

IN THE MATTER OF	*	BEFORE THE
BINYAMIN C. ROTHSTEIN, D.O.	*	MARYLAND STATE
Applicant for Reinstatement	*	BOARD OF PHYSICIANS
Former License No: H30277	*	Case No: 8820-0001
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**ORDER ON APPLICATION FOR REINSTATEMENT  
OF MEDICAL LICENSE**

**I. INTRODUCTION**

On May 25, 2005, the Maryland State Board of Physicians (“Board”) issued a Final Opinion and Order revoking the license of Binyamin C. Rothstein, D.O., based on his failure to comply with the probationary terms of a Consent Order he entered into with the Board, for his violation of the Medical Practice Act, and for his lengthy disciplinary history. On May 13, 2019, Dr. Rothstein applied for the reinstatement of his medical license. On July 15, 2020, Board Disciplinary Panel B (the “Panel”) convened as a Reinstatement Inquiry Panel to consider Dr. Rothstein’s application.<sup>12</sup> The Panel reviewed Dr. Rothstein’s application for reinstatement; Dr. Rothstein’s responses to questions from the Board with attached documentation, which included an order from the Pennsylvania State Board of Osteopathic Medicine; a response from the administrative prosecutor recommending denial of Dr. Rothstein’s reinstatement; a print-out from Dr. Rothstein’s website; and Dr. Rothstein’s prior Board disciplinary orders. The Panel also heard oral presentations from Dr. Rothstein and from the administrative prosecutor.

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<sup>1</sup> Pursuant to COMAR 10.32.02.06B(5) the disciplinary panel that issued the order to revoke is the Panel who convenes the Reinstatement Inquiry Panel. Dr. Rothstein’s license was revoked prior to the establishment of disciplinary panels, under Section 4, ch. 401, Acts 2013, so the Board assigned this matter to Disciplinary Panel B.

<sup>2</sup> The regulations describe the person applying for reinstatement as a “petitioner” and the document submitted as an “application.” In this document “petition” and “application” are used interchangeably.

## **II. PROCEDURAL AND FACTUAL HISTORY**

### **A. Dr. Rothstein's 1996 Consent Order**

In 1995, the Board received complaints from two physicians who also treated some of Dr. Rothstein's patients. The Board opened an investigation, sent ten patients' records for peer review, and, after the peer reviewers concluded that Dr. Rothstein had violated the standards for the delivery of quality medical care, charged Dr. Rothstein with a violation of the Maryland Medical Practice Act. On March 28, 1996, Dr. Rothstein entered into a Consent Order with the Board (the "1996 Consent Order"). The Board found that Dr. Rothstein failed to meet the standard of care, in violation of Maryland Code Ann., Health Occ. § 14-404(a)(22), based on his failure to obtain symptoms, vital signs, or conduct necessary diagnostic or laboratory tests; failure to evaluate and treat serious medical conditions; inaccurate diagnoses; treatments without medical rationale; failure to obtain consent for alternative treatments; and inadequate physical examinations and medical histories.<sup>3</sup> As a sanction, the Board suspended Dr. Rothstein's medical license for three years. The suspension was stayed after 90 days, and Dr. Rothstein was placed on probation for the remainder of the three years. As part of the probation, Dr. Rothstein's practice was monitored, he was required to take multiple courses, and he was subject to a subsequent peer review.

### **B. Dr. Rothstein's Violation of the 1996 Consent Order and Entry into the 2000 Consent Order**

Pursuant to the terms of the 1996 Consent Order, on November 7, 1997, the Board referred the case to Med Chi's Peer Review Management Committee for a review of the "conventional" portion of Dr. Rothstein's practice to determine whether Dr. Rothstein was "neglecting

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<sup>3</sup> The violation under Health Occ. § 14-404(a)(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 surgical facility, office, hospital, or any other location in this State") will be referred to in this document as a violation of the standard of care.

conventional efficacious diagnostic and therapeutic means in favor of alternative treatment and was monitoring his patients for potential harmful side effects secondary to alternative techniques.” The peer reviewers determined that Dr. Rothstein failed to meet the standard of care in nine of ten patients reviewed. On September 15, 1999, the Board charged Dr. Rothstein with violating the probationary conditions set forth in the 1996 Consent Order.

On February 23, 2000, Dr. Rothstein and the Board entered into a second Consent Order (the “2000 Consent Order”). In the 2000 Consent Order, the Board found that Dr. Rothstein violated the 1996 Consent Order by violating the standard of care in his treatment of nine of the ten patients reviewed. Dr. Rothstein failed to perform and document adequate physical examinations and medical histories, failed to document his role in patient treatment, and failed to document providing conventional treatment when needed. Even further, Dr. Rothstein failed to properly interpret the results of a patient’s EKG; failed to address and monitor various medical conditions or evaluate patient complaints; and used alternative medical procedures including chelation therapy, vitamin injections, and/or hydrogen peroxide injections without assessing whether such treatments were efficacious, or documenting, discussing, or monitoring side effects of the non-conventional methods. As a sanction, Dr. Rothstein was placed on probation for an additional three years and required to terminate his “alternative” or “complementary” medicine during the entire period of probation. Alternative or complementary medicine was defined to include chelation therapy, hydrogen peroxide therapy, and vitamin therapy. Dr. Rothstein also agreed to be monitored by a peer supervisor.

### **C. The Board's 2005 Revocation of Dr. Rothstein's License**

In 2003, the Board charged Dr. Rothstein with violating the 2000 Consent Order by providing complementary therapies, which were prohibited by the terms of his probation, failing to meet the standard of care, and failing to cooperate with the Board's investigation. On May 25, 2005, after an eight-day evidentiary hearing and exceptions process, the Board revoked Dr. Rothstein's medical license.

First, Dr. Rothstein practiced alternative or complementary medicine during his probation period, in violation of the 2000 Consent Order. Dr. Rothstein treated one patient with a substance called Kali Bich and another patient with intravenous colchicine, as part of his "vitamin cocktails," which the Board found were both alternative treatments. Second, Dr. Rothstein, for a third time, violated the standard of care, this time for three patients.

Finally, Dr. Rothstein failed to cooperate with the Board's lawful investigation. Though patient records were subpoenaed for six patients, Dr. Rothstein did not provide the patient consent forms, which were part of the patient records, until almost two years after the initial subpoena was sent to him. These documents included specific notice to patients that Dr. Rothstein was performing alternative treatments. The Board found that Dr. Rothstein deliberately withheld the consent forms to prevent the Board from obtaining evidence of his violation of the 2000 Consent Order by performing alternative treatments.

The Board found that after a decade of probation, peer reviews, and supervision Dr. Rothstein continued to practice substandard medicine. The Board concluded that, after attempting to rehabilitate Dr. Rothstein for a decade, Dr. Rothstein was not capable of being re-educated and would pose a danger to the public if he was allowed to continue to practice medicine. Accordingly,

Dr. Rothstein's license was revoked, and he was not permitted to apply for reinstatement for five years.

#### **D. Dr. Rothstein's Practice After Revocation**

After his 2005 revocation, Dr. Rothstein engaged in a practice he called "energy healing." The Board subpoenaed his treatment records to determine whether this constituted practicing medicine without a license. Dr. Rothstein then immediately ceased his "energy healing" practice. The Board did not charge him with practicing medicine without a license. Dr. Rothstein also opened a laser hair removal surgery practice, a practice that constitutes the practice of medicine. *See Mesbahi v. Maryland State Bd. of Physicians*, 201 Md. App. 315, 334 (2011); Declaratory Ruling (DR) 00-1 (2002). After the Board began an investigation, he quickly closed the practice but refused to comply with the Board's subpoenas. The Board did not bring suit to compel production of records and did not charge him with practicing without a license. Dr. Rothstein also opened an unlicensed massage therapy practice in Pennsylvania. When the Board inquired about this, Dr. Rothstein stated that he was unaware that Pennsylvania law had been amended to require a license to practice massage therapy. Upon such notification, he reached an agreement with the Pennsylvania authorities that allowed him to continue to practice until May 2011, at which point he closed his practice.

#### **E. The Board's Denial of Dr. Rothstein's Reinstatement in 2011**

In 2010, Dr. Rothstein filed a Petition for Reinstatement with the Board. In the December 21, 2011 Board Decision on Petition for Reinstatement, the Board considered his two consent orders, his revocation order and considered his activity since his revocation, including his "energy healing" practice, his laser hair removal practice, and his massage therapy practice in Pennsylvania. In his reinstatement application, Dr. Rothstein admitted he was wrong, in some

instances, about his conduct related to the revocation of his license, yet he maintained a website where he stated that the Board revoked his license “because my patients did well” and that the Board was unable to find a misdiagnosis or mismanagement while supervising him. The Board noted that Dr. Rothstein’s statements on his website were an inaccurate portrayal of his consent orders and revocation. The Board denied Dr. Rothstein’s Petition for Reinstatement and explained that while he admitted a few of the Board’s past findings, he did not persuade the Board that he had changed his outlook nor was more likely to practice medicine safely at that time.

#### **F. Dr. Rothstein’s Osteopathic License in Pennsylvania**

In 2006, Dr. Rothstein submitted an application for licensure as an osteopathic physician in Pennsylvania. In 2007, the Pennsylvania State Board of Osteopathic Medicine (the “PA Board”) provisionally denied his application based on the Maryland Board’s disciplinary actions in 1996, 2000, and 2005. In 2010, the hearing examiner issued a Proposed Adjudication and Order recommending the denial of Dr. Rothstein’s license. On August 10, 2012 the PA Board issued a Final Adjudication and Order granting Dr. Rothstein a license subject to a minimum period of five years’ workplace monitoring and supervised practice that required that he have a board approved supervisor review 10 charts every 3 months. Due to his relocation abroad prior to the PA Board granting him a license in 2012, Dr. Rothstein did not begin to practice in Pennsylvania until 2016. On January 22, 2019, Dr. Rothstein submitted a letter requesting that the PA Board grant him an unrestricted license because, according to Dr. Rothstein, he had been unable to obtain employment due to his probationary status. The PA Board considered reports from the affiliate of the Pennsylvania Medical Society who performed assessments and monitoring services for Dr. Rothstein’s practice starting August 23, 2017. On July 16, 2019, the PA Board ultimately denied Dr. Rothstein’s request for an unrestricted license.

### III. CURRENT APPLICATION FOR REINSTATEMENT

On May 16, 2019, the Board received Dr. Rothstein's current application for reinstatement. Dr. Rothstein was required to complete the Special Purpose Examination (SPEX), which he completed, and on February 26, 2020, the Board asked Dr. Rothstein to respond to a series of questions, including the following:

1. What is your understanding of the nature and circumstances of your conduct, which resulted in the revocation of your Maryland license?
2. What is your understanding of the Board's concerns with respect to your conduct?
3. Have you accepted responsibility for the action(s) resulting in the revocation of your license?
4. What steps have you taken to lessen the likelihood of recurrence?
5. What efforts have you made to maintain your competency to practice medicine in your area of specialty (i.e. continuing education credits)?

The Board also asked additional questions that pertained specifically to Dr. Rothstein. The Board asked what Dr. Rothstein meant when he stated that he planned to practice "conventional osteopathy." The Board asked questions about the type of medicine he was practicing in Pennsylvania and asked about the status of his probation in Pennsylvania. The Board also asked for his correspondence and supervisory work performance evaluations related to his probation in Pennsylvania.

On April 21, 2020, Dr. Rothstein sent a written response to the questions. Dr. Rothstein admitted to being uncooperative with the Board and violating the standard of care in the past. He stated that he took responsibility for his conduct. Regarding maintaining competency, Dr. Rothstein noted he has practiced in two other jurisdictions, Pennsylvania and Israel, since his license was revoked. Dr. Rothstein noted that he passed the Family Practice boards and SPEX examination and noted that he has reviewed medical literature and shadowed a physician for a month in 2019. He submitted documentation of Continuing Medical Education credits and

provided five letters of recommendation. Dr. Rothstein explained his probation in Pennsylvania that was part of the granting of his license there. He also claimed to have grown and changed.

#### **IV. CONSIDERATION OF APPLICATION**

The reinstatement of a physician's medical license after revocation is a discretionary decision by the Panel. Health Occ. § 14-409; *see Oltman v. Maryland State Board of Physicians*, 182 Md. App. 65, 78 (2008). The Panel must consider whether post-disciplinary reinstatement is in the interest of the health and welfare of the general public and consistent with the best interest of the profession. COMAR 10.32.02.06B(7). If a disciplinary panel chooses not to reinstate the petitioner's license, the "disciplinary panel decision denying reinstatement may set out when, *if ever*, a subsequent petition may be submitted." COMAR 10.32.02.06B(8) (emphasis added).

As an initial matter, the Panel notes the serious nature of Dr. Rothstein's conduct and the relation to patient care. Dr. Rothstein's two prior consent orders and Order of Revocation all included standard of care violations. The Board found, in the Order of Revocation, that Dr. Rothstein was incapable of being re-educated and concluded that he would pose a danger to the public if allowed to continue practice. The health, safety, and welfare of the public is the Board's primary mission, as required by Health Occ. § 1-102(a), and thus the Panel must take into account that many of Dr. Rothstein's violations concerned patient safety issues.

A second element of Dr. Rothstein's disciplinary history is his failure to follow the Board's directions and his inattentiveness to the law and his legal obligations under the Maryland Medical Practice Act. Despite signing the 2000 Consent Order where he agreed to stop performing complementary or alternative medicine, Dr. Rothstein continued his complementary practice and deliberately hid this fact during the investigation by failing to comply with a Board subpoena that would have revealed that he continued to perform complementary treatments. These were factors

that contributed to the Board's decision to revoke his license in 2005, and to the Board's conclusion that he was incapable of being re-educated. Following the revocation of his license, Dr. Rothstein was investigated multiple times for practicing without a license, including his energy healing practice and his laser hair removal practice. Dr. Rothstein failed to comply with a Board subpoena during these investigations, as well. His proclivity for violating the law was also apparent when he practiced massage therapy in Pennsylvania without a license when one was required. Dr. Rothstein's behavior after his revocation does not give the Panel confidence that he will faithfully follow the law if reinstated.

Dr. Rothstein's letters to the Board exhibit expressions of contrition and acknowledgments of his uncooperativeness and Dr. Rothstein claims to accept responsibility for his conduct. However, during his last application for reinstatement, the Board noted that Dr. Rothstein admitted he was wrong in some specific instances but then noted that he maintained a website that misstated the reasons for his revocation and incorrectly stated that the Board was "never able to find a misdiagnosis or mismanagement." Dr. Rothstein continues to maintain a website, which was updated after his last reinstatement application, where he continues to publish misstatements about the Board's prior orders. He asserts on his website that he had a "battle" with the Maryland Board "over his use of alternative therapies even though there was never any patient complaint, harm or misdiagnosis." The Board, however, documented several instances of misdiagnoses and significant potential for patient harm. Dr. Rothstein's denial of responsibility on his website does not give the Panel confidence that his statements in his current reinstatement application are sincere.

The Panel is also not reassured by his practice in Pennsylvania since the revocation of his Maryland license. Dr. Rothstein began to practice in Pennsylvania in 2016 under supervised

probation that was a term of the granting of his license in Pennsylvania. Dr. Rothstein petitioned the PA Board for his license to be unrestricted. According to the Order of the Pennsylvania Board denying Dr. Rothstein's request for an unrestricted license, Dr. Rothstein's practice monitor reports included concerns that his notes were "uniformly cursory," his examinations appeared to be minimal, and his treatment plans were typically sketchy. Further, some of his patient records were missing a medication history. His medical records were also critiqued for a lack of medical history. His second to last practice monitoring report, dated July 30, 2018, noted that his medical records lacked certain information such as an assessment of acute or chronic pain, the "mechanism of aggravation" for a recurring injury, and recommended treatment. His last practice monitoring report, dated October 4, 2018, noted that some patient records were reasonably adequate while other were cursory. The Pennsylvania Board, therefore, declined Dr. Rothstein's Petition for Special Relief for an unrestricted license without supervision or probation.

In sum, the Panel is not satisfied that it is in the interest of the public health, safety, or welfare for Dr. Rothstein to return to the practice of medicine in Maryland. Dr. Rothstein's practice deficiencies that resulted in two consent orders and in the revocation of his medical license were significant and directly concerned patient care. Dr. Rothstein flouted the Board's authority by failing to cooperate on two occasions with Board investigations. While Dr. Rothstein claims that he accepts responsibility for his actions, he continues to maintain a website where he claims that he was unfairly treated by the Board and mischaracterizes Board orders. Despite several years of practice in Pennsylvania, and fifteen years following the revocation of his license, there is insufficient evidence that Dr. Rothstein's practice has significantly improved and that he fully accepts responsibility for his actions. The Panel will, therefore, deny his May 13, 2019 Application for Reinstatement and will not accept any further petitions for reinstatement.

**ORDER**

It is, by Board Disciplinary Panel B, hereby

**ORDERED** that the May 13, 2019 Application for Reinstatement of Medical Licensure of Binyamin C. Rothstein, D.O., former license number H30277, is **DENIED**; and it is further

**ORDERED** that Dr. Rothstein shall not reapply for the reinstatement of his license to practice medicine in Maryland; and it is further

**ORDERED** that this 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***

10/05/2020  
Date

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