

IN THE MATTER OF
SAMUEL W. ALLEYNE, M.D.

Respondent

License Number: D25766

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2218-0037B

* * * * *

CONSENT ORDER

On January 22, 2018, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") charged **Samuel W. Alleyne, M.D.** (the "Respondent"), License Number D25766, with violating terms and conditions of probation set forth in the June 16, 2017 Consent Order into which he had entered with the Board. Specifically, the Board charged the Respondent with violating the condition that permanently prohibited him from practicing pain management and further prohibited him from prescribing any Controlled Dangerous Substances ("CDS"). In addition, the Respondent was charged 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 B 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 provisions of the Act under Health Occ. § 14-404 provide 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:

...

(3) Is guilty of:

...

(ii) Unprofessional conduct in the practice of medicine;

...

(31) Except in an emergency life-threatening situation where it is not feasible or practicable, fails to comply with the Centers for Disease Control and Prevention's guidelines on universal precautions[.]

On March 28, 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 October 23, 1980. His license is scheduled to expire on September 30, 2018.
2. The Respondent was board-certified in family medicine; however, his certification expired on December 31, 1997.
3. The Respondent is a solo practitioner. He shares office space in Cheverly, Maryland with another practitioner ("Physician A").

PRIOR DISCIPLINARY ACTION

4. On or about February 19, 2015, the Board received a complaint from a pharmacist (the "complainant") at a pharmacy in Virginia Beach, Virginia regarding the

Respondent's multiple Xanax¹ prescriptions to a patient. The complainant alleged that he had contacted the Respondent about the multiple prescriptions, but that the Respondent "did not seem concerned."

5. On January 19, 2017, Panel B 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 June 16, 2017, the Respondent entered into a Consent Order with Panel A to resolve the January 19, 2017 charges.
7. Under the terms of the Consent Order, the Respondent was reprimanded, was placed on probation for a minimum of one year, was required to successfully complete a Panel-approved remedial course on medical record keeping,² to undergo a chart and/or peer review and to comply with the Act and all laws and regulations governing the practice of medicine in Maryland.
8. In addition, under the terms of the Consent Order, the Respondent was permanently prohibited from practicing pain management. The Consent Order expressly provides: "As part of this prohibition, the Respondent shall not prescribe any Controlled Dangerous Substances ("CDS"), as defined under Md. Code Ann., Crim. Law § 5-101 and Crim. Law §§ 5-401 – 5-406."
9. The Consent Order further provided that the "Panel will issue administrative subpoenas to the Maryland Prescription Drug Monitoring Program ("PDMP") on a quarterly basis for the Respondent's CDS prescriptions."

¹ A CDS Schedule IV benzodiazepine.

² The Respondent completed the medical keeping course in September 2017.

CURRENT ALLEGATIONS

I. Unsanitary Office Condition

10. On or about August 24, 2017, the Board received a complaint from a former patient of the Respondent ("the complainant") alleging that the Respondent's waiting room was infested with flying insects and that the Respondent's office was unsanitary. The complainant further alleged that the Respondent raised his voice to him and was rude because the complainant had talked to the Respondent's receptionist rather than the Respondent about his concerns.
11. Thereafter, the Board initiated an investigation that included a site visit of the Respondent's office and an under-oath interview with the Respondent.
12. On September 7, 2017, Board staff conducted an unannounced site visit of the Respondent's office.
13. Although Board staff conducted the site visit during the Respondent's posted office hours, the Respondent was not present in the office during Board staff's visit.
14. In the Respondent's absence, Physician A agreed to escort Board staff to the Respondent's office space.
15. Board staff made the following observations of the Respondent's office space:
 - a. The floor of the patient examination area was sticky with dried spatters of unknown liquids. Board staffs' shoes stuck to the floor upon entering the exam area. The floor was also dirty;
 - b. In the patient examination room, medical records were stacked and unsecured;
 - c. In the patient examination room, the sharps container was full;

- d. In the Respondent's personal office, there were two small refrigerators stacked on top of each other. Both refrigerators bore signs reading "Caution: Do Not Unplug! Vaccines Inside!" One of the refrigerators was filled with prescription medications and several boxes of vaccines. One box of medication had expired in July 2017; a box labeled "Influenza Virus Vaccine" had expired on June 30, 2011. The second refrigerator was in need of defrosting. It contained an open container of take-out food. The floor of the refrigerator was stained with what appeared to be mold;
 - e. A second office area appeared to be used for storage. There were stacks of medical records and other papers, water bottles, holiday items; and
 - f. A third office area contained computers and other equipment. An unsecured cabinet held medication samples.
16. During the site visit, Board staff noted flying gnats throughout the office. Dead gnats were observed on the window sills. The source of the gnats appeared to be a houseplant that was in the waiting room area of the office. The saucer at the base of the houseplant contained stagnant water. When escorting Board staff through the office, Physician A stated that the houseplant was his.
17. On September 19, 2017, the Respondent was interviewed by Board staff. The Respondent was unable to identify the office cleaning service, except to state that the "cleaning service is done...by the owner of the place." The Respondent stated that he "was not sure if they are coming like they should."
18. The Respondent told Board staff that he had not administered vaccines "for a while" and "had planned to call the CDC [Centers for Disease Control] to find out

how to dispose” of the expired vaccines, but had forgotten to do it.

19. When Board staff inquired about the full sharps container, the Respondent stated that he used Physician A’s disposal company but did not know whether there was a written agreement that Physician A’s disposal company would also dispose of the Respondent’s sharps.
20. Federal Occupational Safety and Health (“OSHA”) and Maryland Occupational Safety and Health (“MOSH”) regulations require:

Employers shall ensure that the worksite is maintained in a clean and sanitary condition. The employer shall determine and implement an appropriate written schedule for cleaning and method of decontamination based upon the location within the facility, type of surface to be cleaned, type of soil present and tasks or procedures being performed in the area.³

21. The CDS’s guidelines on Universal Precautions state in pertinent part:

...cleaning and removal of soil should be done routinely. Cleaning schedules and methods vary according to the area...to be cleaned...Horizontal surfaces...in patient care areas are usually cleaned on a regular basis when soiling or spills occur, and when a patient [leaves the examination area.]⁴

22. The photographs and findings of Board staff reflect that the Respondent’s office was in an unsanitary condition.

II. Prescribing CDS in violation of June 16, 2017 Consent Order

23. Under the terms and conditions of the Respondent’s June 16, 2017 Consent Order, the Respondent was prohibited from prescribing CDS. See ¶8, above.
24. On July 25, 2017, the Respondent wrote a prescription for Lyrica, a Schedule V CDS, to a patient.

³ 29 CFR § 1910.1030(d)(4)(i).

⁴ *Recommendations for Prevention of HIV Transmission in Health-Care Settings*, Morbidity and Mortality Weekly Report Supp., August 21, 1987, Housekeeping.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, Panel B 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), failed to comply with the Centers of Disease Control's guidelines on universal precautions, in violation of Health Occ. § 14-404(a)(31) and violated his June 16, 2017 Consent Order.

ORDER

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

ORDERED that the Respondent is reprimanded; and it is further

ORDERED that the probation imposed in the June 16, 2017 Consent Order is extended for a minimum of one (1) year⁵ with the following conditions:

- a. Within three (3) months, the Respondent shall successfully complete a Board disciplinary panel-approved course in CDC universal guidelines. The course may not be used to fulfill the continuing medical education credits required for license renewal. The Respondent must provide documentation to the Board that the Respondent has successfully completed the course;
- b. After the Respondent successfully completes the remedial course, he shall be subject to an inspection of his office by Board staff;
- c. The Respondent shall successfully complete a 1 on 1 tutorial with a Panel-approved infection control practitioner. Within 30 calendar days, the Respondent shall provide the Panel with the name and professional background information of the practitioner whom he is offering for approval. The tutorial shall include a walk-through inspection of the Respondent's office. The Respondent must provide documentation to the Board that the Respondent has successfully completed the training;
- d. 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

⁵ If the Respondent's license expires while the Respondent is on probation, the probation and any probationary conditions will be tolled.

ORDERED that the reprimand and the permanent prohibition from practicing pain medicine and prescribing CDS in the June 16, 2017 Consent Order remain in effect; 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 B. The Board or Panel B will 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 of probation or any other term imposed by this Consent Order, Respondent shall be given notice and an opportunity for a hearing. If there is a 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 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 of probation or any other term imposed by this Consent Order, the Panel 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 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 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 B; and it is further

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

04/18/2018

Date

Christine A. Farrelly

Christine A. Farrelly
Executive Director

Maryland State Board of Physicians

CONSENT

I, Samuel W. Alleyne, 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.

Signature on File

1/4/18
Date

Samuel W. Alleyne, M.D.
Respondent

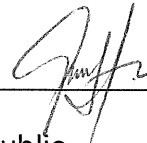
NOTARY

STATE OF MARYLAND

CITY/COUNTY OF Prince George's

I HEREBY CERTIFY that on this 16th day of April 2018, before me, a Notary Public of the foregoing State and City/County, personally appeared Samuel W. Alleyne, 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.



Notary Public

My commission expires: 03/25/2020

GEORGE E. OKAI
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires March 25, 2020