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| IN THE MATTER OF | * | BEFORE THE MARYLAND |
| JERRY P. ADAMS, M.D. | * | STATE BOARD OF |
| Respondent | * | PHYSICIANS |
| License Number: D39811 | * | Case Numbers: 2016-0330A, 2016-0789A |
| * * * * * | | |

ORDER OF DEFAULT

BACKGROUND

On April 21, 2016, a disciplinary panel of the Maryland State Board of Physicians (“Board”) charged Jerry P. Adams, M.D. with unprofessional conduct in the practice of medicine and failure to cooperate with a lawful investigation conducted by the Board or a disciplinary panel. *See* Md. Code Ann., Health Occ. (“Health Occ.”) § 14-404(a)(3)(ii) and (33). On September 2, 2016, based on further investigation, amended charges were issued. The amended charges alleged that Dr. Adams overprescribed controlled dangerous substances to a patient and engaged in an inappropriate relationship with that patient and that he failed to cooperate with the Board’s investigation. The Amended Charges were also brought pursuant to Health Occ. § 14-404(a)(3)(ii) and (33). On November 10, 2016, the Board referred the case to the Office of Administrative Hearings (“OAH”) for an evidentiary hearing.

After notice was sent to Dr. Adams and the State, at their respective addresses of record, a scheduling conference was held at OAH in Hunt Valley, Maryland on December 5, 2016, at 9:30 a.m.¹ Dr. Adams did not appear for the scheduling conference and no one appeared on his behalf. The administrative prosecutor appeared on behalf of the State. After waiting more than

¹ The notice for the scheduling conference was mailed to two addresses that the Board had on record for Dr. Adams. One address was in Hyndman, Pennsylvania and the other address was in Cumberland, Maryland. The notice sent to the Maryland address was returned to OAH as “not deliverable as addressed.” The notice sent to the Pennsylvania address was not returned.

15 minutes for Dr. Adams to appear, the Administrative Law Judge (“ALJ”) proceeded with the scheduling conference in Dr. Adams’s absence. COMAR 28.02.01.23A. During the scheduling conference, a prehearing conference was scheduled for January 9, 2017, at 9:30 a.m. at OAH. COMAR 28.02.01.17.

On December 8, 2016, OAH mailed a Notice of In-Person Prehearing Conference (Notice of Prehearing Conference) to each party at their respective addresses of record.² The Notice of Prehearing Conference mailed to Dr. Adams was not returned to OAH by the U.S. Postal Service. The Notice of Prehearing Conference informed the parties of the date, time, and location of the prehearing conference and enclosed instructions directing each party to prepare and submit a prehearing statement in advance of the Prehearing Conference. Further, the Notice of Prehearing Conference informed the parties that failure to attend the January 9, 2017 prehearing conference could result in a decision against the party for failing to appear.

Separately, on December 7, 2016, a scheduling order notifying the parties of the date, time, and location of the prehearing conference was mailed to each party at their respective addresses of record. The copy of the scheduling order was mailed to Dr. Adams at his Maryland and Pennsylvania addresses and neither copy was returned to OAH by the U.S. postal service. Dr. Adams did not request a postponement of the prehearing conference nor did he submit a prehearing statement in advance of the prehearing conference, as instructed.

Dr. Adams did not appear for the January 9, 2017 prehearing conference and no one appeared or contacted OAH on his behalf. After waiting more than fifteen minutes for Dr. Adams to appear, the ALJ commenced the prehearing conference in his absence. The State, represented by the administrative prosecutor, moved for a default judgment against Dr. Adams

² Because the notice for the scheduling conference sent to the Maryland address was returned as undeliverable, the Notice of Prehearing Conference was only sent to the Pennsylvania address.

and offered the exhibits that it had planned to offer into evidence if the matter had proceeded to a merits hearing. The ALJ admitted those exhibits into evidence. In the Motion, the State expressly requested that the ALJ enter a proposed order of default and that the ALJ recommend that Dr. Adams's license to practice medicine be revoked. The Motion included a certificate of service, dated January 9, 2017, certifying that a copy of the Motion was mailed to Dr. Adams at both his Maryland and Pennsylvania addresses. Dr. Adams did not submit any opposition to the Motion. COMAR 28.02.01.12B(3).

Under OAH's rules of procedure, "[i]f, after receiving proper notice, a party fails to attend or participate in a prehearing conference, hearing, or other stage of a proceeding, the judge may proceed in that party's absence or may, in accordance with the hearing authority delegated by the agency, issue a final or proposed default order against the defaulting party." COMAR 28.02.01.23A. Similarly, Health Occ. § 14-405 provides, in pertinent part:

(d) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the hearing officer may hear and refer the matter to the Board or a disciplinary panel for disposition.

(e) After performing any necessary hearing under this section, the hearing officer shall refer proposed factual findings to the Board or a disciplinary panel for the Board's or disciplinary panel's disposition.

Subsection (d) which provides that the ALJ "may hear" the matter if the individual fails to appear, and subsection (e), which uses the language "any necessary hearing," clearly contemplate situations, such as defaults, where no hearing is required. *See also* COMAR 28.02.01.23A.

The ALJ found that Dr. Adams had proper notice of the January 9, 2017 prehearing conference and that he failed to appear and participate in the prehearing conference.

On January 27, 2017, the ALJ issued a Proposed Default Order based upon the OAH proceedings described above. The ALJ proposed that the Panel find Dr. Adams in default, adopt as fact the statements set out in the allegations of fact section of the charges, conclude as a matter of law that Dr. Adams violated Health Occ. § 14-404(a)(3)(ii) and (33) in the manner set forth in the charges, and revoke Dr. Adams's license to practice medicine.

On January 27, 2017, the ALJ mailed copies of the Proposed Default Order to Dr. Adams at his Maryland and Pennsylvania addresses, the administrative prosecutor, and the Board. The proposed decision notified the parties that they may file written exceptions to the proposed decision but must do so within 15 days of the date of the Proposed Default Order. The Proposed Default Order stated that any exceptions and request for a hearing must be sent to the Board with attention to the Board's Executive Director. Neither party filed exceptions.

The case came before Board Disciplinary Panel B ("Panel B") for final disposition.

FINDINGS OF FACT

Because Panel B concludes that Dr. Adams has defaulted, the following findings of fact are adopted from the allegations of fact set forth in the September 2, 2016 Amended Charges Under the Maryland Medical Practice Act and are deemed proven by the preponderance of the evidence:

Dr. Adams was initially licensed to practice medicine in Maryland on April 11, 1990. His license expired on September 30, 2016.³

[Dr. Adams]'s specialty is family medicine. He is board certified. [Dr. Adams] has hospital privileges at Hospital A. At all times relevant, [Dr. Adams]

³ Pursuant to section 14-403 of the Health Occupations Article, the license of an individual regulated by the Board may not "lapse by operation of law while the individual is under investigation or while charges are pending." The Board's investigation and issuance of charges occurred before the expiration of Dr. Adams's license. Therefore, by operation of law, Dr. Adams's license was not permitted to expire during these proceedings.

was employed at Practice A, a private practice in LaVale, Maryland, as a family medicine physician.⁴

On or about October 26, 2015, the Board received a complaint from a law firm on behalf of Practice A. The complaint alleged concerns regarding [Dr. Adams]'s relationship with a patient ("Patient A"). Specifically, the complaint alleged that [Dr. Adams] overprescribed controlled dangerous substances ("CDS") to Patient A and engaged in an inappropriate relationship with Patient A. Thereafter, the Board initiated an investigation.

Failure to Cooperate

On or about February 4, 2016, the Board sent an initial contact letter to [Dr. Adams]'s address of record with the Board. The initial contact letter informed [Dr. Adams] of the complaint against him and the Board's investigation. The initial contact letter also requested that [Dr. Adams] submit a written response within 10 days and return a completed Information Form.

[Dr. Adams] failed to respond to the Board's initial contact letter. On or about March 3, 2016, the initial contact letter was re-issued to [Dr. Adams] at the same address. [Dr. Adams] failed to respond. On or about March 4, 2016, the Board issued a *subpoena ad testificandum* for [Dr. Adams]'s testimony at an interview with a Board investigator on March 24, 2016. The subpoena was mailed to [Dr. Adams]'s address of record with the Board.

On or about March 15, 2016, the Board's investigator sent [Dr. Adams] an e-mail requesting that [Dr. Adams] contact her regarding the Board's case. The e-mail was returned with an error message. On or about March 16, 2016, the Board's investigator conducted a Motor Vehicle Administration address search and obtained a Cumberland, Maryland address for [Dr. Adams]. The Board's investigator sent the *subpoena ad testificandum* to the Cumberland, Maryland address via UPS Ground. UPS tracking indicates that the subpoena was delivered on March 17, 2016.

[Dr. Adams] failed to report to the Board for the investigative interview on March 24, 2016. None of the Board's correspondence to [Dr. Adams] was returned by the postal service. To date, [Dr. Adams] has failed to contact the Board.

Complaint

Despite [Dr. Adams]'s failure to cooperate with the Board's investigation, the Board continued to investigate the complaint.

⁴ In order to maintain confidentiality, names will not be used in this Order.

Patient A, a male in his 20s, began seeing [Dr. Adams] in January 2015. [Dr. Adams] saw Patient A on January 5, 2015 for wrist pain and on June 22, 2015 for back pain. [Dr. Adams] prescribed oxycodone 15 mg one tablet every six hours #120 and Xanax 1 mg one tablet TID #90.⁵

Patient B, a female in her 40s and Patient A's mother, began seeing [Dr. Adams] on or about August 19, 2015 for primary care. [Dr. Adams] referred Patient B to pain management for her chronic back pain and prescribed oxycodone until her pain management appointment.

In furtherance of the Board's investigation, on January 11, 2016, a member of the Board's staff interviewed Witness A, medical assistant and laboratory manager at Practice A. According to Witness A, [Dr. Adams] told her that Patient A was his friend and that he hired Patient A to work as his scribe.⁶ According to Witness A, [Dr. Adams] made inappropriate comments referencing his personal relationship with Patient A. Witness A documented [Dr. Adams]'s inappropriate comments regarding Patient A in [Dr. Adams]'s personnel file. Witness A also recalled seeing Patient A driving [Dr. Adams]'s vehicle on two or three occasions.

On January 11, 2016, a member of the Board's staff interviewed Witness B, the office manager for Practice A. Witness B stated that [Dr. Adams] told her that Patient A was replacing [Dr. Adams]'s estranged spouse as his scribe. Witness B also recalled that Patient B came to her office and complained that [Dr. Adams] refused to see her at her appointment and discharged her from his practice because her son, Patient A, was living with [Dr. Adams]. Witness B stated that one other individual, Witness C, was also present when Patient B came to her office. Witness B further stated that Patient B reported the following information to her:

- a. [Dr. Adams] wrote prescriptions for narcotics for Patient A, a known drug addict.
- b. [Dr. Adams] gave Patient A money to buy illegal drugs.
- c. [Dr. Adams] bailed Patient A out of jail.
- d. [Dr. Adams] took Patient A to Florida.
- e. Patient A was involved in a motor vehicle accident while driving [Dr. Adams]'s vehicle.

On March 16, 2016, a member of the Board's staff interviewed Witness C, the practice administrator for the pain management practice affiliated with Practice A. Witness C corroborated the information provided by Patient B in Witness B's office.

⁵ Oxycodone is a opioid pain medication and a schedule II CDS. Xanax (generic: alprazolam) is a benzodiazepine and a schedule IV CDS. TID is the abbreviation for "three times daily."

⁶ Patient A had no experience as a scribe and no medical background.

The Board's investigation revealed that Patient A was involved in a motor vehicle accident on or about July 21, 2015 in which Patient A hit a motorcyclist. Patient A was driving a vehicle that was later identified as belonging to [Dr. Adams].

On January 22, 2016, a member of the Board's staff interviewed Physician A, the owner of Practice A. According to Physician A, she confronted [Dr. Adams] regarding Patient B's allegations. [Dr. Adams] denied the allegations, however, [Dr. Adams] later admitted to giving Patient A money for food, cash and suboxone⁷ and to having knowledge that Patient A was a drug addict. Further, according to Physician A [Dr. Adams] also admitted to her that he took Patient A to Florida to celebrate Patient A's sobriety and that Patient A lived with [Dr. Adams] for a period of time. The Board's investigation further revealed that [Dr. Adams] prescribed CDS to Patient A on multiple dates when Patient A did not have an appointment.

On April 19, 2016, a member of the Board's staff interviewed Patient B. According to Patient B, she had an appointment with [Dr. Adams] on or about August 29, 2015. At the appointment, [Dr. Adams] stated that he could no longer be her doctor and left the room without examining her. Patient B stated that she returned to Practice A to see [Dr. Adams] on September 2, 2015, after her appointment with pain management. [Dr. Adams] refused to see Patient B and discharged her from his practice. While outside in the parking lot, Patient B recognized [Dr. Adams]'s car (it was parked in a space labeled with [Dr. Adams]'s name) as a car that her son, Patient A, drove on previous occasions. According to Patient B, she realized that [Dr. Adams] was Patient A's "friend" who took Patient A to Florida and who wrote prescriptions for Patient A. Patient B stated that she immediately spoke with Witness B and reported what she knew about the relationship between Patient A and [Dr. Adams]. Patient B believed that [Dr. Adams] discharged her from his practice when [Dr. Adams] realized that she was Patient A's mother.

A review of [Dr. Adams]'s personnel file from Practice A revealed an incident note from June 25, 2015 which documented [Dr. Adams]'s attempt to hire Patient A without informing management. Physician A documented that she advised [Dr. Adams] that all hiring must be done through management and that Patient A would not be hired due to his criminal background. On or about September 7, 2015, Practice A terminated [Dr. Adams].

[Dr. Adams]'s conduct, as set forth above, constitutes a violation of one or more of the following provisions of the Act: H.O. §§ 14-404(3) Is guilty of: (ii) Unprofessional conduct in the practice of medicine; and/or (33) Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel.

⁷ Suboxone is a combination of buprenorphine (an opioid) and naloxone, which blocks the effects of opioids. Suboxone is used to treat opiate addiction.

CONCLUSIONS OF LAW

Panel B adopts the ALJ's Proposed Default Order. Panel B finds Dr. Adams in default based upon his failure to appear at the Office of Administrative Hearings for the prehearing conference scheduled for January 9, 2017. *See* State Gov't § 10-210(4). Based upon the foregoing findings of fact, Panel B concludes that Dr. Adams is guilty of unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(ii), and failed to cooperate with a lawful investigation conducted by the Board or a disciplinary panel, in violation of Health Occ. § 14-404(a)(33).

SANCTION

Panel B adopts the sanction recommended by the ALJ, which is to revoke Dr. Adams's medical license.

ORDER

Based upon the findings of fact and conclusions of law, it is, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel B, hereby

ORDERED that Jerry P. Adams, M.D.'s license to practice medicine in Maryland (License No. D39811) is **REVOKED**; and it is further

ORDERED that this is a public document.

July 19, 2017
Date

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

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Md. Code Ann., Health Occ. § 14-408, Dr. Adams has the right to seek judicial review of this Order of Default. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Order of Default. The cover letter accompanying this Order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Dr. Adams files a petition for judicial review, the Board is a party and should be served with the court's process at the following address:

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

Notice of any petition should also be sent to the Board's counsel at the following address:

**Stacey Darin
Assistant Attorney General
Department of Health and Mental Hygiene
300 West Preston Street, Suite 302
Baltimore, Maryland 21201**