

IN THE MATTER OF

*

BEFORE THE

DEWAYNE MARTIN

*

MARYLAND STATE

Respondent

*

BOARD OF PHYSICIANS

Unlicensed

*

Case Number: 2223-0006 B

* * * * *

CEASE AND DESIST ORDER

Pursuant to the authority granted to Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) under Md. Code Ann., Health Occ. (“Health Occ.”) § 14-206(e)(1) and (2)(i) (2021 Repl. Vol.), Panel B hereby orders **DEWAYNE MARTIN** (the “Respondent”), an unlicensed individual, to immediately **CEASE AND DESIST** from all activities associated with the practice of medicine in the State of Maryland, as defined in Health Occ. § 14-101(o), and from representing to the public that he is authorized to practice medicine in the State of Maryland.

The pertinent provisions of the Maryland Medical Practice Act (the “Act”), Health Occ. §§ 14-101 *et seq.*, under which Panel B issues this Order provide the following:

§ 14-101. Definitions.

- (o) *Practice medicine.* – (1) “Practice medicine” means to engage, with or without compensation, in medical:
 - (i) Diagnosis;
 - (ii) Healing;
 - (iii) Treatment;
 - (iv) Surgery.
- (2) “Practice medicine” includes doing, undertaking, professing to do, and attempting any of the following:
 - (i) Diagnosing, healing, treating, preventing, prescribing for, or removing any physical, mental, or emotional ailment or supposed ailment of an individual:

1. By physical, mental, emotional, or other process that is exercised or invoked by the practitioner, the patient, or both; or
2. By appliance, test, drug, operation, or treatment[.]

§ 14-206. Judicial Powers.

- ...
- (e) *Cease and desist orders; injunctions.* – A disciplinary panel may issue a cease and desist order or obtain injunctive relief against an individual for:
- (1) Practicing a profession regulated under this title or Title 15 of this article without a license;
 - (2) Representing to the public, by title, description of services, methods, procedures, or otherwise, that the individual is authorized to practice:
 - (i) Medicine in this State, in violation of § 14-602 of this title[.]

§ 14-601. Practicing without license.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice medicine in this State unless licensed by the Board.

§ 14-602. Misrepresentation as a practitioner of medicine.

- (a) *In general.* -- Unless authorized to practice medicine under this title, a person may not represent to the public, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice medicine in this State.

INVESTIGATIVE FINDINGS¹

Based on the investigatory information received by, made known to, and available to Panel B, there is reason to believe that the following facts are true:

¹ The statements regarding the Board's investigative findings are intended to provide the Respondent with reasonable notice of the basis of the Board's action. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

Background

1. The Respondent never has been licensed to practice medicine in the State of Maryland. The Respondent never has been licensed or certified by any health occupations licensing board in Maryland.

The Complaints

2. On or about September 29, 2020, the Board received a complaint (“Complainant No. 1”) concerning a Clinic (the “Clinic”) located in Baltimore County, Maryland that offered medical treatment to men for erectile and sexual dysfunction. At all relevant times, the Respondent worked as a Staff Member at the Clinic. Complainant No. 1 stated that he was a prostate cancer survivor and started going to the Clinic for treatment. Complainant No. 1 shared this information with his urologist who informed him the Clinic “is out to get over on people and he told me to stop going there because it’s not safe.” Complainant No. 1 also stated he spoke to his insurance company who informed him the Clinic was “a Scam Organization,” and was told to “contact the Attorney General Office and the Better Business Bureau.” Complainant No. 1 provided an invoice that he was billed \$2,700.00 for treatment at the Clinic, and stated the Clinic “would not take my insurance.”

3. On or about October 29, 2020, the Board received a second complaint (“Complainant No. 2”) concerning the Clinic. Complainant No. 2 stated the Clinic “advertises that: ‘Our doctors will provide a personal diagnosis and treatment plan.’” However, Complainant No. 2 stated he “visited the clinic and was examined by a Physician Assistant....” Complainant No. 2 stated he “was never seen by an M.D. or D.O.

Does the Board consider a P.A. to be a doctor? This clinic continues to advertise on [a] Baltimore radio station.”

4. On or about January 14, 2021, the Board received a third complaint (“Complainant No. 3”) concerning the Clinic. Complainant No. 3 stated he had filed a medical malpractice case against the Clinic and a Physician Assistant (the “P.A.”) who worked at the Clinic. In part, Complainant No. 3 stated the Clinic “is owned and operated by a convicted felon...[who] operate[s] multiple erectile dysfunction Clinics across the country.” Complainant No. 3 further stated Clinics in other states allowed “non-physician Clinic staff ‘determine treatment eligibility and dosing and even allowed them to administer the injection to patients’ penises.””

5. After reviewing these Complaints, the Board opened an investigation of the Respondent.

The Board Investigation

6. In furtherance of its investigation, Board staff in part interviewed the P.A., a Physician who was employed by the Clinic and supervised the P.A. pursuant to a Delegation Agreement (the “Physician”), Complainant No. 2 and Complainant No. 3. Board staff also subpoenaed medical records from the Clinic for Complainant No. 1, Complainant No. 2 and Complainant No. 3. The Board also received a written summary of care from the P.A. for Complainant No. 1, Complainant No. 2 and Complainant No. 3. The Board also received appointment logs from the Clinic, and records from the Prescription Drug Monitoring Program (“PDMP”) for the P.A. The Board also received a response to the Complaints from the P.A. and the Physician. The Board also received the

personnel files from the Clinic for the P.A., the Physician and the Respondent. The Board also received policies and procedures from the Clinic. The Board also conducted an onsite inspection of the Clinic with the Maryland Office of Controlled Substances Administration (“OCSA”).

The Investigation

7. The investigation revealed that since approximately 2017, the Clinic was registered with the State of Maryland to conduct business. The Clinic advertised that its “goal is to provide the best treatment options for erectile dysfunction. Our licensed physicians provide real, long lasting solutions for erectile dysfunction, premature ejaculation, and low testosterone. Our doctors will provide a personal diagnosis and treatment plan to safely awaken your sex life in just one visit.” The treatments included penile injection therapy called an intracavernosal injection (“ICI”), and prescribing medication to assist men in having and maintaining erections. The Clinic charged thousands of dollars for these treatments.

8. An ICI is a combination of drugs including alprostadil, papaverine, phentolamine, and atropine that are injected directly into the penis to provide an erection immediately after injection.

9. At all relevant times, the P.A. provided treatments to Complainant No. 1, Complainant No. 2, Complainant No. 3 and other individuals at the Clinic. At all relevant times, the Physician was the supervising physician for the P.A. at the Clinic pursuant to a

Delegation Agreement.² Also, the Respondent, who does not hold a license in any medical field, and a CNA/Phlebotomist (Staff Member No. 1) assisted the P.A.

10. In the Delegation Agreement, the Physician and the P.A. did not seek approval from the Board for the P.A. to treat priapism. Priapism is a medical emergency and may cause permanent tissue damage and loss of penile function (fibrosis) if not successfully treated within 36-48 hours of onset. Additionally, the Physician and the P.A. did not seek approval from the Board for the P.A. to delegate treatment of priapism to medical assistants. Despite this, the P.A. treats priapism with phenylephrine injections without seeking permission from the Physician or having been approved to do so by the Board.

11. The P.A. stated he prescribed ICIs to 75-80% of his patients and is aware that compared to oral medications like Viagra, the ICI he administers carries an increased risk of priapism. Despite being the only healthcare provider onsite at the Clinic for treating priapism, the P.A. stated he did not know how long it takes priapism to cause fibrosis.

12. When patients report priapism, Clinic staff, including the Respondent, first tell the patient to take Sudafed, drink water and take warm baths. If these methods do not relieve the priapism, the Clinic does not tell the patient that they are facing a medical emergency and to go to the emergency room for prompt treatment.

² A "Delegation Agreement" is "a document that is executed by a primary supervising physician and a physician assistant containing the requirements of § 15-302 of this title." Md. Health Occ. Code Ann. § 15-101(i). (Note: § 15-302 sets forth the requirements of a delegation agreement and practice).

13. The Respondent stated that “I do not advise patients to go to the ER. I have always talked to [the P.A.] before recommending anything in that area.” Instead, Clinic staff instructs the patient to return to the Clinic where he will receive a shot of phenylephrine in an attempt to relieve the priapism.

14. The P.A. stated he is responsible for supervising the medical assistants at the Clinic, including the Respondent and Staff Member No. 1. Although the Respondent and Staff Member No. 1 are not licensed to practice medicine, the P.A. testified that the “medical assistants are trained in giving phenylephrine shots to treat priapism. They come in in the middle of the night sometimes, when I’m not available. They come in on weekends, when I’m not available. I’m always apprised of it.”

15. The Respondent stated that his role at the Clinic was limited. “Yeah, I prepare-stock the rooms. Just escort patients to the rooms to meet with [the P.A.]. Sterilize the office and all that.” Nevertheless, the Respondent acknowledged that the Clinic trained him to administer phenylephrine injections into the penises of Clinic patients experiencing priapism. The Respondent claimed that he had never administered phenylephrine to any patients. However, Complainant No. 3, his fiancée, and the P.A. testified that the Respondent administered phenylephrine to Complainant No. 3 to treat his priapism. (See summary of care for Complainant No. 3 *infra*)

16. The Respondent did admit that he was allowed by the P.A. to administer testosterone to patients of the Clinic by way of an injection into the arm or deltoid. Testosterone is a Schedule III controlled dangerous substance.

17. The Physician stated that he was unaware the P.A. allowed medical assistants to administer phenylephrine, and that medical assistants should not be administering phenylephrine when the P.A. was unavailable.

Complainant No. 3

18. On July 20, 2020, Complainant No. 3 contacted the Clinic concerning his erectile dysfunction after hearing radio advertisements. On July 21, 2020, Complainant No. 3 initially met with the Clinic Manager who told him “a physician will attend to you shortly.”

19. Complainant No. 3 met with the P.A. for his initial consultation. During the consultation, the P.A. only recommended an ICI. The P.A. admittedly did not discuss less-invasive oral erectile dysfunction medications such as Viagra with Complainant No. 3. At the initial consultation, Complainant No. 3 received an ICI as the P.A. advised. However, the ICI failed to produce an erection while Complainant No. 3 was at the Clinic. The P.A. instructed Complainant No. 3 to administer two ICIs himself at home during the week. Complainant No. 3 self-administered the ICI on July 23, 2020 and July 26, 2020, both times without results.

20. On Tuesday July 28, 2020, Complainant No. 3 returned to the Clinic for a scheduled follow-up appointment. On this day, Complainant No. 3 met with the Respondent. Although the Respondent is not licensed in any health field, the Respondent demonstrated a technique to improve the effectiveness of the ICI at causing an erection, and provided Complainant No. 3 with additional ICIs and a supply of Cialis for use if the injections again proved ineffective. During the investigation, the Clinic

produced three different notes for this visit, two of which appear to have been prepared during the pendency of the investigation.

21. Thereafter, on July 28, 2020 at 1:00 pm, Complainant No. 3 again self-administered the ICI and developed an erection. The erection continued for hours and developed into painful priapism. Per the instruction provided by the P.A., Complainant No. 3 called the Clinic for assistance and was advised to take 4-8 Sudafeds, drink 6-10 cups of water and return to the Clinic on July 29, 2020. Complainant No. 3 reported he did as he was advised, but the priapism did not abate.

22. On the morning of July 29, 2020, Complainant No. 3 arrived at the Clinic at 9:00 am and was administered a shot of phenylephrine in an attempt to relieve the priapism. The shot did not relieve the priapism. Complainant No. 3 asked the P.A. how long it would take for the priapism to resolve and was told by the P.A. that it depends. Complainant No. 3 was sent home by the P.A. who instructed him to drink a lot of water, take a sitz bath and take Sudafed.

23. On July 30, 2020, Complainant No. 3 returned to the Clinic with priapism. Complainant No. 3 testified the P.A. again administered a shot of phenylephrine that failed to relieve the priapism. Complainant No. 3 testified the P.A. again instructed Complainant No. 3 to take sitz baths and drink plenty of water. During his interview, the P.A. denied that he administered the phenylephrine on July 30, 2020 and stated he was unaware of this visit occurring. Rather, the P.A. stated that the Respondent administered the shot.

24. On Friday, July 31, 2020, Complainant No. 3 returned to the Clinic again with priapism. Complainant No. 3 was accompanied by his fiancée at this visit. The Complainant and his fiancée stated that the P.A. came into the room, had a conversation with the Respondent, and then left the room. Then, the Respondent administered a phenylephrine shot into Complainant No. 3's penis. Again, there was no relief; however Complainant No. 3 experienced severe pain when the shot was administered. The P.A. then returned to the room and gave Complainant No. 3 and his fiancée instructions to purchase and administer Sudafed before they left the Clinic.

25. The priapism continued and on Saturday, August 1, 2020, Complainant No. 3 and his fiancée called the Clinic for advice on how much Sudafed to take. The Respondent responded with dosage instructions and asked Complainant No. 3 to return to the Clinic so he could give him another phenylephrine shot before the Respondent left for the day. Complainant No. 1 did not return to the Clinic that day.

26. On Sunday, August 2, 2020, Complainant No. 3 sought treatment at a local Health Care Facility for priapism. The Health Care Facility documented it was unable "to get priapism to resolve as expected due to the long duration of 5 days." A specialist informed Complainant No. 3 that he likely will require a penile prosthesis due to the development of fibrosis from prolonged priapism.

CONCLUSIONS OF LAW

Based on the foregoing Investigative Findings, Panel B concludes as a matter of law that the Respondent: practiced, attempted to practice, or offered to practice medicine

without a license in violation of Health Occ. § 14-601, and represented to the public that he was authorized to practice medicine in violation of Health Occ. § 14-602.

ORDER

Based on the foregoing Investigative Findings and Conclusions of Law, it is, by a majority of the quorum of Panel B, hereby:

ORDERED that pursuant to the authority under the Act, Health Occ. § 14-206(e)(1) and (e)(2)(i), the Respondent, DeWayne Martin, shall **IMMEDIATELY CEASE AND DESIST** from the practice of medicine and representing to the public that he is authorized to practice medicine; and it is further

ORDERED that this order is **EFFECTIVE IMMEDIATELY** pursuant to Md. Code Regs. 10.32.02.11E(1)(b), and it is further

ORDERED that this is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* and Md. Code Regs. 10.32.02.11E(1)(a).

01/04/2023
Date

Signature On File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

NOTICE OF OPPORTUNITY FOR A HEARING

The Respondent may challenge the factual or legal basis of this initial order by filing a written opposition, which may include a request for a hearing, within 30 days of its issuance. The written opposition shall be made to:

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians
4201 Patterson Avenue, 4th Floor
Baltimore, Maryland 21215

A copy shall also be mailed to:

Gregory L. Lockwood
Assistant Attorney General
Maryland Office of the Attorney General
Health Occupations Prosecution and Litigation Division
300 West Preston Street, Suite 201
Baltimore, Maryland 21201

If the Respondent files a written opposition and a request for a hearing, the Board shall consider that opposition and provide a hearing if requested. If the Respondent does not file a timely written opposition, the Respondent will lose the right to challenge this Initial Order to Cease and Desist and this Order will remain in effect.