

IN THE MATTER OF	*	BEFORE THE
ANDREA N. BAILEY, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D44694	*	Case Number: 7717-0017 B
* * * * *	*	* * * * *

ORDER OF SUMMARY SUSPENSION OF LICENSE TO PRACTICE MEDICINE

Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** the license of Andrea N. Bailey, M.D. (the "Respondent") to practice medicine in the State of Maryland, License Number D44694.

Panel B takes such action pursuant to its authority under Md. Code Ann., State Gov't ("State Gov't") § 10-226(c)(2) (2014 Repl. Vol. and 2016 Supp.), concluding that the public health, safety or welfare imperatively requires emergency action. Panel B bases its conclusion on the following investigative findings.

INVESTIGATIVE FINDINGS

Following receipt of information regarding Respondent's arrest in Virginia for "practicing medicine without a license", the Board opened an investigation. Respondent had been self-prescribing non-controlled medications and filling them in Maryland and Virginia; however, on the last occasion, when Respondent picked up the prescription in Virginia, the pharmacist was concerned and brought her concern to the attention of the local criminal authorities. Panel B obtained further investigatory information that Respondent wrote the prescriptions in the name of a fictitious patient, had multiple prescription bottles, multiple blank prescriptions pads from other doctors, and alcohol in her automobile.

Based on the investigatory information obtained by Panel B as summarized above, and the specific instances described below, Panel B makes the following investigative findings and concludes that Respondent's actions constitute a substantial likelihood of a risk of serious harm to the public health, safety, or welfare which imperatively requires emergency action:

1. At all times relevant hereto, Respondent was licensed to practice medicine in the State of Maryland. Respondent was originally licensed to practice medicine in Maryland in 1993. Respondent last renewed her license in September 2016, which will expire on September 30, 2018.

2. Respondent was licensed to practice medicine in New York on November 13, 1991.

3. Respondent was licensed to practice medicine in Virginia on April 8, 2010.

4. On March 12, 2015, the Virginia Board of Medicine (the "Virginia Board") summarily suspended Respondent's license based on her writing prescriptions for controlled substances for her personal use in the name of fictitious patients.

5. On April 2, 2015, in a public Consent Order, Respondent's license to practice in Maryland was suspended until such time as her license was reinstated by the Virginia Board.

6. On July 22, 2015, the Virginia Board stayed the suspension of Respondent's license.

7. On July 30, 2015, the Maryland Board stayed the suspension of Respondent's license.

8. On December 1, 2015, the New York State Board for Professional Medical

Conduct (the "New York Board"), issued a statement of charges against Respondent. The charges related to misconduct based on a disciplinary action by the licensing boards of Maryland and Virginia. The New York Board also charged Respondent with unprofessional conduct for fraudulently answering questions and filing a false report on her New York registration renewal application in that criminal charges were pending against her in Virginia, which she had failed to disclose.

9. On February 17, 2016, the New York Board held a hearing on the charges at which Respondent did not appear.

10. On March 8, 2016, the New York Board issued a Determination and Order in regard to Respondent, revoking her New York medical license.

11. On July 7, 2016, the Respondent's license to practice in Virginia was suspended as a reciprocal action based on the action in New York.

12. On May 26, 2016, the Maryland Board issued disciplinary charges against Respondent based on her making false representations regarding her arrest in 2013 in Virginia in her application for reinstatement of her license in October 2014 and based on her having been disciplined by the New York Board for actions that are grounds for disciplinary action in Maryland.

13. On August 25, 2016, Respondent entered into a Consent Order with the (Maryland) Board to resolve the charges wherein she agreed to a reprimand and four years probation under terms and conditions.

14. Respondent does not hold any hospital privileges and is not board-certified by the American Board of Medical Specialties.

15. Respondent's self-reported area of specialization is pediatrics.

16. Since at least October 2010, Respondent has been employed in various pediatric practices in Virginia and Maryland as well as a *locum tenens* physician with clinical assignments in Maryland and Virginia.

17. From approximately September 2016 to May 16, 2017, Respondent was employed part-time at a private pediatric practice in Southern Maryland.

18. Respondent has been intermittently living in both Virginia and Maryland.

19. Condition 1 of the August 25, 2016 Consent Order with the Maryland Board, states as follows:

Respondent shall enroll in the Maryland Professional Rehabilitation Program ("MPRP"). Within five (5) business days, Respondent shall contact MPRP to schedule an initial consultation for enrollment. Within fifteen (15) business days, 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[.]

20. On September 8, 2016, Respondent entered into a Participant Rehabilitation Agreement (the "Agreement") with the MPRP.

21. On May 11, 2017, Respondent was arrested by the Virginia Beach Police Department and charged with one count of felony prescription fraud (attempting to obtain or procure the administration of a drug or controlled substance by fraud, deceit, misrepresentation, embezzlement, or subterfuge) and one count of misdemeanor practicing without a license (engaging in practicing the profession or occupation of medical doctor without holding a valid license as required by status or regulations), for actions which occurred on April 2, 2017.

22. On May 12, 2017, the Board was informed that Respondent was in the custody of Virginia law enforcement. Also the Board was informed that Respondent's employer (Employer A¹) terminated Respondent's employment based on concerns about Respondent's behavior during the course of her employment, as well as concern about her arrest in Virginia.

23. On June 12, 2017, MPRP discharged her from the Program because Respondent failed to comply with the Agreement.

24. Findings from the Board's investigation show that Respondent has been engaged in the following:

- a. Respondent picked up a prescription at a chain pharmacy for a non-CDS medication and later attempted to pick up a prescription for another non-CDS prescription medication under a fictitious name with a fictitious date of birth;
- b. Respondent told the Virginia Detective that the fictitious name was the name of her aunt. The Detective later determined that Respondent did not have an aunt by that name;
- c. Respondent represented to the chain pharmacy that she was an active practitioner in the State of Virginia;
- d. Approximately 20 prescription bottles containing various prescriptions were found in the Respondent's car;
- e. A 4-pack of "Cook's Champagne" was found in Respondent's car with two bottles missing;
- f. Blank prescription pads were found in Respondent's car from various doctors. The Detective spoke to one of the doctors, Physician A, who is also a former employer of Respondent. Physician A stated that at no point did he or his wife, with whom he practices, write any prescriptions for Respondent and that there is no reason why she should have any of his prescription pads. The Detective also provided the names of two other

¹ The names of Respondent's employer, any of her previous employers, and any of her health care providers are not disclosed in the Order of Summary Suspension. Respondent may obtain a copy of a Confidential Identification List from the administrative prosecutor.

doctors whose prescription pads were found: Physician B, in Waldorf, Maryland and Physician C, in Culpeper, Virginia;

- g. Respondent provided a residential address in Norfolk, Virginia. The Detective determined that the house at the address was Respondent's mother's house but had been sold several years ago;
- h. The Detective called the pediatric office in Maryland where Respondent was employed and informed the office manager that she needed to speak to someone about an employee (the Respondent) who had received prescriptions from doctors at the practice. Later, the Detective received a call from Respondent who stated, "you weren't supposed to call my employer" and "you need to drop the charges and call them back and let them know that the charges have been dropped";
- i. Two different pills were found in Respondent's car which were not immediately identifiable. The pills were sent to a laboratory for analysis;² and
- j. Respondent had filled 29 prescriptions at the chain pharmacy under the fictitious patient name between September 2015 and March 25, 2017.

25. On May 22, 2017, the Board also received the narrative of the events that led to Respondent's arrest. A search of Respondent's automobile revealed 17 prescription bottles, four of which had the name of the fictitious patient, and more than 75 hard copy (blank) prescriptions from more than 10 prescribers.

26. On May 25, 2017, the Board received the written response from the Respondent. Respondent stated that:

- a. She did not realize until after she completed the ethics course³, that self-prescribing with any other name than her own "would get me in trouble;"
- b. She wrote the prescriptions for herself to "continue my therapy with medications previously prescribed to me for these diagnosed conditions: (diagnoses omitted)";
- c. For the past 6 years, she has been unable to afford medical insurance or medical care for herself;

² To date, the Board has not been informed the results of the laboratory testing.

³ One of the other conditions required that Respondent take an ethics course, which she completed in April 2017.

- d. She has been indigent and on food stamps for 5 years⁴; and
- e. None of the prescriptions that she called in were for controlled substances.

27. Further investigation by the Board found:

- a. Respondent was arrested and held without bond but is currently out on a \$25,000 surety bond with pretrial supervision and drug and alcohol screenings following a hearing on May 22, 2017;
- b. Respondent cannot leave the Commonwealth of Virginia;
- c. "Hundreds" of blank prescriptions with other doctors' names were found in Respondent's car;
- d. Blank LabCorp forms were found in Respondent's car;
- e. A passport that was not Respondent's was found in the car. They have identified the alleged owner of the passport as a real person and is possibly a family member of Respondent, though they do not know if the owner provided Respondent with the passport;
- f. There were prescriptions in the Respondent's car for the owner of the passport.

28. On June 22, 2017, the Board received copies of multiple photographs that the Detective took of the inside of Respondent's car on May 11, 2017, the day Respondent was arrested. The photographs reveal:

- a. A bank statement of April 2017 of an account which had a significant available balance;
- b. Numerous blank prescription pads from other doctors;
- c. A prescription written by one of her coworkers at the pediatric office on the Eastern shore; and
- d. Alcohol (champagne).

⁴ Recent bank statements were found in Respondent's car that indicated that she does have some financial resources;

29. Respondent's personnel file from the office in southern Maryland which the Board obtained on June 2, 2017, by subpoena revealed:

- a. Beginning in October 2016, several incidents where Respondent left the medical office without informing the manager on duty;
- b. Respondent submitted a text regarding being out sick without speaking with the manger on duty;
- c. In February, Respondent was two hours late for her 4:00 pm shift in the office; and, there were additional incidents of Respondent being gone from the office for 30 to 40 minutes without the staff knowing where she was;
- d. In April 2017, Respondent was counseled regarding staff and parent complaints. Staff had complained that Respondent had been leaving patients in examination rooms for extended periods of time while she was in the "break area" and being rude to parents; and there was another incident of Respondent leaving the medical office while she had patients waiting to be seen;
- e. In May 2017, there was another complaint that Respondent had left the building while her patients were waiting to be seen, without informing the manager on duty. Another pediatrician had to see her patients;
- f. Also in May 2017, there were reports of her failing to document her clinical activity in two patient's charts and failing to answer about a dozen calls during the night that Respondent was "on-call";
- g. A summary of contacts between the Virginia Beach Police Department and the pediatric office regarding Respondent's arrest; and
- h. On May 31, 2017, Respondent was terminated from her employment as a pediatrician in the office in southern Maryland.

30. Vocational reports from Employer A from October 2016 through May 2017, show an increasing pattern of poor attendance and punctuality, deteriorating relationships with colleagues, and decreasing quality of her work, specifying in the May 2017 report, "decreasing reliability, not completing work on time, leaving without notifying anyone, change in relationship with staff and patients."

31. Respondent's medical records from the pediatric office in southern Maryland do not show any record of her having received treatment by any of the providers in the pediatric office.

32. On June 26, 2017, Board staff interviewed Employer A, under oath, who stated that to her knowledge no one at the pediatric office provided medical treatment to Respondent.

33. On July 3, 2017, Board staff interviewed Respondent, by telephone, under oath. Respondent testified:

- a. She had been self-prescribing non-CDS medications for her own medical conditions and refilling them herself;
- b. She had received these prescriptions from other physicians for previously diagnosed conditions;
- c. One of the pediatricians where she had last been employed prescribed two of the medications to her and two of the nurse practitioners where she had last been employed prescribed other medications to her⁵;
- d. After some point, she did not have medical insurance and did not have a doctor; so she "called in" her own refills using a fictitious patient's name;
- e. In April 2017, she "called in" a prescription to a chain pharmacy in Virginia Beach for a non-CDS medication in the name of the fictitious patient, which was actually for one of her medical conditions. Respondent represented herself as a Maryland prescriber. One of the pharmacists became suspicious and reported the concerns to the Virginia Beach authorities;
- f. She paid in cash for the prescriptions;
- g. She has intermittently been calling in prescriptions in a fictitious name for the past ten years;
- h. She had prescription pads from other physicians in her car. Some of the physicians were those where she had worked as a "locum tenens" as long ago as 2010 and some were from offices where Respondent was directly

⁵ The Board is investigating whether these are legitimate signatures of the providers. There is no record of either of these providers having written prescriptions for Respondent.

employed;

- i. She acknowledged that she had unopened bottles of champagne in her automobile;
- j. She has been having financial difficulties; and
- k. She had a driver's license and identification from a health insurance plan with the name of her mother, which is similar to the fictitious name she created, in her automobile.

CONCLUSIONS OF LAW

Based upon the foregoing Investigative Findings, Board Disciplinary Panel B concludes as a matter of law that the public health, safety, or welfare imperatively requires emergency action, and that pursuant to Md. Code Ann., State Gov't § 10-226(c)(2), Respondent's license must be immediately suspended.

ORDER

Based on the foregoing Investigative Findings and Conclusions of Law, it is by Board Disciplinary Panel B:

ORDERED that pursuant to Md. Code Ann., State Govt. § 10-226(c)(2) (2014 Repl. Vol. and 2016 Supp.), Respondent's license to practice medicine in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that a post-deprivation initial hearing on the summary suspension in accordance with Md. Code Regs. 10.32.02.08 B(7) and E will be held on **Wednesday, July 26, 2017 at 8:00 a.m.** at the Maryland Board of Physicians, 4201 Patterson Avenue, Baltimore, Maryland, 21215-0095; and it is further

ORDERED that at the conclusion of the **SUMMARY SUSPENSION** hearing before Panel B, Respondent, if dissatisfied with the result of the hearing, may request within ten (10) days, an evidentiary hearing, such hearing to be held within thirty (30)

days of the request, before an Administrative Law Judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and it is further

ORDERED that on presentation of this Order, Respondent **SHALL SURRENDER** to Board staff the following items:

- (1) Respondent's original Maryland license D44694; and
- (2) Respondent's current license renewal certificate, and it is further

ORDERED that a copy of the Order of Suspension shall be filed with Panel B immediately in accordance with Health Occ. II § 14-407 (2014 Repl. Vol.); and it is further

ORDERED that this is an Order of Panel B, and as such, is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen Prov. §§ 4-101 et seq.

July 17, 2017
Date

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