

IN THE MATTER OF * BEFORE THE MARYLAND
JONATHAN KLINGLER, D.O. * STATE BOARD OF
Respondent * PHYSICIANS
License Number: H75599 * Case Number: 2015-0851B

CONSENT ORDER

On December 22, 2015, Disciplinary Panel B of the Maryland State Board of Physicians (the "Board") charged Jonathan Klingler, D.O. (the "Respondent"), License Number H75599, with violating the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") § 14-101 *et seq.* (2014 Repl. Vol.). The pertinent provisions of the Act provide the following:

§ 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;

...

(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[.]

On February 24, 2016, Disciplinary Panel B was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Disciplinary Panel B finds:

BACKGROUND

1. At all times relevant, the Respondent was a physician licensed to practice medicine in the State of Maryland. The Respondent was initially licensed in Maryland on or about March 13, 2013, and his license is currently scheduled to expire on September 30, 2016.
2. The Respondent is also licensed as a physician in Pennsylvania, and his license is scheduled to expire on October 31, 2016.
3. The Respondent is board-certified in Emergency Medicine, and at all times relevant to these charges was employed by an emergency medicine group (“Group A”) that had an exclusive contract with Hospital A to provide emergency medical services. The Respondent was employed as an Emergency Room (“ER”) physician at Hospital A beginning in July 2013.
4. On or about May 29, 2015, Hospital A filed with the Board a “Mandated 10-Day Report” (the “Report”) alleging the Respondent had asked three patients to “turn over their pain medication to him for the alleged purpose of wasting or safekeeping the medications (neither of which he did).” The Respondent refused

to comply with a urine drug screen, and his employment was terminated as are set forth in more detail below.

5. On or about August 12, 2015, the Board notified the Respondent of its receipt of the Report and requested a written response.
6. On or about August 23, 2015, the Respondent submitted a written response to the Board stating that he had become addicted to pain medication after experiencing personal tragedies and an ankle injury.
7. On or about September 3, 2015, Board staff interviewed the Respondent under oath regarding the allegations cited in the Report, and he acknowledged an addiction to pain medication that had again become active in March 2015. The interview is set forth in more detail below.
8. Sometime in June 2015 the Respondent self-reported to the Maryland Physician Health Program, and was voluntarily admitted to an in-patient program for rehabilitation.

HOSPITAL A

The incident giving rise to the Respondent's termination from employment at Hospital A took place on or about May 13, 2015 as set forth below:

9. On or about April 27, 2015, Nurse A reported to Dr. A, the Chair of Emergency Medicine at Hospital A, that the Respondent had requested a patient's ("Patient A's") son bring in Patient A's pain medication to confirm that she was taking the correct medication. The Respondent told Patient A's son that he would "waste" the medication, and provide Patient A with a new prescription.

10. According to Dr. A, another E.R. physician, Dr. B, was notified about the incident with regard to Patient A, and had advised the Respondent to stop the practice of requesting patients turn over their pain medications to him.
11. On or about May 3, 2015, a second nurse, Nurse B, reported to Dr. A that the Respondent had again requested two patients turn over their pain medications to him (the Respondent). On May 3, 2015, the Respondent had requested that Patient B's son provide him (the Respondent) with Patient A's Vicodin¹ for safekeeping. On Patient B's discharge from Hospital A, the Vicodin was missing. According to Nurse B, a similar incident had occurred on April 27, 2015, with another patient, Patient C.
12. On or about May 4, 2015, Dr. A discussed the Respondent's conduct with him by telephone, and the Respondent acknowledged that he had obtained the pain medication from the patients described above, but that his attempt was to decrease the amount of excess opiates in the community and responsibly prescribe pain medication. Dr. A instructed the Respondent to stop the practice immediately as it was not consistent with the usual practice within the department or in line with medical policy.
13. On or about May 13, 2015, Dr. A met with the Respondent and requested that in order to "clear any controversy" the Respondent submit to a urine drug screen. The Respondent refused to submit to a urine screen and he resigned from employment. Dr. A subsequently terminated him from employment for reasons set forth below.

¹ Schedule II Controlled Dangerous Substance ("CDS").

14. By letter dated May 18, 2015, Dr. A stated his reasons for terminating the Respondent from employment included: "violation of employment agreement" for "behavior which...discredits the reputation or credibility of the physician and/or [Contractor A] with [Hospital A] or other physicians."
15. By letter dated May 21, 2015, Hospital A confirmed the Respondent's resignation/termination of employment, and notified him of the resulting automatic loss of his clinical privileges and medical staff membership at Hospital A.

Interview of Respondent

16. On September 3, 2015, Board staff interviewed the Respondent under oath. The Respondent's attorney was present during the interview.
17. The Respondent acknowledged that he had resigned following his refusal on May 13, 2015 to submit to a urine drug screen.
18. The Respondent stated that the medications he had taken from patients were for "disposal" and he used them to "mitigate withdrawal."
19. The Respondent stated that he had obtained Dilaudid² from a family member without her knowledge for about three to four weeks during March and April 2015.
20. The Respondent initially stated that he did not take the CDS at work or while he was driving a vehicle, but acknowledged that he was an addict, and during work hours experienced symptoms of withdrawal.
21. Later during the interview, the Respondent acknowledged that he had ingested the CDS in his vehicle, and before going to work at Hospital A ("to mitigate withdrawal").

² Schedule II CDS.

II. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel B concludes as a matter of law that the Respondent's conduct constitutes a violation of Health Occ. § 14-404(a) (3)(ii). The Health Occ. § 14-404(a) (9)(ii) charge is dismissed.

III. ORDER

It is, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel B hereby:

ORDERED that the Respondent's license to practice medicine in Maryland (License Number H75599) is immediately **SUSPENDED** for a minimum period of **ONE (1) YEAR beginning retroactively on JULY 6, 2015. The Respondent is eligible to appear before the Board or Disciplinary Panel on or after July 27, 2016,**³ for the purpose of terminating the suspension, but only upon full and satisfactory compliance with the following terms and conditions:

1. Within **TEN (10) DAYS** of the execution of this Consent Order the Respondent shall transition from the Maryland Physician Health Program ("MPHP") to the Maryland Professional Rehabilitation Program ("MPRP") and shall be entered into a Board-monitored participant rehabilitation agreement and plan and shall comply with all MPRP recommendations, referrals, rules and requirements, including but not limited to, any treatment and evaluation recommended by the MPRP;
2. The Respondent shall sign any written release/consent forms, and update them, as required by the Board and the MPRP. The Respondent shall sign any written

³ The Respondent may petition the Board or Disciplinary Panel prior to this date for the purpose of scheduling.

release/consent forms required by the Board and MPRP to authorize MPRP to make verbal and written disclosures to the Board, including disclosure of any and all MPRP records and files, and the records of MPRP's agents. The Respondent shall also sign any written release/consent forms required by the MPRP to authorize the MPRP to exchange with (i.e., disclose to and receive from) outside entities (including the Respondent's treatment providers and evaluators) verbal and written information about him;

3. Within a reasonable period prior to the completion of the **ONE (1) YEAR** suspension period, MPRP, or its agents, will conduct an evaluation on whether the Respondent is fit to resume clinical practice, and if so, under what conditions, if any. The Respondent shall fully cooperate with the evaluation; and
4. The Respondent shall petition the Board for termination of the suspension. Prior to the termination of suspension, the Respondent shall appear before the Board or Board panel to determine what terms and conditions, if any, which may include, probation, will be imposed upon the termination of suspension. The Board or Board panel will review MPRP's evaluation. In order to petition for the termination of suspension, MPRP must determine that the Respondent is fit to resume clinical practice; 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

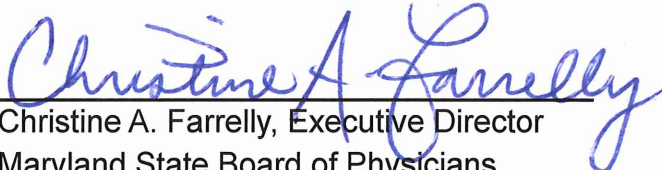
ORDERED that if the Respondent fails to comply with any of the terms and conditions of probation or of this Consent Order, the Board or Disciplinary Panel, in its

discretion, after notice and opportunity for a show cause hearing before the Board or Disciplinary Panel if there is no genuine dispute as to material fact or an evidentiary hearing at the Office of Administrative Hearings, may impose additional sanctions authorized under the Medical Practice Act, including a reprimand, suspension, probation, revocation and/or a monetary fine; 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 this Consent Order shall be a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101-4-601 (2014).

03/24/16
Date


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

CONSENT

I, Jonathan Klingler, D.O., acknowledge that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for the sole 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 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