

IN THE MATTER OF

*

BEFORE THE

ABHISHEK FREYER M.D.

*

MARYLAND STATE

Respondent

*

BOARD OF PHYSICIANS

License Number: D88339

*

Case Number: 2221-0011A

* * * * *

CONSENT ORDER

On October 28, 2020, Disciplinary Panel A of the Maryland State Board of Physicians (the “Board”) charged **ABHISHEK FREYER M.D.** (the “Respondent”), License Number **D88339**, with violating the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. § 14-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.).¹ The pertinent provisions of the Act provide the following:

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

(a) 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;

¹ On October 26, 2020, Panel A summarily suspended the Respondent’s license pursuant to Md. Code Ann., State Gov’t § 10-226(c)(2)(i) (2014 Repl. Vol. & 2019 Supp.). On November 5, 2020, after a show cause hearing, the summary suspension was continued.

(4) Is professionally, physically, or mentally incompetent[.]

On December 2, 2020, 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, Order, and Consent.

FINDINGS OF FACT

Disciplinary Panel A of the Board finds the following:

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 September 27, 2019, under License Number D88339.

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

3. At all times relevant hereto, the Respondent was employed as a physician at a practice that provides pulmonology and critical care services (the “Practice”) with privileges to practice as an intensivist in the intensive care unit at a hospital located in Baltimore County, Maryland (the “Hospital”).

4. On or about May 28, 2020, the Board received a complaint from a physician assistant (the “Physician Assistant”) alleging the Respondent exhibited “inappropriate agitated behavior and apparent impairment of his ability to ‘dial in’ cognitively” on April 6, 2020, and additional concerning behaviors on May 19, 2020, at the Hospital.

5. On or about June 3, 2020, the Board received a Mandated 10-Day Report from the Hospital which reported that the Respondent's privileges were suspended after he was observed behaving inappropriately at the beginning of his shift on May 19, 2020, including arriving late, being unable to focus or being disoriented, slurring words and having slow speech, glassy or glazed eyes, sweating, being loud and angry as well as other concerns.

6. On receipt of the report, the Board initiated an investigation into the allegations.

II. BOARD INVESTIGATION

7. As part of its investigation, Board staff conducted interviews and obtained records including the personnel files from the Practice and the Hospital, as well as records from the Maryland Physician Health Program ("MPHP").²

8. The Board's investigation revealed on April 6, 2020, the Respondent was observed yelling at a technician for not standing six feet away from another co-worker at the Hospital.³ Then, after the encounter with the technician, the Respondent went to a patient's room, and based on the Physician Assistant's observation, stood at the door, looked at the patient, and yelled in a "bizarre" fashion, "Oh, my God. Oh, my God. She looks terrible." The Respondent then said they needed to intubate the patient, when the patient was already intubated. The Physician Assistant attempted to present the patient's

² The Respondent signed a release for the Board to receive the MPHP records, and the Board reviewed the records as part of the investigation.

³ According to the Board investigator's interview of the Department of Medicine and Director of Clinical Care at the Hospital (the "Chairman"), April 6, 2020, "was not the first time that he had demonstrated volatile behavior." Additionally, the Board's investigation revealed at least four staff members reported observing the Respondent yell at the technician.

case to the Respondent but described that he seemed unable to engage and at one point backed out of the room and stumbled. The Respondent then re-entered the room and requested an ultrasound machine even though there were already two visible ultrasound machines in the room. While the Respondent took ultrasound images he remained “oddly agitated and just reactive.”

9. On April 7, 2020 at 6:54 p.m., the CEO of the Practice (the “CEO”) directed the Respondent to submit to a drug screening the following day. The Respondent failed to appear for a drug screen on April 8.

10. On May 19, 2020, two doctors of osteopathy (“D.O. #1” and “D.O. #2”) reported concerns to the Department of Medicine and Director of Clinical Care at the Hospital (the “Chairman”) questioning the Respondent’s ability to practice medicine and requested that the Chairman come assess the situation.⁴

11. Specifically, D.O. #1 reported that the Respondent appeared “glazed over,” his speech was slow and slurred, and he did not seem to be paying attention to D.O. #1. For example, D.O. #1 explained to the Board’s investigator that after she went through all fifteen patients with the Respondent in detail, he replied, “so what do I have to check again tonight?”⁵

12. D.O. #2 also reported that when the Respondent arrived that evening his eyes were “glassy,” his pupils were constricted, he had slurred speech, was diaphoretic, tremulous, was swaying, and seemed unsteady. D.O. #2 further reported that the

⁴ In addition to D.O. #1 and D.O. #2, at least two other staff members present at the time made reports of the Respondent’s concerning behavior.

⁵ D.O. #2 also observed the Respondent interact with D.O. #1 in a disoriented manner where the Respondent was unable to accurately reflect back what D.O. #1 had reported to him about the patients.

Respondent was gesturing with his hands “in a strange way” and was not replying appropriately to patient care issues.⁶

13. When the Chairman arrived at the Hospital, he sent the Respondent home due to the unusual behavior that was reported and because of the other medical staff’s lack of confidence in the Respondent’s ability to work that evening.

14. After the Respondent was sent home, the CEO called the Respondent on May 19, 2020, at which time, the Respondent was “very erratic, slurring his words, his conversation was difficult to follow.” Subsequently, on May 20, 2020 at 9:06 a.m., the Respondent was instructed to submit to a drug screening that morning. The Respondent did not present for the drug screening on May 20, 2020.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel A of the Board concludes as a matter of law that the Respondent is guilty of unprofessional conduct in the practice of medicine in violation of Health Occ. § 14-404(a)(3)(ii) and being professionally, physically, or mentally incompetent in violation of Health Occ. § 14-404(a)(4).

⁶ During her interview with the Board’s investigator, D.O. #2 reported experiencing prior challenges working with the Respondent stating he “consistently demonstrates labile temperament, volatile behavior . . . ineffective clinical judgment and ability to kind of participate in the care team.”

ORDER

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

ORDERED that the Respondent's Order for Summary Suspension of License to Practice Medicine, dated October 26, 2020; and is hereby **TERMINATED AS MOOT**; and it is further

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

ORDERED that the Respondent's license to practice medicine is **SUSPENDED**;⁷ and it is further

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

1. The Respondent shall enroll in the Maryland Professional Rehabilitation Program (MPRP) as follows:
 - (a) Within 5 business days, the Respondent shall contact MPRP to schedule an initial consultation for enrollment;
 - (b) Within 15 business days, 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/her release/consent;

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

(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/her 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;

2. MPRP will arrange for a psychiatric evaluation and any other evaluation(s) that MPRP determines are necessary to assess the Respondent's safety to return to the practice of medicine. The Respondent shall submit to the psychiatric evaluation and any other evaluation(s) as directed by MPRP;
3. The Respondent shall successfully complete MPRP and be found safe to practice by MPRP; and it is further

ORDERED that during the suspension period, the Respondent shall not:

- (1) practice medicine;
- (2) 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;
- (3) 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;
- (4) function as a peer reviewer for the Board or for any hospital or other medical care facility in the state;
- (5) prescribe or dispense medications; or
- (6) perform any other act that requires an active medical license; 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 his or her

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, but not limited to, probation and/or 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 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 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 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 this Consent Order is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

12/14/2020
Date

Signature on File

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

CONSENT

I, Abhishek Freyer, 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.

12/11/2020
Date

Signature on File

Abhishek Freyer, M.D.

NOTARY

STATE OF Maryland

CITY/COUNTY OF Baltimore city

I **HEREBY CERTIFY** that on this 11th day of December, 2020, before me, a Notary Public of the State and County aforesaid, personally appeared Abhishek Freyer, M.D., and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Joseph Yount
Notary Public

My Commission Expires: Sept 2023

