

IN THE MATTER OF

ALAN H. PECK, M.D.

Respondent

License Number: D03770

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BEFORE THE

MARYLAND STATE

BOARD OF PHYSICIANS

Case Number: 7716-0068A

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CONSENT ORDER

On January 17, 2018, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged **Alan H. Peck, M.D.** (the "Respondent"), License Number D03770, with violating a condition of probation set forth in the March 7, 2016 Consent Order into which he had entered with the Board. Specifically, Panel A charged the Respondent with violating the condition that required him to comply with the Maryland Medical Practice Act, Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101—14-702, and all laws and regulations governing the practice of medicine in Maryland.

Panel A also charged the Respondent under the Maryland Medical Practice Act (the "Act") Health Occ. §§ 14-101 *et seq.* (2014 Repl. Vol. and 2016 Supp.).

The pertinent provision of the Act under Health Occ. § 14-404 provides the following:

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

(a) *In general.* Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel of the Board, 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:

...

- (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;
- (40) Fails to keep adequate medical records as determined by appropriate peer review[.]

On March 14, 2018, a conference with regard to this matter was held before a panel of the Board's Disciplinary Committee for Case Resolution ("DCCR"). As a result of the DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

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 25, 1969. His license is scheduled to expire on September 30, 2019. The Respondent holds inactive licenses in Arizona and Pennsylvania.
2. The Respondent is board-certified in psychiatry.
3. At all times relevant, the Respondent maintained an office for the private practice of psychiatry.¹
4. On or about December 26, 2013, Panel A received a complaint that alleged in pertinent part that the Respondent was prescribing excessively high dosages of Xanax² in the absence of documented medical necessity. It was further alleged that the Respondent prescribed other Controlled Dangerous Substances ("CDS"), including benzodiazepines, to patients with known substance abuse

¹ The names of facilities and patients are confidential.

² Xanax is the trade name for alprazolam, a CDS Schedule IV benzodiazepine.

histories.

5. On December 21, 2015, Panel A charged the Respondent based on the results of a peer review of his practice with violation of the standard of quality care and failure to maintain adequate medical records.
6. On March 7, 2016, the Respondent entered into a Consent Order with Panel A to resolve the December 21, 2015 charges.
7. Under the terms of the Consent Order, the Respondent was reprimanded, was placed on probation for a minimum of 18 months, was required to successfully complete Panel-approved remedial courses on CDS prescribing with a focus on benzodiazepines and medical documentation, and was required to undergo a chart and/or peer review.
8. Panel A received confirmation that the Respondent completed both remedial courses in June 2016.
9. Pursuant to the Consent Order, six patient records were subpoenaed from the Respondent and referred for peer review by two physicians who are board-certified in psychiatry. The peer reviewers were instructed to review the Respondent's care of patients after November 2016.
10. The peer reviewers concurred that the Respondent violated the standard of quality medical care and failed to maintain adequate medical records in four of six patient records they reviewed (identified in the peer review reports as Patients 1, 2, 4, and 6).
11. Specifically, the peer reviewers found that the Respondent failed to meet the standard of quality care and failed to maintain adequate medical documentation

for reasons including but not limited to the following. The Respondent:

- a. Failed to conduct regular mental status examinations. The Respondent's notes contain information regarding the patient's interval period between visits but little information regarding the patient's appearance, speech or thought process (Patients 1, 4 and 5). The Respondent failed to conduct a mental status examination of Patients 2 and 6 at any time during the course of treatment that was reviewed;
- b. Failed to conduct regular risk of self-harm assessments (Patients 1, 2, 4 and 6);
- c. Consistently failed to adequately document objective signs and subjective symptoms to support diagnoses such as Attention-Deficit/Hyperactivity Disorder ("ADHD"), Obsessive Compulsive Disorder and Post-Traumatic Stress Disorder (Patients 1, 2, 4 and 6);
- d. Prescribed Adderall, a CDS Schedule II psychostimulant, for a diagnosis of ADHD in the absence of an adequate description of symptoms or diagnostic criteria to support the diagnosis (Patients 1, 2, 4);
- e. Prescribed Adderall to patients with no established diagnosis of ADHD to address problems with focusing or concentrating without considering other non-Schedule II medications or psychotherapies that may manage those issues (Patient 6);
- f. Failed to document treatment rationale for prescribing medications, including Adderall, for off-label³ purposes (Patients 2, 4, 6);

³ A medication prescribed for a purpose other than that approved by the U.S. Food and Drug Administration.

- g. Failed to assess objective criteria against which medication effectiveness can be judged (Patients 1, 4, 6);
- h. Failed to assess relative benefit/risk of individual medications when prescribing multiple medications to address presenting symptoms such as depression or sleep disturbance (Patients 1, 4, 6).

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, Panel A concludes as a matter of law that the Respondent failed to meet appropriate standard of quality medical care and failed to maintain adequate medical records, in violation of Md. Code Ann., Health Occ. § 14-404(a)(22) and (40), respectively.

ORDER

It is, on the affirmative vote of a majority of the quorum of Panel A, hereby

ORDERED that the Respondent is reprimanded; and it is further

ORDERED that the Respondent is placed on probation for a minimum of one (1) year with the following conditions:

- a. The Respondent's medical practice shall be supervised by a panel-approved Board-certified psychiatrist for the duration of probation. Within 30 days of the effective date of the Consent Order, the Respondent shall provide the panel with the name and professional background information of the supervisor whom he is offering for approval. The panel-approved supervisor must familiarize himself or herself with the relevant Board and Panel orders and peer review reports concerning the Respondent. The Respondent consents to the release of these documents to the supervisor. Each month the supervisor shall review the patient records, chosen by the supervisor, of at least ten (10) of the Respondent's patients. The supervisor shall meet in-person with the Respondent at least one (1) time each month. Discussion at the in-person meetings shall include the care the Respondent has provided for specific patients and detailed feedback from the supervisor on the Respondent's medical documentation and CDS prescribing practices. The supervisor shall be available to the Respondent for consultations on any patient and have access to the Respondent's patients' records and shall maintain the confidentiality of all

medical records and patient information. Additionally, the Respondent shall ensure that the supervisor provides the Board with quarterly reports concerning whether there are any concerns with the Respondent's medical practice. If there are indications that the Respondent poses a substantive risk to patients, the supervisor shall immediately report his or her concerns to the Board. An unsatisfactory supervisory report may constitute a violation of the terms and conditions of this Consent Order;

- b. The Respondent shall comply with the Maryland Medical Practice Act, Md. Code Ann., Health Occ. §§ 14-101—14-702, and all laws and regulations governing the practice of medicine in Maryland; and it is further

ORDERED that the Respondent shall not apply for the early termination of probation; and it is further

ORDERED that after a minimum of one (1) year, the Respondent may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated through an order of the Board or Panel A. The Respondent may be required to appear before the Board or Panel A to discuss his or her petition for termination. The Board or Panel A will grant the petition to terminate the probation if the Respondent has complied with all of the probationary terms and conditions and there are no pending complaints related to the charges; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition of probation or 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 Panel A; and it is further

ORDERED that if the Board or Panel A determines, after notice and an opportunity for a hearing before an Administrative Law Judge of the Office of Administrative Hearings if there is a genuine dispute as to a material fact or a show cause hearing before the Board or Panel A if there is no genuine dispute as to a material fact, that the Respondent has failed to comply with any term or condition of probation or this Consent Order, the Board or Panel A 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 Panel A 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 Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that unless stated otherwise in the order, any time period prescribed in this order begins when the Consent Order goes into effect. The Consent Order goes

into effect upon the signature of the Board's Executive Director, who signs on behalf of Panel A; and it is further

ORDERED that this Consent Order is a public document pursuant to Md. Code Ann., Gen. Prov. §§ 4–101 *et seq.*

04/11/2018

Date

Christine A. Farrelly

Christine A. Farrelly
Executive Director

Maryland State Board of Physicians

CONSENT

I, Alan H. Peck, M.D., acknowledge that I was represented by counsel before entering this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into 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 own behalf, and to all other substantive and procedural protections provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of a disciplinary panel of the Board that I might have filed after any such hearing.

I sign this Consent Order voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of the Consent Order.

Date _____

Signature on File

Alan H. Peck, M.D.
Respondent

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF Baltimore

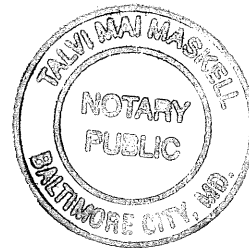
I HEREBY CERTIFY that on this 3rd day of April 2018,
before me, a Notary Public of the foregoing State and City/County, personally
appeared Alan H. Peck, M.D. and made oath in due form of law that signing the
foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Talvi Mai Maskell

Notary Public

My commission expires: 8/5/2018



Talvi Mai Maskell, Notary Public
City of Baltimore
State of Maryland
My Commission Expires Aug. 5, 2018