

IN THE MATTER OF	*	BEFORE THE
MARTIN K. SLODZINSKI, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D59117	*	Case Number: 2219-0020A
* * * * *	*	* * * * *

CONSENT ORDER

On November 4, 2019, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) charged **MARTIN K. SLODZINSKI, M.D.** (the “Respondent”), License Number D59117, under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-101 *et seq.* (2014 Repl. Vol. and 2019 Supp.).

The pertinent provisions of the Act provide:

Health Occ. § 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[.]

One form of unprofessional conduct in the practice of medicine is “disruptive behavior.” “Disruptive physician behavior” has been addressed by The Joint Commission and the American Medical Association (“AMA”).

JOINT COMMISSION SENTINEL EVENT ALERT, 2008

On July 9, 2008, The Joint Commission issued a Sentinel Event alert entitled “Behaviors that Undermine a Culture of Safety,” which stated in pertinent part:

Intimidating and disruptive behaviors can foster medical errors . . . contribute to poor patient satisfaction and to preventable adverse outcomes . . . increase the cost of care . . . and cause qualified clinicians, administrators and managers to seek new positions in more professional environments . . . 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, as well as passive activities such as refusing to perform assigned tasks or quietly exhibiting uncooperative attitudes during routine activities. Intimidating and disruptive behaviors are often manifested by health care professionals in positions of power. Such behaviors include reluctance or refusal to answer questions, return phone calls or pages; condescending language or voice intonation; and impatience with questions . . . 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.^{1,2}

AMA OPINION 9.045, JUNE 2000

AMA Opinion 9.045, entitled, *Physicians with Disruptive Behavior*, adopted in June 2000, states 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

¹ In 2011, The Joint Commission revised the term “disruptive behavior” to “behavior or behaviors that undermine a culture of safety.”

² In 2016, The Joint Commission noted that “while the term ‘unprofessional behavior’ is preferred instead of ‘disruptive behavior,’ the suggested actions in this alert remain relevant.”

care team.) However, criticism that is offered in good faith with the aim of improving patient care should not be construed as disruptive behavior.

AMA OPINION 9.4.4, JUNE 2016

AMA Code of Medical Ethics: Professional Self-Regulation Opinion 9.4.4, adopted in June 2016 pertaining to Physicians with Disruptive Behavior, states in pertinent part:

The importance of respect among all health professionals as a means of ensuring good patient care is foundational to ethics. Physicians have a responsibility to address situations in which individual physicians behave disruptively, that is, speak or act in ways that may negatively affect patient care, including conduct that interferes with the individual's ability to work with other members of the health care team, or for others to work with the physician.

On February 12, 2020, Panel A was convened as a Disciplinary Committee for Case Resolution ("DCCR") in this matter. Based on negotiations occurring 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

Panel A finds:

I. Background/Licensing Information

1. At all times relevant, the Respondent was and is a physician licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on June 26, 2002, under License Number D59117. The Respondent's Maryland medical license is active through September 30, 2021.

2. The Respondent is board-certified in anesthesiology.

3. At all times relevant, the Respondent practiced at a health care facility (the “Facility”)³ located in Maryland.

II. The Complaints

4. On or about July 5, 2018, the Board reviewed newspaper articles that reported that a certified registered nurse anesthetist (“CRNA”) had sued the Respondent for assault. In this lawsuit, the CRNA alleged that while assisting the Respondent in providing anesthesia during a surgery on June 14, 2018, the Respondent intentionally sprayed the CRNA with a patient’s contaminated body fluids.

5. On October 9, 2018, the above CRNA (the “Complainant”) filed a complaint with the Board in which he recounted the June 14, 2018, operating room incident. He stated that prior to the incident, the Respondent told a patient who was in the operating room and was about to undergo surgery that an anesthetic drug he was administering, propofol, had “no carbohydrates in it.” In response, the Complainant stated that it did have “fat in it.” The Complainant stated that the Respondent then told him to “shut up” and proceeded to “aspirate fluid from the IV,” unscrew it, and “maliciously” shoot the contents at him “like a water gun.” The Complainant stated that the Respondent saw his “shocked face” and immediately apologized to him.

³ To maintain confidentiality, the names of health care facilities, the Complainant and Facility staff persons, including physicians, will not be identified in this document. The Respondent is aware of all health care facilities and individuals referenced in this document.

III. Board Investigation

6. The Board initiated an investigation after reviewing the above newspaper accounts. The Board requested that the Respondent provide a written response to the allegations contained in those accounts. In a responsive letter dated September 26, 2018, the Respondent admitted that “some liquid from a syringe...made contact” with the Complainant’s scrubs but denied intentionally spraying him. The Respondent also denied that the liquid was contaminated and claimed that it presented no harm to the Complainant.

7. The Board obtained the Facility’s quality assurance/risk management file, which referenced the June 14, 2018, operating room incident and the Facility’s ensuing investigation of it. The file also revealed that while the Facility was investigating the incident, it uncovered additional behavioral concerns with the Respondent. Specifically, multiple residents described a “teaching pearl” the Respondent used. The residents reported that while teaching them about the Richmond Agitation Sedation Score (“RASS”) and sedation, the Respondent would unexpectedly kick them in the shin to demonstrate awareness of stimulation and pain. Additionally, another resident reported that the Respondent made sexually inappropriate comments to her on more than one occasion.

8. The file noted that the Respondent resigned from the Facility, effective March 21, 2019, prior to the conclusion of the Facility’s investigation into allegations that he engaged in unprofessional conduct towards staff and residents; and that prior to the Respondent’s resignation, a Facility committee voted to issue a letter of warning requiring mandatory training and counseling. The committee later planned to meet to consider whether the previous recommendation was sufficient.

The Complainant's interview

9. Board staff interviewed the Complainant about the June 14, 2018, operating room incident. The Complainant stated that there was a student CRNA with him in the operating room that day. The Complainant stated that the patient, who had already met with the Respondent, was brought to the operating room, where they connected monitors and then paged the Respondent. The Complainant stated that the Respondent arrived and made his usual entrance by stating, do “you feel those chardonnays yet?” to the patient. The Respondent continued his banter with the patient stating, “I want you to know what it feels like to be high.” The Complainant stated that as the Respondent prepared to inject propofol, he said to the patient, “this doesn’t have carbohydrates in it,” to which the Complainant replied that it “did have a little fat.” The Complainant then described what the Respondent did:

[He] connected another syringe to the IV. He aspirates off the IV. He takes the fluid straight from the IV and he simultaneously, at the same time says shut up and he squirts it all over me.

10. The Complainant stated that he was soaked from his “belly button to his mask” and that the religious undergarment he was wearing underneath was also soaked. He stated that he was unable to leave the operating room to change because the patient was now intubated and the Respondent had already left the operating room. He stated that the Respondent finally returned approximately 30 minutes later to allow him to change. The Complainant stated that he was shocked by the Respondent’s total disregard for a colleague and the patient. The Respondent expressly acknowledges and takes responsibility for his actions toward the Complainant and recognizes that he exercised bad judgment.

Student CRNA interview

11. Board staff interviewed the student CRNA who was present during the June 14, 2018, operating room incident. She confirmed the events of that day and the interaction between the Respondent and the Complainant. She described the Complainant as responding “jokingly” to the Respondent’s statement. She stated that at one point, the Respondent said, “oh, shut-up” and sprayed the Complainant. She characterized the Respondent’s actions as “aggressive.” The student CRNA believed that the Respondent intentionally sprayed the fluid on the Complainant.

Medical resident incidents

12. Board staff interviewed the physicians (“Physicians A, B and C”) who were all once anesthesiology residents at the Facility. Each described the teaching technique the Respondent used when they were residents in 2015 or 2016. In every instance, the instruction occurred in an operating room after a procedure was completed. They stated that the Respondent would be leading a discussion about the RASS score when he would suddenly kick them on the leg, shin, or foot, to “illustrate his point.” The Respondent subjected each of the physicians to this technique during their first year of residency. All of the residents said that they had felt uncomfortable reporting the Respondent’s actions based on his position of authority at the Facility.

13. Board staff interviewed a third-year resident (“Physician D”) at the Facility who reported that the Respondent made unwelcome sexual remarks to her during the course of her professional duties. Physician D stated that she had not experienced the Respondent’s RASS teaching technique but had heard about it from other residents.

Physician D described her first interaction with the Respondent after her residency began in 2017. She stated that in or around early 2018, during a surgical case where other staff persons were present, she introduced herself to the Respondent, who asked her to “tell me something about yourself [like] where are you from.” Physician D stated that when she stated where she was from, the Respondent asked what high school she had attended. She stated that when she informed him of her school’s name, the Respondent characterized the women there as “really dirty,” and “sluts,” and asked if “they slept around a lot.” She stated that she tried to ignore his comments but that when the Respondent’s questioning continued, she eventually told him, “[y]ou either need to stop or you need to leave the room,” after which the Respondent left the operating room. Physician D stated that she instructed the Respondent to leave the room because she did not want the patient to hear his remarks and did not want to be distracted while she was extubating the patient.

14. Physician D stated that in some of her future interactions with the Respondent, he again made remarks such as, “oh that’s right you’re the girl from . . . who sleeps around,” which made her feel uncomfortable. Physician D also described another conversation with the Respondent in which he discussed his sexual experiences and “how free life was” as an attending physician.

Respondent’s interview

15. Board Staff interviewed the Respondent, who stated that he “got two and a half CCs of lidocaine” on the Complainant. He confirmed that he and the Complainant had a conversation about the calories in the medication but said he merely told the Complainant not to “mess with my marketing.” He did not recall telling the Complainant

to shut up. The Respondent claimed, "no fluid was actually drawn from the patient IV." He stated that he picked up the syringe that was used to inject the lidocaine and sprayed it toward the Complainant and was "shocked" when it happened. The Respondent acknowledged that when he squirted the fluid, it landed on the Complainant's chest and on his glasses. He stated he immediately told the Complainant to change but the Complainant declined to do so. He stated that he apologized to the Complainant multiple times that day. The Respondent also confirmed the conversations that he had with the patient prior to induction of anesthesia. He said that he would use an analogy, such as "having a few chardonnays," to get the patient to relax before administering anesthesia.

16. In response to the medical resident incidents, the Respondent stated that for the last 15 years he taught approximately 70 obstetrical residents per year about the RASS score. He stated that by "tap[ping] their leg" it would illustrate to the resident how sudden pain could change it. The Respondent stated that he did not ask for permission when kicking his residents because "[i]t's supposed to be kind of a surprise." He claimed no one was in pain and "no one ever complained about it." He felt it was a "unique teaching experience for the residents."

17. In response to Physician D's allegations, the Respondent stated that he did not remember making sexually inappropriate comments to her but did acknowledge that he spoke to her about her school.

18. The Board's investigation determined that the Respondent engaged in inappropriate and disruptive behavior in clinical settings, as set forth above. This misconduct included spraying the Complainant with a fluid-filled syringe, kicking

residents (Physicians A, B and C) as part of a purported teaching exercise, and using sexually offensive and demeaning language to a resident (Physician D) over whom he had authority.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, 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. § 14-404(a)(3)(ii).

ORDER

It is thus by Disciplinary Panel A of the Board, hereby:

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

ORDERED that the Respondent is placed on probation for a minimum period of **ONE (1) YEAR**.⁴ During probation, the Respondent shall comply with the following terms and conditions of probation:

1. The Respondent shall enroll in the Maryland Professional Rehabilitation Program (MPRP) as follows:
 - (a) Within **5 BUSINESS DAYS** of the effective date of this Consent Order, the Respondent shall contact MPRP to schedule an initial consultation for enrollment;
 - (b) Within **15 BUSINESS DAYS** of the effective date of this Consent Order, the Respondent shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP;
 - (c) The Respondent shall fully and timely cooperate and comply with all MPRP's referrals, rules, and requirements, including, but not limited to, the terms and conditions of the Participant Rehabilitation

⁴ If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

Agreement(s) and Participant Rehabilitation Plan(s) entered with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by MPRP;

- (d) The Respondent shall sign and update the written release/consent forms requested by the Board and MPRP, including release/consent forms to authorize MPRP to make verbal and written disclosures to the Board and to authorize the Board to disclose relevant information from MPRP records and files in a public order. The Respondent shall not withdraw his/her release/consent;
 - (e) 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 evaluation and treatment records. The Respondent shall not withdraw his/her release/consent; and
 - (f) The Respondent's failure to comply with any of the above terms or conditions including terms or conditions of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s) constitutes a violation of this Consent Order.
2. Within **SIX (6) MONTHS** of the effective date of this Consent Order, the Respondent is required to take a course in professional workplace behavior. The following terms apply:
- (a) It is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the course before the course is begun;
 - (b) The disciplinary panel will not accept a course taken over the internet;
 - (c) The Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;
 - (d) The course may not be used to fulfill the continuing medical education credits required for license renewal; and
 - (e) The Respondent is responsible for the cost of the course.

3. Within **ONE (1) YEAR** of the effective date of this Consent Order, the Respondent shall pay a civil fine of \$ 10,000.00. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297. The Board will not renew or reinstate the Respondent's license if the Respondent fails to timely pay the fine to the Board; and it is further

ORDERED that the Respondent shall not apply for early termination of probation; and it is further

ORDERED that, after the Respondent has complied with all terms and conditions of probation and the minimum period of probation imposed by the Consent Order has passed, the Respondent may submit to the Board a written petition for termination of probation. After consideration of the petition, the probation may be terminated through an order of the disciplinary panel. The Respondent may be required to appear before the disciplinary panel to discuss his petition for termination. The disciplinary panel may grant the petition to terminate the probation, through an order of the disciplinary panel, if the Respondent has complied with all probationary terms and conditions and there are no pending complaints relating to the charges; and it is further

ORDERED that a violation of probation constitutes a violation of the Consent Order; and it is further

ORDERED that, if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If the disciplinary panel determines 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 followed by an exceptions process before a disciplinary panel;

and if the disciplinary panel determines there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend with appropriate terms and conditions, or revoke the Respondent's license to practice medicine in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; 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 the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order, and it is further

ORDERED this Consent Order is a public document. *See* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

03/06/2020
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Martin K. Slodzinski, M.D., acknowledge that I have consulted with counsel before signing this document.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 et seq. concerning the pending charges. I waive this right and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered 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 behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order.

I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

I sign this Consent Order, without reservation, and fully understand the language and meaning of its terms.

3/2/20
Date

Signature on File

Martin K. Slodzinski, M.D.
Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF Anne Arundel

I HEREBY CERTIFY that on this 2nd day of March 2020, before me, a Notary Public of the foregoing State and City/County, personally appeared Martin K. Slodzinski, 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: 4/16/2020

