

IN THE MATTER OF
MARK S. MYERSON, M.D.

Respondent

License Number: D28380

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2016-0835A

* * * * *

CONSENT ORDER

On August 28, 2017, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged **MARK. S. MYERSON, M.D.** (the "Respondent"), with violating the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 14-101 *et seq.* (2014 Repl. Vol.).

Specifically, the Panel A charged the Respondent with violating the following provisions of the Act and Md. Code Regs. ("COMAR") 10.32.07.04F:

Health Occ. II § 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, 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; [and]

- (18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine[.]

COMAR 10.32.07.04. Registration.

- A. The chief of service of the institution providing the postgraduate clinical training program, or the chief's designee, shall register with the Board each unlicensed medical school graduate within 30 days of the effective date of the training program contract between the institution and the unlicensed medical school graduate.

- F. Unprofessional conduct in the practice of medicine. Health Occupations Article, § 14-404(a)(3), Annotated Code of Maryland, includes the failure of a physician to comply with the regulations governing the duty of the chief of service to timely register unlicensed medical practitioners under the chief's charge.

On October 11, 2017, a settlement conference before Panel A serving as a Disciplinary Committee for Case Resolution took place. As a result, the Respondent agreed to enter into this public Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Disciplinary Panel A of the Board makes the following Findings of Fact:

I. BACKGROUND

1. At all times relevant, 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 August 31, 1982, under License Number D28380. The Respondent's license is current through September 30, 2019.

2. The Respondent is board-certified in Orthopedic Surgery.

3. From in or around 2002 to 2016, the Respondent was the medical director of an orthopedic-related unit (the "Unit")¹ of a health care facility (the "Facility") located

¹ To ensure confidentiality and privacy, the names of individuals, hospitals and healthcare facilities involved in this case are not disclosed in this document. The Respondent may obtain the identity of the referenced individuals or entities in this document by contacting the administrative prosecutor.

in Maryland. Within the Unit, the Respondent created and supervised an international fellowship/visitors program (the "Program"). The Program was not a program approved by the Accreditation Counsel for Graduate Medical Education. The Respondent resigned from the Facility on or about August 1, 2016.

4. The Board initiated an investigation of the Respondent after receiving a complaint on or about April 14, 2016, from a former patient (the "Patient") who alleged that the Respondent allowed unlicensed individuals to perform medical acts and procedures during her surgeries without her knowledge or consent.

II. BOARD INVESTIGATION

5. As a result of the Board's investigation, it determined that at certain points in time from June 1, 2010, through June 10, 2016, the Respondent permitted unlicensed individuals to perform medical acts and procedures that included performing regional blocks, ordering radiographs and laboratory tests in clinical settings and dictating patient medical records.

6. On or about February 2, 2017, Board investigators interviewed the Respondent at the Board's offices. The Respondent admitted that the unlicensed individuals performed medical acts and procedures.

7. During the interview, a Board investigator asked the Respondent about the types of patient contact the unlicensed individuals had, and the Respondent stated:

When I was working with them I'm teaching them. They would assist me initially by just being there, you know, retracting, doing anything. And then as I saw what their skill level really was, I would then let them do some of the dissection to prepare things for me. Then we reach a point where I took over on every single surgery.

We would call that, for want of a better term, the critical part of the surgery which involves three dimensional positioning, insertion of screws, plates, and so on. I would always do that myself . . . and then at the completion, once we had taken our x-rays, I left room and the fellows always put in the stitches.

8. The Respondent stated that at times the unlicensed individuals used his i.d. to log on to a computer system to dictate patient notes, although they always signed under their own name. The Respondent described the roles of the unlicensed individuals in his clinic (under supervision) as follows:

Q. And what is the clinic? Is it for like followups and all that stuff?

A. That clinic would simply be bandage changers, because that was always what we considered a postop clinic. So that's all it was; bandage changes, put on cast, get an x-ray, and check the incision. That's all it was.

Q. Okay.

...

Q. Okay. Were they, I guess, performing physical exams or anything like that?

A. Yes. They would have to as part of the -- there would be some hands-on of some sort, yes.

Q. Okay. And they would, like, order labs or other radiological tests?

A. They would order x-rays. Typically not labs, but they would order x-rays. That was fairly routine.

9. During the interview, the Respondent did not dispute that from 2010 to 2016, he permitted approximately 12 unlicensed individuals to participate in direct patient care with him, including performing regional blocks or dictating operating notes.

10. During fiscal years 2015 and 2016, the Respondent was identified as the primary surgeon in 1480 cases. During those years, the Respondent permitted seven unlicensed individuals to perform regional blocks in 150 cases and dictate the operative report in 771 cases.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel A of the Board concludes as a matter of law that the Respondent: is guilty of unprofessional conduct in the practice of medicine, in violation of Health Occ. II § 14-404(a)(3)(ii); and practiced medicine with an unauthorized person or aided an unauthorized person in the practice of medicine, in violation of § 14-404(a)(18).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by a majority of the quorum of Disciplinary Panel A considering this case:

ORDERED that the Respondent is hereby **REPRIMANDED**, and it is further

ORDERED that the Respondent's license is hereby **SUSPENDED** for **15 BUSINESS DAYS**, and it is further

ORDERED that after 15 business days, the Board will administratively terminate the suspension of Respondent's license; and it is further

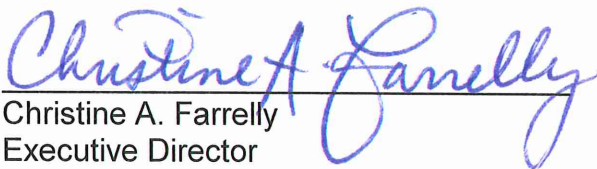
ORDERED that within one year the Respondent shall pay a monetary fine in the amount of **\$50,000** by bank certified check or money order made payable to the Maryland Board of Physicians, P.O. Box 37217, Baltimore, Maryland 21297; and it is further

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 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 the Disciplinary Panel; and it is further

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions §§ 4-101 *et seq.* (2014).

11/06/2017
Date


Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Mark S. Myerson, M.D., acknowledge that I am represented by counsel and have consulted with counsel before entering 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 to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of Disciplinary Panel A 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 Disciplinary Panel B 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.

11/2/17
Date

[Signature]
Mark S. Myerson, M.D.

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF Anne Arundel

I HEREBY CERTIFY that on this 2nd day of November, 2017, before me, a Notary Public of the foregoing State and City/County personally appear Mark S. Myerson, 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.

[Signature]
Notary Public

My commission expires: 11/24/19

