

IN THE MATTER OF
SETH M. GARBER, M.D.

Respondent

License Number: D80061

*** BEFORE THE**
*** MARYLAND STATE**
*** BOARD OF PHYSICIANS**
*** Case Number: 2223-0049**

* * * * *

CONSENT ORDER

March 21, 2023, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) charged **SETH M. GARBER, M.D.** (the “Respondent”), License Number D80061, under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2021 Repl. Vol. & 2022 Supp.). 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:

(3) Is guilty of:

...

(ii) Unprofessional conduct in the practice of medicine;

...

(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 May 24, 2023, Panel B was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on the negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Facts, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

Panel B makes the following factual findings:

I. Background

1. At all relevant times, the Respondent was and is a physician licensed to practice medicine in the State of Maryland. The Respondent was originally licensed to practice medicine in Maryland on July 2, 2015. His license is currently active and is scheduled to expire on September 30, 2024.

2. The Respondent is board-certified in Family Medicine and at all relevant times practiced at a primary care practice (the “Practice”)¹ with locations in Maryland and the District of Columbia (“DC”). The Respondent began his employment at the Practice on August 1, 2021.

II. Complaint

3. On July 26, 2022, the Board received a Delegation Agreement Addendum for Advanced Duties (the “Addendum”) filed by a physician assistant (the “PA-C”) and a primary supervising physician (the “Supervising Physician”) employed at the Practice. The Addendum requested approval for the PA-C to perform Intrauterine Device (IUD) insertion

¹ The names of facilities and individuals in this document are confidential.

and removal under the supervision of the Respondent who was designated in the Addendum as the Alternate Supervising Physician (the “ASP”).

4. The Respondent signed the Primary Supervising Physician Attestation portion of the Addendum on July 12, 2022 indicating that he was the ASP to directly supervise IUD delegation.

5. Attached to the Addendum was a procedure log documenting the PA-C’s performance of ten (10) IUD insertions performed between April 29, 2022 and June 23, 2022, and ten (10) IUD removals performed between April 19, 2022 and June 22, 2022.

6. According to the procedure log, the PA-C performed one IUD removal procedure on June 14, 2022 under the direct supervision of the Respondent.

7. The procedure log further notes that the remaining procedures were performed under the direct supervision of another physician assistant at the Practice.

8. The Respondent signed the procedure log on July 12, 2022 and noted “ASP” and his Maryland license number.

9. After reviewing the above Addendum and procedure log, the Board initiated an investigation.

III. Board Investigation

10. As part of its investigation, the Board subpoenaed records; reviewed filed delegation agreements; notified the Respondent of the Complaint and investigation; and requested a written response from the Respondent.

11. In reviewing filed delegation agreements the Board found that the PA-C had been practicing without a Board-approved Delegation Agreement for Core Duties since August 1, 2021.

12. By letter dated November 9, 2022, the Board notified the Respondent that it received information that he was serving as an ASP for a PA-C without a Board-approved Delegation Agreement for Core Duties and without a Board-approved Delegation Agreement Addendum for Advance Duties.

13. The Board directed the Respondent to address these allegations in a written response within ten (10) business days.

14. On November 22, 2022, the Respondent, through counsel, submitted a response stating that the Respondent was not “involved in the actual submission of [the PA-C’s] Core Duties Delegation Agreement in July 2021.”

15. The letter further states that “[the PA-C] and the [Supervising Physician] had every reason to believe that the new Agreement had been properly submitted...and that the Respondent had the same reasonable belief at the time he signed [the PA-C’s] Advanced Duties Delegation Agreement in July 2022.”

16. The Board’s investigation determined that the Respondent served as an ASP for a physician assistant who practiced without Board-approved Delegation Agreements.

17. The Board’s investigation also determined that the Respondent served as an ASP for a physician assistant during the insertion and/or removal of IUDs in the absence of filing delegation agreements with the Board on a Board-approved form and prior to receiving confirmation of approval from the Board.

CONCLUSIONS OF LAW

Panel B concludes that the Respondent: is guilty of unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(ii); and violated 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, in violation of Health Occ. § 14-404(a)(43).

ORDER

It is, thus, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel B, hereby:

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

ORDERED that, within **SIX MONTHS**, the Respondent shall pay a civil fine of \$1,000.00. 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, 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 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 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 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).

06/07/2023

Date

Signature On File

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

CONSENT

I, Seth M. Garber, 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 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

6/6/23

Date

Seth M. Garber, M.D.
Respondent

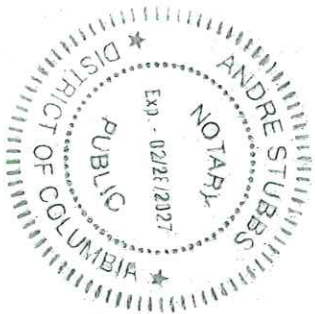
NOTARY

STATE OF Washington DC

CITY/COUNTY OF Washington DC

I HEREBY CERTIFY that on this 6th day of June, 2023, before me, a Notary Public of the foregoing State and City/County, did personally appear Seth M. Garber, M.D., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSTH my hand and seal.



[Signature]
Notary Public

My commission expires: 02/28/2027