

IN THE MATTER OF	*	BEFORE THE
CAROLINE ANNE GERHARDT, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D60595	*	Case Number: 2015-0859 A
* * * * *	*	* * * * *

**CONSENT ORDER**

On February 10, 2016, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") voted to charge Caroline Anne Gerhardt, M.D. (the "Respondent"), License Number D60595 under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 14-101 *et seq.* (2014 Repl. Vol. & 2015 Supp.).

Panel A voted to charge the Respondent with violating 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;
  - (9) Provides professional services:
    - (ii) While using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication[.]

The following provision of the American Medical Association Code of Medical Ethics is pertinent in part to the charge of unprofessional conduct in the practice of medicine:

Opinion 8.19 – Self-treatment or Treatment of Immediate Family Members (June 1993)

Physicians generally should not treat themselves or members of their immediate families. Professional objectivity may be compromised when an immediate family member or the physician is the patient; the physician's personal feelings may unduly influence his or her professional medical judgment, thereby interfering with the care being delivered. Physicians may fail to probe sensitive areas when taking the medical history or may fail to perform intimate parts of the physical examination...When treating themselves or immediate family members, physicians may be inclined to treat problems that are beyond their expertise or training.

...

...Except in emergencies, it is not appropriate for physicians to write prescriptions for controlled substances for themselves or immediate family members. (I, II, IV)

Prior to the issuance of formal disciplinary charges, Respondent agreed to enter into the following public Consent Order, consisting of Findings of Fact, Conclusions of Law, and Order.

### **FINDINGS OF FACT**

Panel A finds the following:

#### **I. Background**

1. At all times relevant hereto, Respondent was and is licensed to practice medicine in the State of Maryland. Respondent was originally licensed to practice medicine in Maryland in June 2003. Respondent last renewed her license in or about September 2014, which will expire on September 30, 2016.

2. Respondent is board-certified by American Board of Emergency Medicine in Emergency Medicine.

3. Since June 2003, Respondent has worked for an emergency medicine group practice for a couple of years, for a hospital in a rural county of Maryland for a

couple of years, for Locums Tenens for a couple of years, and for a hospital in Baltimore City for a couple of years. In or about November 2014, Respondent began employment at another hospital in Baltimore City ("Hospital A").

4. Respondent does not at this time hold any hospital privileges.

## **II. Complaint**

5. On June 10, 2015, the Board received a telephone complaint from an anonymous caller stating that Respondent, an emergency room physician, tested positive for alcohol while at work. The Investigation described below indicated that Respondent tested positive for alcohol on June 2, 2015, a non-working day.

6. On July 16, 2015, the Board received a "Mandated 10-day Report"<sup>1</sup> from Hospital A. According to the Report:

On June 1, 2015, Dr. Gerhardt was noted to have slurred speech and different irregular handwriting while working. Toxicology results were received the next day and Dr. Gerhardt acknowledged "falling off the wagon." Dr. Gerhardt was informed that she would be supported in receiving help from appropriate professionals & could return after she was cleared to return to work, and referrals were made. On July 14, the hospital learned that Dr. Gerhardt had not enrolled in the Med-Chi Physician Health Program. On July 15, her privileges were summarily suspended and she tendered her resignation.

## **III. Investigation of Complaint**

7. On July 17, 2015, pursuant to a subpoena, the Board received Respondent's risk management/quality assurance (RM/QA) file from Hospital A. The RM/QA file contained a memorandum of June 2, 2105 from the Chairman of the Department of Emergency Medicine of Hospital A and noted the following:

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<sup>1</sup> Pursuant to Health Occ. II § 14-413(a), a hospital is required to report to the Board if a licensed physician who has privileges with the hospital has had staff privileges changed, if the change is for reasons that might be grounds for disciplinary action. The hospital shall submit the report within 10 days of the action.

Yesterday, June 1, 2015, at approximately 7:00 pm, I was called at home by (Physician 1) and notified that she had just been called by (Physician Assistant A) and informed that (Physician Assistant B), who was working in the ED, had contacted her with concerns that Dr Caroline Gerhardt may be impaired. (Physician Assistant B) had noted slurred speech and different, irregular handwriting. Because of these suspicions I returned to the ED.

On arrival to the ED at approximately 8:00 pm, I met with (ED physician) and we interviewed Dr Gerhardt in the ED office. It was apparent that Dr. Gerhardt was indeed slurring her words and seemed slow to respond. She was not lethargic and I did not smell any odor of alcohol. I asked Dr G about a possible reason for her slurred speech and she stated that she had taken Benadryl 50 mg in the morning for seasonal allergies. She denied taking any opiate pain medication, any benzodiazepines medication, Tramadol, or any medication besides the Benadryl. She denied drinking any alcohol, and as on previous questioning, stated she does not drink alcohol. I made my concerns known to Dr G and told her she could not continue her shift and I would like to have her tested for blood alcohol and a urine tox screen. I also said that she could not return to work until she was tested and we had the results. ... (Physician Assistant C) also stated she noted slurred speech.

Today (June 2, 2015) I contacted Dr. G ... and told her to come to (Hospital A) outpatient lab where she agreed to have blood drawn for alcohol and a urine tox screen. While waiting for the results Dr G informed me that she had taken Ativan last night after leaving the ED because of a panic attack...Physician 1 had informed me earlier that Dr G had told her that she had taken Tylenol #3 for cramps 3 days ago.... I asked Dr G about the BAL 36 and she then said 'I had a beer last night.' ...she then said she had more than one beer.

8. On July 30, 2015, the Board directed Respondent to submit a response to the complaint within ten business days.

9. On August 28, 2015, Respondent signed a voluntary agreement with the Maryland Physician Health Program ("MPHP") wherein she agreed to cease the practice of medicine immediately until informed otherwise by MPHP.

10. On August 31, 2015, the Board received Respondent's written response which contained the following:



It has come to my attention that an anonymous complaint was filed against me June 1, 2015. I was said to have had slurred speech and irregular handwriting at work. I do not recall being impaired at work at any time during that day. I had taken an Ativan<sup>2</sup> and a Benadryl as prescribed for a panic attack prior to work on June 1, which may have been what was observed.

Subsequently - on June 2, 24 hours later, on my nonworking day I was asked to come in to the hospital for a random toxicology. I had had a drink at lunch this day, as I was not working and did not expect testing. I was well known to be a long time non drinker by staff, so when my alcohol level was mildly elevated, I had to admit I had fallen off the wagon, in that I had not maintained total abstinence. At no time did I drink before or during work, or to excess. I admit to an ongoing problem with alcohol abuse, and I had relapsed – I had previously been sober 5 ½ years.

11. On December 4, 2015, Board staff interviewed Respondent under oath.

Respondent testified to the following:

... I had an anxiety attack before work, took an Ativan and Benadryl. I was reportedly sleepy, and I admit that I was sleepy at work and sent home.

The following day, 24 hours later, on a non-workday, I was asked to come in and do toxicology and I had been drinking that day. And I reiterate this was a non-workday. And on that day I tested positive for alcohol.

I've self-prescribed Ativan...

12. On December 17, 2015, the Board received a facsimile of the laboratory report from Hospital A. The report of urine and blood drug testing collected on June 2, 2015 at 3:55 p.m. revealed the following:

- a. Urine for Opiate Scrn detected; and
- b. Ethanol level 36<sup>hh</sup> mg/dL.

13. Pursuant to a Board subpoena to area pharmacies, a computer printout from one of the pharmacies confirmed that Respondent wrote the following prescriptions for herself:

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<sup>2</sup> Ativan, the brand name of lorazepam, which is in a group of drugs known as benzodiazepine, is used to treat anxiety. Ativan is a Schedule IV Controlled Dangerous Substance.

- a. 2/20/25 - Alprazolam<sup>3</sup> 0.5 mg, 120 tablets, 3 refills;
- b. 4/4/15 - Lorazepam<sup>4</sup> 0.5 mg, 120 tablets, 0 refills;
- c. 5/18/15 - Lorazepam 0.5 mg, 90 tablets, 0 refills;
- d. 6/19/15 - Lorazepam 0.5 mg, 90 tablets, 1 refill;
- e. 8/11/15 - Lorazepam 0.5 mg , 90 tablets, 2 refills;
- f. 6/7/15 - Zolpidem Tartrate<sup>5</sup> 10 mg, 60 tablets<sup>6</sup>, 0 refills;
- g. 7/12/15 - Zolpidem Tartrate 10 mg, 60 tablets<sup>7</sup>, 1 refill; and
- h. 8/12/15 - Zolpidem Tartrate 10 mg, 60 tablets<sup>8</sup>, 2 refills.

#### **IV. Finding of Unprofessional Conduct in the Practice of Medicine**

14. Respondent engaged in unprofessional conduct in the practice of medicine by:

- a. Having slurred speech, irregular handwriting, and being slow to respond while on duty in the emergency room;
- b. Taking Ativan and Benadryl which caused slurred speech, irregular handwriting, and slow responses as observed by others while on duty during the day in the emergency room and as late as 8:00 pm;
- c. Self-prescribing controlled dangerous substances (“CDS”) for her personal use on eight occasions between February 10, 2015 and August 12, 2015; and

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<sup>3</sup> Alprazolam, a generic form of Xanax, is a Schedule IV benzodiazepine, used to treat anxiety disorders and panic disorders.

<sup>4</sup> Lorazepam, a generic form of Ativan, is a Schedule IV benzodiazepine, used to treat anxiety disorders.

<sup>5</sup> Zolpidem Tartrate is a sedative/hypnotic that is used to treat insomnia, which shares some characteristics of a family of sedatives called benzodiazepines. Benzodiazepines cause sedation, muscle relaxation, act as anti-convulsants (anti-seizure medications), and reduce anxiety. One of the brand names of Zolpidem Tartrate is Ambien. Zolpidem is a Schedule IV CDS.

<sup>6</sup> Thirty tablets were dispensed.

<sup>7</sup> Thirty tablets were dispensed.

<sup>8</sup> Thirty tablets were dispensed.

- d. Providing inconsistent statements to the chair of the ED, who she told she had taken Ativan after work; and in her response to the Board and in her interview, where she stated that she took Ativan before work.

**VI. Finding of "Provides Professional Services While Using Any Controlled Dangerous Substance"**

15. Respondent's provision of professional services while using CDS is evidenced by:

- a. Having slurred speech, irregular handwriting, and being slow to respond while on duty in the emergency room; and
- b. Taking Ativan which caused slurred speech, irregular handwriting, and slow responses as observed by others while on duty during the day in the emergency room and as late as 8:00 pm.

**CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, Disciplinary Panel A of the Board concludes as a matter of law that Respondent violated Health Occ. § 14-404(a)(3)(ii) (unprofessional conduct in the practice of medicine) and (a)(9)(ii)(Provides professional services while using any controlled dangerous substance.)

**ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by a majority of the quorum of Disciplinary Panel A, hereby:

**ORDERED** that Respondent's license to practice medicine is **SUSPENDED** for a minimum of six (6) months from the date that Panel A executes this Consent Order. During the suspension, the Respondent shall fully and satisfactorily comply with all of the following terms and conditions:

1. Within ten (10) business days of the date that Panel A executes this Order, Respondent shall enroll in the Maryland Physician Rehabilitation Program ("MPRP") and enter into a Board-monitored Rehabilitation Agreement for

the length of time directed by the MPRP and shall fully, timely, and satisfactorily cooperate and comply with all MPRP directions and requirements, including, but not limited to, the terms and conditions of all Rehabilitation Agreement(s) and Rehabilitation Plan(s) entered into with MPRP, obtain evaluation and treatment as directed by the MPRP, complete abstinence challenge with random monitored toxicology screens as required by the MPRP, self-help fellowship meetings and in-patient substance/alcohol abuse treatment as directed by the MPRP;

2. Within ten (10) business days of the date that Panel A executes this Order, Respondent shall sign any written release/consent forms, and update them, as required by Panel A or the Board and the MPRP. Specifically, Respondent shall sign any written release/consent forms required by the Board to authorize the MPRP to make verbal and written disclosures to Disciplinary Panel A or the Board, including disclosure of any and all MPRP records and files and confidential drug and alcohol abuse information about Respondent. Respondent shall also sign any written release/ consent forms required by the MPRP to authorize the MPRP to exchange with (*i.e.*, disclosure to and receive from) outside entities (including any of Respondent's treatment providers) verbal and written information about her, including confidential drug and alcohol abuse information; and
3. Respondent shall be responsible for assuring that any treatment provider(s) submit written reports to the MPRP and to Panel A or the Board at least once every three (3) months regarding her attendance, progress, payment of fees, and recommendations as to the continuation, frequency, and/or termination of treatment. Respondent shall sign any consent forms required to authorize Panel A or the Board and the MPRP to receive written reports from any treating mental health and health professionals or any treatment providers, if any;

And it is further **ORDERED** that after a minimum of six (6) months, if the MPRP determines that Respondent is safe to practice medicine, and if Respondent has complied with the conditions above, Respondent may petition Panel A or the Board serving as the Reinstatement Inquiry Panel of the Board to lift the suspension of Respondent's license. Upon reinstatement, Panel A or the Board may impose conditions on Respondent's return to practice, and it is further

**ORDERED** that if Respondent violates any of the terms and conditions of this

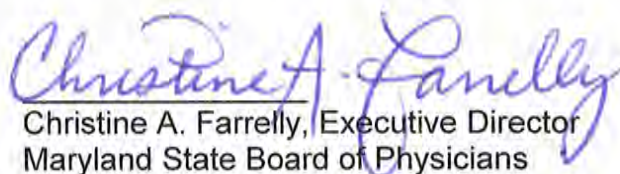


Consent Order, Disciplinary Panel A or the Board, in its discretion, after notice and an opportunity for a show cause hearing before Panel A or the Board, or opportunity for an evidentiary hearing before an Administrative Law Judge at the Office of Administrative Hearings if there is a genuine dispute as to the underlying material facts, may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's medical license; and be it 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 Consent Order is a public document pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014 & 2015 Supp.).

02/19/2016  
Date

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

**CONSENT**


I, Caroline Anne Gerhardt, M.D., License No. D60595, by affixing my signature hereto, acknowledge that:

1. I have consulted with counsel, Carolyn Jacobs, Esquire, and knowingly and voluntarily elect to enter into 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.
2. I am aware that I am entitled to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. II § 14-405 (2014 Repl. Vol.) and Md. Code Ann., State Gov't II §§ 10-201 *et seq.* (2014 Repl. Vol.).
3. I acknowledge the validity and enforceability of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have 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 as provided by law. I am waiving those procedural and substantive protections.

4. I voluntarily enter into and agree to abide by the terms and conditions set forth herein as a resolution of the Charges against me. I waive any right to contest the Findings of Fact and Conclusions of Law and I waive my right to a full evidentiary hearing, as set forth above, and my right to appeal any adverse ruling of a disciplinary panel of the Board that might have followed any such hearing, and any right to appeal this Consent Order.
5. I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

2/18/16  
Date

  
Caroline Anne Gerhardt, M.D., Respondent

**NOTARY**

STATE OF Maryland  
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 18 day of feb, 2016  
before me, a Notary Public of the State and County aforesaid, personally appeared  
Caroline Anne Gerhardt, M.D, License number D60595, and gave oath in due form of  
law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

  
Notary Public

My commission expires 11/7/19