

IN THE MATTER OF	*	BEFORE THE
DANIEL J. BAUK, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D41243	*	Case Number: 2017-0048A
• * * * *	* * * * *	

CONSENT ORDER

On May 12, 2017, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged Daniel J. Bauk, M.D. (the "Respondent"), License Number D41243, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2014 Repl. Vol. and 2015 Supp.).

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

- (a) 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[.]

**JOINT COMMISSISON ON ACCREDITATION OF HEALTH CARE ORGANIZATIONS'
("JCAHO") CRITERIA FOR DISRUPTIVE BEHAVIOR**

On July 8, 2008, JCAHO issued a Sentinel Event alert entitled "Behaviors that Undermine a Culture of Safety" that stated in pertinent part:

Intimidating and disruptive behaviors can foster medical errors...contribute to poor patient satisfaction and to preventable adverse outcomes...Safety and quality of patient care is dependent on teamwork, communication, and a collaborative work environment. To assure quality and to promote a culture of safety, health care organizations must address the problem of behaviors that threaten the performance of the health care team. Intimidating and disruptive behaviors include overt actions such as verbal

outbursts and physical threats...Intimidating and disruptive behaviors are often manifested by health care professionals in positions of power...Overt and passive behaviors undermine team effectiveness and can compromise the safety of patients...All intimidating and disruptive behaviors are unprofessional and should not be tolerated.¹

AMERICAN MEDICAL ASSOCIATION'S ("AMA'S") OPINION ON PHYSICIANS WITH DISRUPTIVE BEHAVIOR

AMA Opinion 9.045, adopted in June 2000 provides in pertinent part:

- ...
- (1) Personal conduct, whether verbal or physical, that negatively affects or that potentially may negatively affect patient care constitutes disruptive behavior. (This includes but is not limited to conduct that interferes with one's ability to work with other members of the health care team.)...

On September 13, 2017, a conference with regard to this matter was held before Panel A, sitting as a 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. The Respondent was initially licensed to practice medicine in Maryland on January 28, 1991, under License Number D41243. The Respondent's license is scheduled to expire on September 30, 2018.
2. The Respondent is board-certified in orthopedics. He is a managing partner of a practice with offices in Leonardtown and Waldorf, Maryland. The Respondent holds privileges at two hospitals in Southern Maryland ("Hospital A" and "Hospital B").

¹ In 2011, JCAHO revised the term "disruptive behavior" to "behavior or behaviors that undermine a culture of safety."

3. On or about July 25, 2016, the Board received an anonymous complaint alleging that on July 8, 2016, the Respondent was rude to staff and unprofessional in the Emergency Department (“ED”) at Hospital A.
4. Thereafter, the Board initiated an investigation that included subpoenaing the Respondent’s Hospital A quality assurance file and interviewing under oath the Respondent and relevant staff members at Hospital A.

BOARD’S INVESTIGATIVE FINDINGS

5. The Board’s investigative findings are summarized below. The investigative findings are by way of illustration and not limitation.
6. During the July 8, 2016 incident that was the subject of the complaint to the Board, the Respondent was called to evaluate and treat a middle-aged male in the ED who had suffered an ankle fracture. The Respondent was the assigned on-call duty physician, but initially declined to report to the ED to treat the patient.
7. When the Respondent reported to the ED, he yelled and berated ED staff in the presence of the patient for failing to bring him the correct casting supplies. The Respondent set the patient’s ankle without administering additional pain medications to the patient, stating that the patient was a substance abuser. The patient loudly cried out in pain during the procedure and his blood pressure rose precipitously. The patient and a family member who was present in the ED expressed concern regarding the Respondent’s conduct and their reluctance to return to the Respondent for follow-up care.
8. In 2016, other staff members reported other incidents of the Respondent’s conduct of concern, including:

- a. In August 2016, the Respondent became frustrated with a staff member during a surgical procedure and yelled profanities at the staff member;
 - b. In October 2016, the Respondent kicked a nurse ("Nurse A") on her thigh to get her attention while she was assisting him to don a surgical toga in preparation for a surgical procedure; and
 - c. In November 2016, while performing an orthopedic surgical procedure, the Respondent thrust heavy instrument trays at the circulating nurse ("Nurse B") before she had time to put on gloves. The trays were heavy and contained blood-contaminated instruments. Nurse B almost fell over because of the unexpected weight of the trays.
9. The Respondent's conduct had been of concern to Hospital A and its staff for years prior to 2016. According to Hospital A staff, the Respondent intimidates staff such that some staff members are reluctant to call the Respondent when he is assigned as the on-call physician. The Respondent's conduct including, but not limited to, yelling and berating hospital staff often occurs within the presence or hearing of patients or their family members or visitors.
10. Some Hospital A staff members are reluctant to file complaints against the Respondent because Hospital A's complaint system is not anonymous and the staff members fear retaliation by the Respondent if they were to file a complaint.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, Disciplinary Panel A 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).

ORDER

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

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

1. The Respondent shall enroll in the Maryland Professional Rehabilitation Program ("MPRP"). Within **5 business days**, the Respondent shall contact MPRP to schedule an initial consultation for enrollment. Within **15 business days**, the Respondent shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP. The Respondent shall fully and timely cooperate and comply with all of MPRP's referrals, rules, and requirements, including but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered into with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and toxicology screenings as directed by MPRP;

2. The Respondent shall sign and update the written release/consent forms requested by the Board and MPRP. The Respondent shall sign the release/consent forms to authorize MPRP to make verbal and written disclosures to the Board, including disclosure of any and all MPRP records and files possessed by MPRP. The Respondent shall also sign any written release/consent forms to authorize MPRP to exchange with (i.e., disclose to and receive from) outside entities (including all of the Respondent's current therapists and treatment providers) verbal and written information concerning the Respondent and to ensure that MPRP is authorized to receive the medical records of the Respondent, including, but not limited to, mental health and drug or alcohol treatment records;

3. The Respondent shall remain in the MPRP for the length of time recommended by the MPRP. The Respondent shall fully, timely, and satisfactorily cooperate and comply with all MPRP recommendations and requirements, including but not limited to, the terms and conditions of any Rehabilitation Agreement(s) and Rehabilitation Plan(s) entered into with the MPRP; and it is further

ORDERED that upon receipt of the MPRP's evaluation report and/or recommendations, Panel A or the Board may impose additional terms and conditions including but not limited to probation; 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, after the appropriate hearing, if the Board or Panel A determines 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 shall comply with all laws governing the practice of medicine under the Maryland Medical Practice Act and all rules and regulations promulgated thereunder; 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 shall be a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen Prov. §§ 4-101-4-601 (2014).

09/28/2017
Date


Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Daniel J. Bauk, M.D., acknowledge that I had the opportunity to be 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.

9/28/17
Date

Daniel J. Bauk, M.D.
Daniel J. Bauk, M.D.
Respondent

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF St Mary's

I **HEREBY CERTIFY** that on this 25th day of September 2017, before me, a Notary Public of the foregoing State and City/County, personally appeared Daniel J. Bauk, 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: 2-2-18