

IN THE MATTER OF
GEORGE H. SACK, JR., M.D.

Respondent

License Number: D13190

* * * * *

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2218-0050A

CONSENT ORDER

On March 14, 2018, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") voted to charge George H. Sack, Jr. M.D. (the "Respondent"), License Number D13190, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2014 Repl. Vol. & 2017 Supp.) Specifically, Panel A voted to charge the Respondent with violating the following provision of the Act under Health Occ. § 14-404:

- (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[.]

Prior to the issuance of charges, the Respondent agreed to enter into this public Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, and Order.

I. FINDINGS OF FACT

Panel A finds:

Background

1. At all times relevant, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine on October 19, 1971. The Respondent's license is active through September 30, 2019.

2. The Respondent is board-certified in Genetics and Genomics. At all times relevant, the Respondent was an employee of Hospital A.

3. On September 7, 2017, the Board received a complaint from the Complainant¹ alleging that the Respondent inappropriately accessed the medical records of an individual who was not his patient ("Person A") in April of 2014.

4. The Complaint further alleged that the Respondent disclosed to Person A's estranged wife ("Person B") information obtained from Person A's medical records for use in a guardianship case, in which Person B sought guardianship of Person A.²

Board Investigation

5. On October 31, 2017, the Board notified the Respondent of its investigation and requested a written response.

¹ At the time the Complainant filed the Complaint, she was the legal guardian of Person A.

² The Petition for guardianship was filed by Person B on February 6, 2015.

6. On November 16, 2017, the Respondent filed a written response to the Board's request. In the response, the Respondent admitted to accessing Person A's medical records at the request of Person B.

7. On February 1, 2018, in an interview with the Board, the Respondent admitted that:

- a) At the request of Person B, the Respondent accessed and reviewed Person A's medical records on multiple occasions;
- b) Person A was not a patient of his at the time he accessed Person A's medical records;
- c) He did not try to contact Person A or Person A's treating physician before accessing Person A's medical records;
- d) He never received permission from Person A to access his medical records;
- e) He knew Person A was legally separated from Person B;
- f) He was in a personal relationship with Person B; and
- g) After his review of Person A's medical records, the Respondent disclosed to Person B his opinion regarding Person A's medical status.

8. The Board's investigation revealed that Hospital A conducted an investigation of the Respondent's access of Person A's medical records. The pertinent results of Hospital A's investigation are summarized below.

Hospital A's Investigation

9. On March 26, 2015, Person A contacted Hospital A with a privacy complaint, stating that he believed his medical records had been accessed by the Respondent and disclosed to Person A's estranged wife, Person B.

10. Hospital A's audit of the Respondent's access of Person A's medical records found that he had accessed Person A's medical records on the following dates:

- a. April 1, 2014 – The Respondent accessed Person A's medical records for 27 minutes;
- b. April 2, 2014 – The Respondent accessed Person A's medical records for 4 minutes; and
- c. April 9, 2014 – The Respondent accessed Person A's medical records for 11 minutes.

11. Hospital A determined that the Respondent had accessed Person A's clinical, demographic, and financial information, including information regarding Person A's diagnoses and medical conditions, visit documentation, radiology results, lab results, medications, and other treatment information.

12. By letter dated September 16, 2015, Hospital A's Privacy Officer informed Person A that as a result of the investigation, Hospital A determined that Person A's electronic medical record was "inappropriately accessed on three separate occasions in April 2014, by a [Hospital A] physician, who was not a member of your care team."

13. On September 8, 2015, Hospital A notified the Respondent that Hospital A's investigation determined that Person A did not authorize the Respondent to access his

medical records, or to “share [Person A’s] personal information with his estranged wife.”

Hospital A reprimanded the Respondent for his conduct.

14. Hospital A required the Respondent to undergo mandatory retraining regarding Health Insurance Portability and Accountability Act (“HIPAA”) and an in-person course on privacy, confidentiality, and physician/patient boundaries.

II. CONCLUSIONS OF LAW

Based on the Findings of Fact, Panel A concludes as a matter of law that the Respondent’s conduct constitutes unprofessional conduct in violation of Health Occ. § 14-404(a)(3)(ii).

III. ORDER

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

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

ORDERED that the Respondent is required to take a course in Ethics The following terms apply:

- (a) it is the Respondent’s responsibility to locate, enroll in and obtain the disciplinary panel’s approval of the course before the course is begun;
- (b) the disciplinary panel will not accept a course taken over the internet;
- (c) the Respondent shall enroll in and successfully complete a panel-approved course within six months;
- (d) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;
- (e) the course may not be used to fulfill the continuing medical education credits required for license renewal;

(f) the Respondent is responsible for the cost of the course.

ORDERED 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 in 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 followed by an exceptions process before a disciplinary panel; and if 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 a disciplinary panel determines that the Respondent has failed to comply with any term or condition of this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate probationary terms and conditions, or suspend 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 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

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

August 30, 2018

Date

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

CONSENT

I, George H. Sack, Jr. M.D., acknowledge that I have been apprised of my right to counsel and after conferring with counsel have agreed to enter into 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 not to challenge the Findings of Fact, Conclusions of Law, and Order set forth in this Consent Order. 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 the Board that might have followed 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 this Consent Order.

Signature on File

20 August, 2018

Date

George H. Sack, Jr. M.D.
Respondent

NOTARY

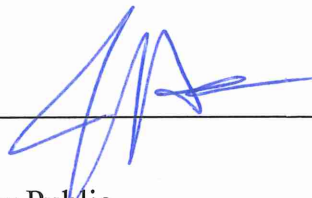
STATE OF MARYLAND

CITY/COUNTY OF BALTIMORE CITY

I HEREBY CERTIFY that on this 20th day of AUGUST

_____, 2018, before me, a Notary Public of the foregoing State and City/County personally appear George H. Sack, Jr. 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 notary seal.



Notary Public

My commission expires: 10/25/21