

IN THE MATTER OF	*	BEFORE THE
IMMIRNE M. OUWINGA, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D78131	*	Case Number: 2219-0045B
* * * * *		

CONSENT ORDER

PROCEDURAL BACKGROUND

On January 26, 2019, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") charged **IMMIRNE M. OUWINGA, M.D.** (the "Respondent"), License Number D78131, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2014 Repl. Vol. and 2017 Supp.) and Md. Code Regs ("COMAR") 10.32.17 *et seq.*

Panel B charged the Respondent with violating the following provisions of the Act under Health Occ. § 14-404:

- (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; [and]
 - (8) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article[.]

The pertinent provisions of Health Occ. § 1-212 provide as follows:

- (a) *Adoption of regulations.* – Each health occupations board authorized to issue a license or certificate under this article shall adopt regulations that:
 - (1) Prohibit sexual misconduct; and
 - (2) Provide for the discipline of a licensee or certificate holder found to be guilty of sexual misconduct.

The pertinent provisions of COMAR 10.32.17 provide:

.01

This chapter prohibits sexual misconduct against patients or key third parties by individuals licensed or certified under Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

.02

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) Key third party.
 - (a) “Key third party” means an individual who participates in the health and welfare of the patient concurrent with the physician-patient relationship.
 - (b) “Key third party” includes, but is not limited to the following individuals:
 - (i) Spouse;
 - (ii) Partner;
 - (iii) Parent;
 - (iv) Guardian;
 - (v) Surrogate; or
 - (vi) Proxy designated by durable power of attorney.

(2) Sexual Impropriety.

- (a) “Sexual impropriety” means behavior, gestures, or expressions that are seductive, sexually suggestive, or sexually demeaning to a patient or a key third party regardless of whether the sexual impropriety occurs inside or outside of a professional setting.
- (b) “Sexual impropriety” includes, but is not limited to:
 - (i) Failure to provide privacy for disrobing;
 - (ii) Performing a pelvic or rectal examination without the use of gloves;
 - (iii) Using the health care practitioner-patient relationship to initiate a dating, romantic, or sexual relationship; and
 - (iv) Initiation by the health care practitioner of conversation regarding the health care practitioner’s sexual problems, sexual likes or dislikes, or fantasies.

(3) “Sexual misconduct: means a health care practitioner’s behavior toward a patient, former patient, or key third party, which includes:

- (a) Sexual impropriety;
- (b) Sexual violation; or
- (c) Engaging in a dating, romantic, or sexual relationship which violates the code of ethics of the American Medical Association, American Osteopathic Association, American Psychiatric Association, or other standard recognized professional code of ethics of the health care practitioner’s discipline or specialty.

(4) Sexual Violation:

- (a) “Sexual violation” means health care practitioner-patient or key third party sex, whether or not initiated by the patient or key third party, and engaging in any conduct with a patient or key third party that is

sexual or may be reasonably interpreted as sexual, regardless of whether the sexual violation occurs inside or outside of a professional setting.

- (b) “Sexual violation” includes, but is not limited to:
 - (i) Sexual intercourse, genital to genital contact;
 - (ii) Oral to genital contact;
 - (iii) Oral to anal contact or genital to anal contact;
 - (iv) Kissing in a romantic or sexual manner;
 - (v) Touching the patient’s breasts, genitals, or any sexualized body part;
 - (vi) Actively causing the patient or key third party to touch the health care practitioner’s breasts, genitals, or any sexualized body part;
 - (vii) Encouraging the patient to masturbate in the presence of the health care practitioner or masturbation by the health care practitioner while the patient is present;
 - (viii) Offering to provide practice-related services, such as drugs, in exchange for sexual favors; and
 - (ix) Intentionally exposing the health care practitioner’s breasts, genitals, or any sexualized body part.

.03

- A. Individuals licensed or certified under Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland, may not engage in sexual misconduct.
- B. Health Occupations Article, §§ 14-404(a)(3) and 15-314(3), Annotated Code of Maryland, includes, but is not limited to sexual misconduct.

On May 22, 2019, a hearing was held before Panel B, sitting as a Disciplinary Committee for Case Resolution. As a result of negotiations occurring before Panel B, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

FINDINGS OF FACT

Panel B makes the following Findings of Fact:

I. BACKGROUND

1. The Respondent was originally licensed to practice medicine in Maryland on June 30, 2014, under License Number D78131. The Respondent's latest license was given the expiration date of June 30, 2019.

2. At all times relevant hereto, the Respondent operated a medical practice named *OT Family Medicine*, which is located at 10339 Southern Maryland Boulevard, Suite 206, Dunkirk, Maryland 20754.

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

4. On January 15, 2019, Panel B issued an *Order for Summary Suspension of License to Practice Medicine*, in which it summarily suspended the Respondent's Maryland medical license. Panel B took such action pursuant to Md. Code Ann., State Gov't § 10-226(c)(2), concluding that the public health, safety or welfare imperatively requires emergency action.

II. PRIOR BOARD ACTION

5. In or around December 2015, the Respondent self-reported that she had been arrested for driving while under the influence of alcohol. By letter dated May 9, 2016, the Board issued the Respondent an Advisory Letter.

III. THE COMPLAINT

6. The Board initiated an investigation of the Respondent after receiving a complaint about her, dated September 24, 2018, from the Chief Medical Officer/Vice President of Medical Affairs (the “Complainant”)¹ of a health care facility (the “Facility”).

7. The Complainant reported that a former patient and friend of the Respondent (“Individual A”) reported to him that she had become “alarmed” about the Respondent’s behavior in the past two months. Individual A reported concerns about the following incidents:

- a. Individual A observed that the Respondent was highly intoxicated when she was invited to the Respondent’s residence during the July 4th weekend and witnessed other instances when the Respondent was inebriated;
- b. The Respondent engaged in attempts at inappropriate physical contact with Individual A during the July 4th weekend;
- c. Individual A discovered prescription bottles with the names of other patients in the Respondent’s bedroom and personal office;

¹ For confidentiality reasons, the names of the Complainant, medical facilities and other individuals/entities have not been disclosed in this document. The Respondent is aware of the identity of all individuals/entities referenced herein.

- d. Individual A observed the Respondent using a marijuana vape pen, possibly accepts marijuana from patients and was asked by the Respondent to obtain a medical marijuana card;
- e. Individual A recounted that one of the Respondent's family members implored her to ensure that the Respondent took certain medications the family member laid out for her to take;
- f. Individual A stated that the Respondent stores alcohol in her office, accepts alcohol from patients as gifts, and has offered alcohol to a patient;
- g. The Respondent is having an unprofessional relationship with a patient; and
- h. The Respondent became physically violent toward and struck an office colleague ("Individual B") in the face, who subsequently left his employment with her.

8. The Complainant provided notes of his interview of Individual A. The Complainant stated that he had no way of knowing how accurate Individual A's accounts were, but that from a "medical staff and community safety perspective, these allegations are very concerning."

IV. SUBSEQUENT BOARD INVESTIGATION

9. As part of the Board's investigation, Board staff conducted an under-oath interview of Individual A on October 29, 2018. Individual A confirmed and reiterated the statements she provided to the Complainant. Individual A also provided Board staff with photographs of a patient's prescription bottle she discovered while at the Respondent's residence. The medication, which the Respondent prescribed, was for Zolpidem 10 mg (Zolpidem is a sedative-hypnotic which is prescribed on a short-term basis for insomnia). Individual A also provided another photograph of a prescription

bottle; the label on the prescription bottle is partially worn off and does not show the patient's name.

10. Board staff conducted an under-oath interview of Individual B on November 7, 2018. Individual B stated that he began working for the Respondent in or around April 2018 and that thereafter, tensions arose because the Respondent was failing to create patient charts and was not submitting bills for services. Individual B confirmed that the Respondent struck him in the face in or around August 2018 at the practice location after going through his cell phone and discovering text messages between him, Individual A and a family member of the Respondent in which they discussed a possible intervention regarding the Respondent's alcohol use. Since the incident, Individual B stated that he has not returned to the Respondent's practice. Individual B also reported that the Respondent admitted to him that she had engaged in an unprofessional relationship with a patient. Individual B also noted that one morning when he arrived at the office, he found the Respondent asleep on an examination bed and noticed two "alcohol bottles" sitting on a nearby table. Individual B stated that the Respondent explained to him that she had been working on completing charts the previous night.

11. Pursuant to its investigation, the Board obtained and evaluated the Respondent's medical record from a physician who provided medical care to the Respondent.

12. The Board also issued a subpoena to the Prescription Drug Monitoring Program, received information in response to that subpoena, and also reviewed the Respondent's medication profile from an area pharmacy.

13. On November 13, 2018, Board staff notified the Respondent of the Board's investigation and conducted a site visit of the Respondent's practice. Board staff observed/photographed the following:

- a. Board staff observed the Respondent's young child in the Respondent's personal office;
- b. Board staff observed two plastic bags containing empty prescription pill bottles, most of which were labeled. One of the bags was located in the Respondent's prescription sample room. The second bag was located on the Respondent's desk. The Respondent advised that on occasion, her patients return unwanted medications, which she had staff dispose of. The Respondent stated she uses the bottles collected when she travels on missionary trips to Africa;
- c. Board staff observed a single white pill, possibly Clonidine,² laying on an end table (approximately four feet high) located in the back left of the Respondent's office. When asked, the Respondent was not able to identify what type of pill or medication it was; and
- d. Board staff observed a bottle of gabapentin 300 mg in the Respondent's desk's upper storage area. Gabapentin is a prescription-only medication that is prescribed to treat neuropathic pain. The medication was prescribed by a physician who was not a member of the Respondent's practice. When questioned regarding this, the Respondent claimed that her patient returned the medication to her because of its side effects. The Respondent stated that she does not personally use this medication because it is for "nerve pain."

² Board staff identified this medication by the identifying information (U-136) inscribed on the pill. Clonidine is a prescription-only, anti-hypertensive medication.

14. The Board, pursuant to Health Occ. § 14-402(a),³ referred the Respondent to a Board-approved program (the “Program”) for an evaluation. The Program directed the Respondent to undergo a psychiatric/addiction evaluation.

15. On or about December 20, 2018, the Board received a comprehensive evaluation report regarding the Respondent, dated December 17, 2018.⁴ The evaluator stated that he “saw significant evidence that [the Respondent’s] personal and professional judgment is impaired” and concluded that she “poses a risk to her patients in the practice of medicine at this time.”

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel B of the Board finds 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; and (8) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article.

³ Health Occ. § 14-402(a) states: In reviewing an application for licensure, certification, or registration or in investigation against a licensed physician or any allied health professional regulated by the Board under this title, the Physician Rehabilitation Program may request the Board to direct, or the Board on its own initiative may direct, any physician or any allied health professional regulated by the Board under this title to submit to an appropriate examination.

⁴ For confidentiality reasons, the information contained in the comprehensive report has not been disclosed in this document. The Respondent is aware of the information contained in the report.

ORDER

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

ORDERED that the Order for Summary Suspension, dated January 15, 2019, is **TERMINATED**; and it is further

ORDERED that the Respondent's license to practice medicine in the State of Maryland is **SUSPENDED**⁵ pursuant to this Consent Order; and it is further

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

- (1) The Respondent shall enroll in the Maryland Professional Rehabilitation Program ("MPRP") as follows:
 - (a) Within **FIVE (5) BUSINESS DAYS** of the effective date of this Consent Order, the Respondent shall contact MPRP to schedule an initial consultation for enrollment;
 - (b) Within **FIFTEEN (15) BUSINESS DAYS** of 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 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's failure to comply with any term or condition of the Participant Rehabilitation Agreement(s) or

⁵ If the Respondent's license expires during the period of suspension, the suspension and any conditions will be tolled.

Participant Rehabilitation Plan(s) shall constitute a violation of this Consent Order;

- (e) 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. A failure to, or withdrawal of, consent, is a violation of this Consent Order; and
 - (f) 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. A failure to, or withdrawal of, consent, is a violation of this Consent Order.
- (2) During the period of suspension, the Respondent shall not:
- (a) Practice medicine;
 - (b) take any actions after the effective date of this 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 of 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) dispense medications; and
 - (f) perform any other act that requires an active medical license.

- (3) 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; and
- (4) The Respondent shall not apply for early termination of suspension; and it is further

ORDERED that, if MPRP finds, and notifies the Board, that the Respondent is safe to return to the practice of medicine, the Respondent may submit a written petition to the disciplinary panel to terminate the suspension of the Respondent's license. The Respondent may be required to appear before the disciplinary panel to discuss the Respondent's petition for termination. If the disciplinary panel determines 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 the disciplinary panel may impose any terms and conditions it deems appropriate on the Respondent's return to practice, including, and not limited to, probation, and the terms and conditions of probation and the continuation of the Respondent's enrollment in MPRP. If the disciplinary panel determines that it is not safe for the Respondent to return to the practice of medicine, the suspension shall be continued through an order of the disciplinary panel for a length of time determined by the disciplinary panel, and the disciplinary panel may impose any additional terms and conditions it deems appropriate; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition of this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If 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. If there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board or a disciplinary panel; and it is further

ORDERED that after the appropriate hearing, if the Board or a disciplinary panel determines that the Respondent has failed to comply with any term or condition of this Consent Order, the Board or a 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 Board or a disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon 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 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 the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is a public document pursuant to Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2), and Gen. Prov. § 4-333(b)(6) (2014 & Supp. 2018).

07/09/2019
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Immirne M. Ouwinga, 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 these rights 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

06/25/19
Date

Immirne M. Ouwinga, M.D.
Respondent

Read and approved:

Carolyn Jacobs
Carolyn Jacobs, Esquire
Counsel for Dr. Ouwinga

NOTARY

STATE OF Maryland

CITY/COUNTY OF Calvert

I HEREBY CERTIFY that on this 25th day of June 2019, before me, a Notary Public of the foregoing State and City/County, personally appeared Immirne M. Ouwinga, M.D., and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Lauren Pannell

Notary Public

My Commission expires: 08/14/2022

