN was interviewed by Board staff under oath. The RN explained that of the ten (10) or so times she worked with the Respondent, she often observed him to be “sleepy” or “overly tired” and he would sleep while on duty at the Center:

He would fall asleep in his chair. He'd be sitting there at his computer and just fall asleep. Then wake up easily when you say something, but like, he falls asleep.

22. The RN explained that she once observed a patient waiting at the front desk for some paperwork, slam her fists on the desk and tell the Respondent, who had fallen asleep, to “wake up.”

23. Recalling August 30, 2021, the RN confirmed that the Respondent spent much of the day sleeping in a chair in the front of the office, within view of patients.

Respondent Interview

24. On January 14, 2022, the Respondent was interviewed by Board staff under oath with counsel present. The Respondent provided the following information:

- a. Following his knee surgery on May 5, 2021, he was prescribed 10-15 tablets of Percocet.

- b. He returned to work on May 8, 2021.
- c. On August 29, 2021, he went for a run and was experiencing pain. At approximately 9:00pm, he took one Percocet and the pain subsided. At approximately 1:00am on August 30, 2021, he awoke in pain and took some Tylenol.
- d. At approximately 2:00am, the Respondent explained that "I was still up, I had a total shift in front of me and I -- at that point . . . made the wrong decision of going down[stairs] to take a shot of whiskey. Actually, two."
- e. After arriving at work, he saw "maybe one or two patients" and then fell asleep.
- f. He was woken up by the Center Manager -- "she just woke me up to say, hey, we have some patients. That's when I decided to see patients again."
- g. He received approximately three (3) calls from the RMD telling him to stop seeing patients.
- h. He did try to see a few "non-medical" patients to "help keep the flow going" but was told once again by the RMD to stop seeing patients.
- i. He took a breathalyzer that was positive.
- j. He called a friend who lived nearby to drive him home from the Center. The friend drove him home and the friend's wife drove his car so it would not be left at the Center.
- k. He gave the remaining four (4) Percocet tablets from his original prescription to a friend who had "run out of his" prescription following surgery.
- l. He would often doze off a little at work due to his work schedule, especially if "given the chance to sit down."

25. When asked if he believed he was under the influence of the Percocet and alcohol on August 30, 2021, the Respondent stated: "I've never slept at work, so I must have been."

Maryland Physician Health Program ("MPHP") Records

26. On or about January 14, 2022, the Respondent gave written consent to the Board to access his MPHP records for use in the investigation.

27. On or about October 1, 2019, MPHP received a referral from the Respondent's prior employer, an urgent care center ("Center 2"), documenting concerns regarding the Respondent's use of alcohol prior to his shift. During the shift, the Respondent reportedly had difficulties with the electronic medical record (EMR) and contacted a physician assistant (the "PA") to assist. The PA was unable to assist the Respondent over the phone, so she went to the site. Upon arriving, the PA noted that the Respondent was having difficulty recalling the patients he had seen and what care he had rendered. The Respondent also smelled of alcohol. The Respondent denied, then admitted that he had been drinking prior to his shift.

28. According to records, the Respondent was contacted by MPHP and explained that in 2019 he was working PRN at Center 2 and on the day in question, he was not scheduled to work. While at a retirement party for a military colleague, Center 2 called him and asked him to come in to cover for an ill physician. He accepted and went to Center 2 directly from the party.

29. On or about December 1, 2021, the Respondent self-referred to MPHP following his termination from the Center. On or about December 13, 2021, the Respondent had an initial evaluation with MPHP staff.

30. On December 15, 2021, the Respondent submitted to a urine toxicology screen as part of the MPHP intake process. On December 30, 2021, the results were

confirmed to be positive for alcohol. On January 6, 2022, the lab's medical review officer contacted the Respondent to inform him of the positive result.

31. During the interview with Board staff, the Respondent referenced this positive result and explained:

Prior to the – the urine test, which I did on the 15th, I was in Philadelphia on the 12th -- my goddaughter's birthday . . . we had some drinks that day.

Respondent's 2021 Renewal Application

32. On or about September 27, 2021, the Respondent completed his 2021 license renewal application (the "Application") and electronically submitted it to the Board. In the section of the Application titled "Character and Fitness Questions," the Board required the Respondent to answer "YES" or "NO" to a series of questions for the period of July 1, 2019, through the date of the Application's submission.

33. The Respondent answered "NO" to Question 14, which states: *"Has your employment or contractual relationship with any hospital, HMO, other health care facility, health care provider, or institution, armed services or the Veterans Administration ever been terminated for disciplinary reasons?"*

34. At the conclusion of the Application, the Respondent certified that he personally reviewed all responses to the items in the Application and that the information provided was true and accurate to the best of his knowledge.

35. According to the documents and information obtained from the Center, the Respondent's employment was terminated on August 31, 2021.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent violated the following provisions of the Act under Health Occ. §§ 14-404(a): (3) Is guilty of: (ii) Unprofessional conduct in the practice of medicine; (4) Is professionally, physically or mentally incompetent; (7) Is habitually intoxicated; (9) Provides professional services: (i) While under the influence of alcohol; or (ii) While using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication; and (11) Willfully makes or files a false report or record in the practice of medicine.

ORDER

It is thus by Disciplinary Panel A of the Board, hereby:

ORDERED that the Respondent, Eyako K. Wurapa, M.D., License No. D76100, is **REPRIMANDED**; and it is further

ORDERED that the Order of Summary Suspension pertaining to the Respondent, issued on January 27, 2022, pursuant to State Gov't § 10-226(c)(2), is affirmed but **TERMINATED** as moot based upon the disposition of the February 15, 2022 charges, which is set forth in this Consent Order; and it is further

ORDERED that the Respondent's license to practice medicine is **SUSPENDED**⁶ for a minimum period of **ONE (1) YEAR** from the date of the Order for Summary Suspension issued on January 27, 2022, and until the Maryland Physician Rehabilitation

⁶ If the Respondent's license expires while he is on suspension, the suspension and suspension conditions will be tolled.

Program ("MPRP") finds and notifies the Board that the Respondent is safe to return to the practice of medicine; and it is further

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

- (1) The Respondent shall not:
 - (a) practice medicine;
 - (b) take any actions after the effective date of this Order to hold himself or herself 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; or
 - (f) perform any other act that requires an active medical license.
- (2) The Respondent shall enroll in the Maryland Professional Rehabilitation

Program (MPRP) as follows:

- (a) Within 5 business days from the effective date of this Consent Order, the Respondent shall contact MPRP to schedule an initial consultation for enrollment;
- (b) Within 15 business days from the effective date of this Consent Order, the Respondent shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP;
- (c) The Respondent shall fully and timely cooperate and comply with all MPRP's referrals, rules, and requirements, including, but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by MPRP;

(d) The Respondent 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. The Respondent shall not withdraw his release/consent;

(e) The Respondent 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 the Respondent's current therapists and treatment providers) verbal and written information concerning the Respondent and to ensure that MPRP is authorized to receive the medical records of the Respondent, including, but not limited to, mental health and drug or alcohol evaluation and treatment records. The Respondent shall not withdraw his release/consent;

(f) The Respondent'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 Consent Order; and it is further

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

ORDERED that after the minimum period of a **ONE (1) YEAR** suspension from the date of the Order for Summary Suspension of January 27, 2022 has passed, and after the Respondent has complied with all terms and conditions of suspension, and upon a report from MPRP to the Board that the Respondent has complied with all of the requisite referrals and treatment and is safe to resume the practice of medicine, the Respondent may submit a written petition to the Board requesting termination of suspension. The Respondent may be required to appear before the disciplinary panel to discuss his petition for termination. After consideration of the petition, if the disciplinary panel determines that 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 imposed by this Consent Order, the Respondent will be placed on **PROBATION** for a **minimum of EIGHTEEN (18) MONTHS**.⁷ During probation, the Respondent shall comply with the following terms and conditions of probation:

- (1) The Respondent shall remain enrolled in the Maryland Professional Rehabilitation Program:
 - (a) The Respondent shall fully and timely cooperate and comply with all MPRP's referrals, rules, and requirements, including, but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by MPRP;
 - (b) The Respondent 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. The Respondent shall not withdraw his release/consent;
 - (c) The Respondent 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 the Respondent's current therapists and treatment providers) verbal and written information concerning the Respondent and to ensure that MPRP is authorized to receive the medical records of the Respondent, including, but not limited to, mental health and drug or alcohol evaluation and treatment records. The Respondent shall not withdraw his release/consent;
 - (d) The Respondent's failure to comply with any of the above terms or conditions including terms or conditions of the Participant Rehabilitation Agreement(s) or Participant

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

Rehabilitation Plan(s) constitutes a violation of this Consent Order;

(2) 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 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 the Respondent is responsible for all costs incurred in fulfilling the terms and conditions 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 the Respondent's license with appropriate terms and conditions, 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 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). (2021 Repl. Vol.).

03/29/2022
Date

Signature On File

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

CONSENT

I, Eyako Wurapa, 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

3/19/2022
Date

Eyako Wurapa, M.D.
License No. D76100

NOTARY

STATE OF Maryland

CITY / COUNTY OF Montgomery

I HEREBY CERTIFY that on this 19th day of March 2022,
before me, a Notary Public of the foregoing State and City/County, personally appeared
Eyako Wurapa, 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.



Kayla Webster
Notary Public

My Commission expires: 07/15/2025