

IN THE MATTER OF
PHILIP W. HALSTEAD, M.D.

Respondent

License Number: D50803

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 7716-0078B

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ORDER AFTER SHOW CAUSE HEARING

On March 24, 2016, Philip W. Halstead, M.D. entered into a Consent Order with Disciplinary Panel B of the Maryland State Board of Physicians (“Panel B”) that required him to meet with a panel-approved peer supervisor, who is board-certified in internal medicine. Dr. Halstead was required to meet with the supervisor at least once each month, and to ensure that the Board receive quarterly reports from the supervisor addressing any concerns with Dr. Halstead’s medical practice.

Dr. Halstead obtained a supervisor in July 2016, however, the supervisor’s first quarterly report, due on October 27, 2016, was submitted by Dr. Halstead late and was insufficiently detailed. After being notified that the report was insufficient and inconsistent with the Panel’s requirement, on January 20, 2017, the supervisor informed the Board that he could no longer serve as Dr. Halstead’s supervisor. The Board gave Dr. Halstead until February 3, 2017, to submit the name and Curriculum Vitae of a new supervisor.

Over the course of the next two months, Dr. Halstead submitted several names of potential supervisors and individuals who were either ineligible or unwilling to serve as a supervisor. During this time, Dr. Halstead requested and received several extensions of time from the Board.

On March 13, 2017, the Board asked Dr. Halstead to provide a detailed explanation of the steps he had taken to find a supervisor, which it received on April 19, 2017. Dr. Halstead listed five physicians that he had contacted. On May 25, 2017, Panel B issued an Advisory Letter giving Dr. Halstead a further extension until July 1, 2017 in order to find a new supervisor. Dr. Halstead did not submit the names of any potential supervisors.

On August 28, 2017, Panel B issued a Violation of Consent Order and Notice to Show Cause why additional sanctions should not be imposed against Dr. Halstead's license, based on his violation of the Consent Order. Dr. Halstead appeared at a Show Cause hearing on October 25, 2017, before Panel B. The State argued that Dr. Halstead's violation merited a suspension and extension of the probationary period in the consent order. Dr. Halstead admitted his violation of the Consent Order but argued that the Panel should allow him sixty days to find an acceptable peer supervisor. Dr. Halstead also conceded that an extension of his probation would be appropriate.

FINDINGS OF FACT

UNDERLYING ACTION

Dr. Halstead was initially licensed by the Board in 1996. He was trained in internal medicine and is not board-certified. On November 26, 2012, the Board charged Dr. Halstead with a violation of the standard of care and medical recordkeeping under Health Occ. § 14-404(a)(22) and (40). On May 22, 2013, Dr. Halstead and the Board entered into a Consent Order. As a condition of the Consent Order, Dr. Halstead's practice was subject to a chart and/or peer review, where an unsatisfactory chart or peer review would be deemed a violation of probation. The Board sent six patient

records for a chart review and peer review. The chart reviewer and two peer reviewers all found that his records reflected a violation of the standard of care and medical recordkeeping for various deficiencies. Based on the negative peer reviews, the Panel B charged Dr. Halstead with violating the standard of care and inadequate medical recordkeeping. On March 24, 2016, Dr. Halstead entered into a second Consent Order with Panel B, which concluded that he violated the standard of care and that his recordkeeping was inadequate, in violation of Health Occ. § 14-404(a) (22) and (40).

Pursuant to the 2016 Consent Order, Dr. Halstead was reprimanded and placed on probation for a minimum of two years with terms and conditions.¹ He agreed to permanently cease practicing pain management and treating patients for chronic pain. Relevant to this violation, the Consent Order required Dr. Halstead's practice to be supervised by a peer supervisor as follows:

3. The Respondent's medical practice shall be supervised by a panel-approved peer supervisor who is board certified in internal medicine. Within three (3) months, the Respondent shall provide the panel with the professional background information of the supervisor whom he offers to the panel for approval. The panel-approved supervisor must familiarize himself or herself with the relevant Board and Panel orders and peer review reports concerning the Respondent. The supervisor shall be available to the Respondent for consultations on any patient and shall observe the Respondent's practice and have access to the Respondent's patients' records and shall maintain the confidentiality of all medical records and patient information. The respondent shall meet with the supervisor on a monthly basis. Additionally, the respondent shall ensure that the supervisor provides the Board with quarterly reports addressing whether there are any concerns with the Respondent's medical practice. If there are indications that the Respondent poses a substantive risk to patients, the supervisor shall immediately report his or her concerns to the Board.

The Consent Order also stated that:

¹ Dr. Halstead has complied with conditions that required him to complete courses in primary care and record keeping and to obtain and begin utilizing electronic medical records with a dictation feature.

if the Respondent fails to comply with any of the terms and conditions of this Consent Order a disciplinary panel of the Board, in its discretion, after notice and opportunity for a show cause hearing before a disciplinary panel of the Board or an evidentiary hearing at the Office of Administrative Hearings if there is a genuine dispute as to the underlying material facts, may impose additional sanctions authorized under the Medical Practice Act, including a reprimand, suspension, an additional period of probation revocation and /or a monetary fine; . . .

Dr. Halstead agreed to the conditions and signed the Consent Order.

VIOLATION OF A PROBATIONARY CONDITION OF THE 2016 CONSENT ORDER

On July 27, 2016, Panel B approved Dr. Halstead's request for Physician A, a physician board-certified in family medicine, to supervise his practice. The initial quarterly report was due to the Board on October 27, 2016, however, the report was not submitted until December 9, 2016. The report submitted stated that there were no concerns about Dr. Halstead's practice, but the report was only a paragraph long and had insufficient detail. Staff sent Physician A a request that he submit a more detailed report and attached a sample report to serve as a guide. On January 17, 2017, Physician A resubmitted his report to the Board, and on January 20, Physician A sent a letter to the Board stating that he was unable to fulfill the responsibilities of a peer supervisor. Board staff sent Dr. Halstead a letter that same day, requesting that he send a name of another potential supervisor by February 3, 2017. Board staff sent him a link to a physician roster to assist him in locating a supervisor and warning him that failure to comply could be considered a violation of the 2016 Consent Order.

On February 3, 2017, Dr. Halstead sent a name of another potential supervisor, who was a family practice physician ("Physician B"), but explained that Physician B had not yet responded to Dr. Halstead regarding whether she was willing to accept the supervisory role. Physician B's office staff had contacted the Board on February 2,

2017, and expressed concerns because her practice was primarily pediatric patients. On February 8, 2017, Board staff notified Dr. Halstead that he had not provided a name of an acceptable supervisor. Board staff asked Dr. Halstead to send a name by February 10, 2017. On February 8, Dr. Halstead sent an e-mail to the Board stating that Physician B had not agreed to be his supervisor and asked for an extension to submit another supervisor candidate. On February 9, Board staff sent a letter to Dr. Halstead giving him an extension to February 28 to submit the name of a supervisor, a Curriculum Vitae, and a letter from the supervisor that he or she understands the terms of the Consent Order and what is expected of them.

On February 24, 2017, Dr. Halstead sent the name of Physician C, who he identified as a board-certified internist and, on February 28, notified Board staff that Physician C agreed to serve as a supervisor. On February 28, Board staff notified that Physician C was not eligible to serve as his supervisor because Physician C's board-certification had expired in 2009.

On March 1, 2017, Dr. Halstead gave the name of Physician D and stated that Physician D was going to respond to him regarding acceptance. On March 3, Dr. Halstead stated that Physician D would not be able to serve as his supervisor and submitted the name of Physician E. On March 6, Dr. Halstead stated that Physician E was not able to serve as his supervisor. He stated that he asked Hospital A to help him find a supervisor, but, because he was not privileged at the hospital, they would not assist him.

On March 13, 2017, Board staff provided Dr. Halstead with the physician roster. Dr. Halstead discussed proposing Physician B as a potential supervisor. On March 13,

Board staff sent a letter requesting that Dr. Halstead provide the Board with an explanation of the steps he had taken to find a supervisor, including the names of all physicians and dates he contacted them. On April 19, Dr. Halstead sent a letter to the Board stating that he “worked diligently” to find a physician supervisor. He stated that he contacted five physicians (Physician B, C, D, E, and F), but two were not board-certified, one was on probation, one was returning from short-term disability, and one primarily saw pediatric patients.

On May 25, 2017 Panel B issued an Advisory Letter to Dr. Halstead. The letter stated:

After a thorough review of your response and other pertinent material, Panel B determined to grant you until July 1, 2017 to propose an appropriate supervisor. This letter is not considered disciplinary action. However, please be advised that should you fail to propose an appropriate supervisor by July 1, 2017, Panel B may consider your lack of supervision to be a violation of your probation and issue a Notice of Intent to Show Cause.

Dr. Halstead did not provide any further names as supervisors by the July 1, 2017 deadline set forth in the advisory letter.

SHOW CAUSE HEARING

On August 28, 2017, the Office of the Attorney General issued a Violation of Consent Order and Notice to Show Cause. On October 25, 2017, Disciplinary Panel B held a Show Cause hearing at which Dr. Halstead appeared. At the hearing, the State argued that Dr. Halstead’s failure to obtain a peer supervisor after Physician A ceased his role as supervisor on January 20, 2017, constituted a violation of the Consent Order.

Dr. Halstead did not deny that he failed to obtain a peer supervisor after January 20, 2017, but he argued that he had attempted to obtain a supervisor, and had

submitted five names for supervisors. Dr. Halstead explained that he had just engaged with a company to help him find a supervisor and would be able to find a new supervisor if given another chance. Dr. Halstead conceded that an extension of the probationary period was appropriate, but sought 60 days to find a new supervisor without resorting to a suspension, which he claimed would harm his practice.

DISPOSITION

It is uncontroverted that Dr. Halstead has continued to practice without a supervisor for nearly his entire probation. The Panel gave Dr. Halstead several extensions, as he requested, to allow him to find a new supervisor. Instead of imposing discipline after three months without an approved supervisor, the Panel gave Dr. Halstead additional warning in an advisory letter to find a supervisor by July 1, 2017. Dr. Halstead has not done so and continues to practice without a supervisor. However, it is also uncontroverted that Dr. Halstead submitted several names that, for one reason or another, were ineligible to serve as a supervisor. Dr. Halstead has represented that he has engaged with a company that will aid him in finding a suitable physician supervisor. Despite his undisputed violation, based on this representation, and his previous efforts to find a supervisor, the Panel will give Dr. Halstead one final chance to find a supervisor before suspending his license. Because his probation has been served without any supervision, the Panel will extend the probation that was imposed under the 2016 Consent Order.

CONCLUSIONS OF LAW

Disciplinary Panel B concludes that Dr. Halstead violated probationary condition "3" of the March 24, 2016 Consent Order.

ORDER

On an affirmative vote of a majority of a quorum of Disciplinary Panel B, it is hereby

ORDERED that the **REPRIMAND** and permanent condition prohibiting Dr. Halstead from practicing pain management and treating any patients for chronic pain, remain in effect; and it is further

ORDERED that, by November 22, 2017, Dr. Halstead shall submit to the Board for Disciplinary Panel B's consideration the name and professional credentials of a proposed peer supervisor who is a Maryland-licensed physician, board-certified in internal medicine, and willing to supervise his practice; and it is further

ORDERED that, if Dr. Halstead fails to submit the name and credentials of an appropriate supervising physician by November 22, 2017, Dr. Halstead's license shall be **SUSPENDED**, beginning on December 4, 2017 and until such time that a peer supervisor who meets the requirements set forth by this Order is approved by Disciplinary Panel B; and it is further

ORDERED that the probationary period dating from the issuance of the March 24, 2016 Consent Order is hereby **EXTENDED**. If Disciplinary Panel B approves the peer supervisor submitted by Dr. Halstead, Dr. Halstead shall remain on **PROBATION** for a minimum period of **TWO YEARS** from the date that the first satisfactory peer supervisor report required under condition 1, discussed below, is received by the Board. During the extended probationary period, Dr. Halstead shall fully and satisfactorily comply with the following probationary terms and conditions:

1. Dr. Halstead's medical practice shall be supervised for the entirety of the probationary period by a Maryland-licensed, panel-approved peer supervising physician who is board-certified in internal medicine. The panel-approved supervising physician shall familiarize himself or herself with the relevant Board and Panel orders and peer review reports concerning Dr. Halstead. The supervising physician shall be available to Dr. Halstead for consultations on any patient, shall have access to the patients' records, and shall maintain the confidentiality of all medical records and patient information. The supervising physician shall have face-to-face meetings with Dr. Halstead at least **MONTHLY** and review a minimum of **TEN** patient records selected by the peer supervisor for discussion with Dr. Halstead. Additionally, Dr. Halstead is responsible for ensuring that the supervising physician provides the Board with quarterly reports addressing whether there are any concerns with Dr. Halstead's medical practice. If there are any indications that Dr. Halstead poses a substantive risk to patients, the supervising physician shall immediately report his or her concerns to the Board. If the supervising physician discontinues supervision at any time during the probationary period, Dr. Halstead is responsible for obtaining another supervising physician to fulfill the supervision requirement;

2. Dr. Halstead shall continue to use electronic medical records with a dictation feature in his practice; and

3. Dr. Halstead's practice shall be subject to a chart review. An unsatisfactory chart review shall be deemed a violation of probation and this Order; and it is further

ORDERED that after two years from the date of the first satisfactory peer supervisor report received by the Board, Dr. Halstead may submit a written petition to

the Panel requesting termination of probation. After consideration of the petition, the probation may be terminated, through an order of the Board, or Board panel. The Board, or Board panel, will grant the termination if Dr. Halstead has fully and satisfactorily complied with the probationary terms and conditions and there are no pending complaints related to the charges; and it is further

ORDERED that Dr. Halstead shall practice according to the Maryland Medical Practice Act and in accordance with all applicable laws, statutes and regulations pertaining to the practice of medicine; and it is further

ORDERED that if Dr. Halstead allegedly fails to comply with any term or condition of probation or this Order, Dr. Halstead 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, Dr. Halstead shall be given a show cause hearing before the Board or Board panel; and it is further

ORDERED that, after the appropriate hearing, if the Board or Board disciplinary panel determines that Dr. Halstead has failed to comply with any term or condition of probation or this Order, the Board or Board disciplinary panel may reprimand Dr. Halstead, place Dr. Halstead on probation with appropriate terms and conditions, or suspend or revoke Dr. Halstead's license to practice medicine in Maryland. The Board or Board disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon Dr. Halstead; and it is further

ORDERED that, unless stated otherwise in the order, any time period prescribed in this order begins when this Order goes into effect. This 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 Dr. Halstead shall not apply for early termination of probation; and it is further

ORDERED that Dr. Halstead is responsible for all costs incurred in fulfilling the condition of this Order; and it is further

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

October 30, 2017
Date

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