

IN THE MATTER OF	*	BEFORE THE
S. MARTIN KEITHLINE	*	MARYLAND STATE BOARD
Respondent	*	OF PHYSICIANS
(An unlicensed individual)	*	Case Number: 2013-0208
* * * * *	*	* * * * *

CONSENT ORDER

On March 4, 2012, the Maryland State Board of Physicians (the "Board") charged S. Martin Keithline (the "Respondent") with practicing medicine without a license in the State of Maryland. The Board took such action pursuant to its authority under Md. Health Occupations Code Ann. ("HO") §§ 14-206(e), 14-601, and 14-606 authorizing the Board to issue a public cease and desist order in addition to a penalty for practicing medicine without a license, as follows:

H.O. § 14-206(e) states:

The Board may issue a cease and desist order or obtain injunctive relief for practicing medicine without a license.

H.O. § 14-301 states:

Except as otherwise provided in this title or in § 13-516 of the Education Article, an individual shall be licensed by the Board before the individual may practice medicine in this State.

H.O. § 14-601 states:

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice medicine in this State unless licensed by the Board.

The practice of medicine is defined in pertinent part in **H.O. § 14-101(n)** as follows:

(1) "Practice medicine" means to engage, with or without compensation, in medical:

- (i) Diagnosis;
- (ii) Healing;
- (iii) Treatment; or
- (iv) Surgery.

(2) "Practice medicine" includes doing, undertaking, professing to do, and attempting any of the following:

- (i) Diagnosing, healing, treating, preventing, prescribing for, or removing any physical, mental, or emotional ailment or supposed ailment of an individual[.]

In addition, the Respondent acted beyond the scope of duties which may be delegated by a physician under the following statutory provision:

H.O. § 14-306 Duties delegated by a licensed physician.

- (a) To the extent permitted by the rules, regulations, and orders of the Board, an individual to whom duties are delegated by a licensed physician may perform those duties without a license as provided in this section.

Code Md. Regs. tit. 10, § 32.12.04 Scope of Delegation.

E. A physician may not delegate to an assistant acts which include but are not limited to:

.....

- (4) Dispensing medications[.]

Code Md. Regs. tit. 10, § 32.12.05 Prohibited Conduct.

A. An assistant acting beyond the scope of this chapter may be:

- (1) Considered to be engaged in the unlicensed practice of medicine; and
- (2) Subject to all applicable penalties and fines in accordance with Health Occupations Article §§ 14-602 and, Annotated Code of Maryland, and COMAR 10.32.02.

H.O. § 14-606(a)(4) Penalties states:

- (ii) Subject to a civil fine of not more than \$50,000 to be levied by the Board.

On May 1, 2013, a Disciplinary Committee for Case Resolution was held before a committee of the Board. As a result of negotiations, the parties agreed to enter into this Consent Order.

FINDINGS OF FACT

The Board makes the following findings of fact:

I. Background

1. The Respondent is not and never has been licensed to practice medicine in Maryland or in any other state.
2. The Respondent has not graduated from a medical school and has not received any medical training.
3. The Respondent was initially certified in Maryland by the Board of Professional Counselors and Therapists (“Board of Professional Counselors”), as a Certified Supervised Counselor-Alcohol and Drug (“CSC-AD”)¹ on July 24, 2001. The Respondent last renewed his CSC-AD license on or about January

¹ CSC-ADs may only practice under the supervision of a Board of Professional Counselors–approved Alcohol and Drug supervisor and with a program that has Joint Commission on Accreditation of Healthcare Organizations (“JCAHO”) or Alcohol and Drug Abuse Administration (“ADAA”) certification. Respondent’s employer/supervisor is not Professional Counselors Board–approved and his place of employment does not have JCAHO or ADAA certification.

28, 2011, which expired on January 31, 2013.

4. In or about early 1991, the Respondent established a non-profit corporation to assist homeless drug and alcohol abusers with housing, transportation, networking, and employment (the "Corporation").² The Corporation maintains or maintained facilities, including the Respondent's residence, in Annapolis, Maryland for housing drug and alcohol abusers.

5. The Respondent is, or was, an employee of the Corporation.

6. In or about 2002, the Corporation contracted with a physician, Physician A, for the Respondent's services as an addictions counselor at Physician A's addiction treatment center (the "Treatment Center"). The Respondent was paid by the Corporation.

7. At all times relevant to these charges, Physician A was engaged in the practice of general medicine and addictions medicine in Annapolis, Maryland.

8. At all times relevant to these charges, Physician A had a Drug Enforcement Administration ("DEA") waiver which permitted Physician A to practice medication-assisted opioid addiction therapy with Schedule III, IV, and V narcotic medications. Physician A provided detoxification and maintenance of patients with addictions to controlled substances using Subutex and Suboxone.³

² In order to maintain confidentiality, neither patient names nor facility names are used in the consent order. The Respondent is aware of the identities of the individuals and the facilities.

³ Subutex and Suboxone, Schedule III controlled dangerous substances (CDS) are medications approved for the treatment of opiate dependence. Both medicines contain the active ingredient, buprenorphine hydrochloride, which works to reduce the symptoms of opiate dependence. Subutex contains only buprenorphine hydrochloride. Suboxone contains an additional ingredient called naloxone to guard against misuse. Subutex is given during the first few days of treatment, while Suboxone is used during the maintenance phase of treatment. Suboxone and Subutex are available in 2mg and 8 mg tablets. Subutex and Suboxone are the first narcotic drugs available under the Drug Abuse Treatment Act (DATA) of 2000 for the treatment of opiate dependence that can be prescribed in a doctor's office.

9. At all times relevant to these charges, Physician A did not hold a dispensing permit issued by the Board

10. At all times relevant to the charges, Physician A also had a drug and alcohol testing corporation.

11. The Respondent, through the Corporation, worked at the Treatment Center, owned and operated by Physician A.

12. At all times relevant to the charges, the Treatment Center was open from 9:00 a.m. to 5:00 p.m. Physician A saw Treatment Center patients on Mondays, Wednesdays and Fridays from 11:00 a.m. to 4:00 p.m.; and the Respondent saw counseling patients on Mondays through Fridays 9:00 a.m. to 5:00 p.m..

13. On October 31, 2012, the Board summarily suspended Physician A's license to practice medicine.

II. Complaint and Investigation

14. On or about March 6, 2012, the Board received information from the Board of Professional Counselors that indicated the Respondent may be practicing medicine without a license.

15. Included in the information received from the Board of Professional Counselors was a written complaint received by the Board of Professional Counselors on May 31, 2011. The complaint stated, in pertinent part, that the Respondent is dispensing medications from his desk drawer at the Treatment Center.

16. On or about June 27, 2012, the Board issued subpoenas to

Physician A for the Respondent's personnel records and his medical records, as well as the medical records of 13 other patients selected from a review of drug surveys from area pharmacies.

17. On June 29, 2012, Board staff conducted an unannounced site visit at the Treatment Center with Drug Enforcement Administration ("DEA")⁴ and the Division of Drug Control ("DDC")⁵ personnel and an investigator from the Board of Professional Counselors. Board staff hand-delivered the subpoenas to Physician A. Physician A provided the records of some of the patients; others were unknown to Physician A or were family members and Physician A did not have the files.⁶

18. At the time of the site visit, the Respondent was conducting a counseling session.

Respondent's Employment File

19. On June 29, 2012, pursuant to a subpoena, Physician A hand-delivered Respondent's employment file to Board staff. The Respondent's employment file revealed the following:

- a. On or about April 2002, Physician A hired the Respondent to work for Physician A's addictions practice;
- b. The Respondent has been a patient of Physician A since at least 1985, and Physician A continued to treat the Respondent for various medical conditions; and

⁴ According to the DEA, Physician A was only certified to treat 30 patients with buprenorphine; however, Physician A was treating more than 30 patients.

⁵ According to the DDC, Physician A failed to conduct a biennial inventory and several invoices for CDS were missing. At the time of the site visit, Physician A had 29 tablets of Suboxone 8 mg. in the Treatment Center.

⁶ One of the files had been shredded by the Respondent.

- c. Over the years, the Respondent worked in a variety of capacities for Physician A's practice including "Director- Addictions Therapy" and administrator.

Respondent's Medical Records

20. On June 29, 2013, pursuant to a subpoena, Board staff obtained Respondent's medical records from Physician A which revealed the following:

- a. Physician A began treating the Respondent for various medical problems beginning in or about 1991; and
- b. On March 9, 2012, Physician A terminated the Respondent's care.

Interview of Respondent

21. On July 17, 2012, pursuant to a Board subpoena, the Respondent was interviewed by Board staff. The Respondent testified to the following:

- a. In or about 2002, the Respondent, then a patient of Physician A's began working at the Treatment Center "running groups" for Physician A's patients;
- b. When he began working at the Treatment Center, the Respondent was doing "psycho-social counseling," wherein he obtained and utilized the patients' psycho-social histories in his counseling;
- c. Since approximately 2007, the Respondent shifted to "life coaching" using a "didactic" approach whereby he was focused on getting patients interested in Twelve Step programs such as Narcotics Anonymous ("NA"), Alcoholics Anonymous ("AA"), and Chemically Dependent Anonymous ("CDA"), or taking other concrete actions, such as learning to balance a check book and obtaining a credit card;
- d. Physician A maintained in the Treatment Center a supply of controlled substances. A "medical assistant" maintained the inventory;
- e. If Physician A "forgot" to write a note in the chart that Physician A had given medication to a patient, the Respondent documented the note;

- f. The Respondent, "on occasion," was responsible for "handling" or "counting out" and giving controlled substances (Suboxone) to patients at the Treatment Center;
- g. The Respondent documented the medication he gave in the patient's medical chart;
- h. The Respondent met with Physician A's treatment patients at the Treatment Center on those occasions when Physician A called out sick;
- i. Some of the patients in the Respondent's counseling groups were prescribed Suboxone by Physician A as maintenance therapy. Since 2009, Respondent "called in"⁷ to a pharmacy prescriptions for Suboxone until the patients' next appointment with Physician A if the patients had been attending group, and if they had "clean" urines;
- j. In or about 2011, until early 2012, the Respondent began performing duties for Physician A as a business administrator. The Respondent continued to conduct Twelve Step meetings at the Treatment Center;
- k. In or about February 2012, the Respondent informed Physician A that he would cease all activities for Physician A, including "dispensing" or giving out medications, except doing accounts receivable and accounts payable;⁸
- l. In or about May 2012, the Respondent further limited his activities for Physician A to only leading the Twelve Step meetings at the Treatment Center; and
- m. In or about May 2012, the Respondent ceased "covering" Physician A's practice.

Interviews of Physician A

22. On July 26, 2012 and September 4, 2012, Board staff interviewed Physician A who testified to the following:

⁷A physician, or an authorized agent of the physician, may telephone a pharmacy with an oral prescription for Schedule III to V CDS.

⁸ In February 2012, the Respondent was interviewed by the investigator for the Board of Professional Counselors who advised the Respondent that as a CSC-AD, he is not permitted to dispense medications.

- a. Prior to January or February 2012, Physician A maintained an inventory of Subutex in the Treatment Center for detoxing patients and a CMA ("certified medication aid") "dispensed" or gave out the medication;
- b. The Respondent was a patient of Physician A since the 1980's until approximately 2009 or 2010, when Physician A discharged the Respondent for "non-compliance" when the Respondent informed Physician A that he was ordering his blood pressure and blood thinner medications wholesale through Physician A's distributor;
- c. The Respondent was Physician A's "business administrator" until approximately April 2012;
- d. In or about April 2012, Physician A "demoted" the Respondent due to Physician A's discovery of delinquent filing of taxes;
- e. In or about November, December 2011, and January 2012, the Respondent "called in" to a pharmacy a prescription for Suboxone in the name of Patient 1, an individual who was an employee and a former patient of Physician A's medical practice and addictions practice, as well as a close friend of the Respondent, without Physician A's knowledge or authorization;
- f. In or about February 2012, the Respondent called in a prescription for Subutex or Suboxone under Patient 1's name, after Patient 1 had died, in order to have these medications available to other patients of the Treatment Center;
- g. In or about April or May 2012, after Physician A discharged Patient 2 from treatment in her addictions practice in approximately 2010 for refusing to attend groups and to show up for random urine testing, the Respondent permitted Patient 2 to attend a counseling group at the Treatment Center and called in Suboxone prescriptions for Patient 2;
- h. The Respondent has engaged in "rogue behaviors," that is, he is "taking the authority to make decisions (such as calling in prescriptions) where he really is not vested with it;" and
- i. As of September 4, 2012, the Respondent no longer administered Physician A's practice; the Respondent led addiction treatment groups but did not have any responsibility for any duties related to medication or medical treatment such as "detox," handling, ordering, or calling in prescriptions.

Information Obtained from Board of Professional Counselors

23. On September 19, 2012, the Board received a Report of Investigation, with attachments, dated August 9, 2012, from the Board of Professional Counselors. In an interview on February 14, 2012, by the investigator for the Board of Professional Counselors, the Respondent testified to the following:

- a. The Respondent was then employed by the Treatment Center as an alcohol and drug counselor for approximately ten years and was supervised⁹ by Physician A;
- b. The Respondent provided clinical counseling and “12-Step” counseling to patients of Physician A who Physician A treated with “detox, stabilization and maintenance for most drugs of abuse;”
- c. The Respondent has “handed” benzodiazepines and Suboxone to patients who required daily dosing, under the “authorization” of Physician A as documented in the patients’ charts;
- d. Benzodiazepines and Suboxone were kept in a locked box in the office of the CMA at the Treatment Center;
- e. The Respondent at times moved the locked box with benzodiazepines and Suboxone to his desk;
- f. When Physician A telephoned the Respondent with an order for a medication for a patient, the Respondent “called-in” the prescription;
- g. On occasion, the Respondent has “called in” a prescription for Xanax¹⁰ after Physician A changed the dosage at an appointment, as written in the chart, but forgot to give the patient a new prescription; and
- h. The Respondent has called in prescription refills when Physician A has documented in the patient’s chart certain conditions such as,

⁹ Physician A is not approved by the Board of Professional Counselors as a supervisor.

¹⁰ Xanax, a Schedule IV CDS, is a short-acting anxiolytic benzodiazepine used to treat anxiety and panic disorder.

“patient attending three meetings a week, doing 12 Step, urines are clean, refills are authorized until the next appointment.”

Additional Investigative Information

24. On October 31, 2012, the Board summarily suspended Physician A’s license to practice medicine.

25. On November 9, 2012, the Board informed the Respondent in correspondence that it had initiated an investigation of his practicing medicine without a license in that he is dispensing CDS, calling in refills of prescriptions, and treating patients. The Board requested that the Respondent respond to the allegations.

26. As of March 4, 2013, the Respondent had not responded.

V. Practicing Medicine Without a License

27. The Respondent professed to treat and undertook treating physical, mental or emotional ailments or supposed ailment of individuals, which constitute the practice of medicine as defined in the Act in that he:

- a. Performed “psycho-social counseling,” wherein he obtained and utilized the patients’ psycho-social histories in his counseling of patients;
- b. “Counted out” and dispensed or “handed” controlled substances, including benzodiazepines and Suboxone, which were being held in a locked box for patients at the Treatment Center who required daily dosing;
- c. Gave “take home” medications to Treatment Center patients;
- d. “Called in” prescriptions for Subutex and Suboxone in the names of certain specific individuals which were intended for use with new patients in the Treatment Center who were “detoxing;”
- e. “Called in” prescriptions for medications with authorization of Physician A;

- f. "Called in" prescriptions for Xanax with authorization of Physician A;
- g. "Called in" refills of Suboxone as authorized by Physician A; and in amounts to last the patient until the next visit with Physician A;
- h. "Called in" prescription refills based on his assessment of patient compliance with Physician A's standards;
- i. Met with Physician A's treatment patients at the Treatment Center when Physician A "called out" sick; and
- j. Documented the notes in patient charts regarding Physician A having prescribed certain medications.

28. The above enumerated acts are evidence that the Respondent practiced medicine without a license in violation of HO § 14-601 and acted beyond the scope of delegation by a physician in violation of HO § 14-306 and Code Md. Regs. tit. § 10, 32.12.05.

29. The Respondent states that he engaged in the above enumerated acts under the direction of Physician A.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent practiced medicine without a license in violation of HO § 14-601 and acted beyond the scope of delegation by a physician in violation of HO § 14-306 and Code Md. Regs. tit. § 10, 32.12.05.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by an affirmative vote of the majority of the of the Board considering the case,

ORDERED that the Respondent shall cease and desist from engaging in

activities which constitute the practice of medicine; and it is further

ORDERED that within six (6) months from the date of this Consent Order, Respondent shall pay a civil fine of \$5,000 to the Board for payment into the Board's Fund; and it is further

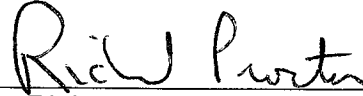
ORDERED that Respondent shall not practice, attempt to practice, or offer to practice medicine in this State unless licensed by the Board; and it is further

ORDERED that if within the next two (2) years Respondent is employed by a health care facility in Maryland, including but not limited to any hospital, nursing home, medical office, clinic etc., Respondent shall provide a copy of this Order to his employer and shall notify the Board in writing of the name of the employer; and it is further

ORDERED that if Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for a show cause hearing before 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 impose any sanction which the Board may have imposed in this case under §§ 14-601 and 14-602 of the Medical Practice Act, including a probationary term and conditions of probation, reprimand, suspension, revocation and/or a monetary penalty, said violation of the terms and conditions being proved by a preponderance of the evidence; and it is further

ORDERED that this Consent Order is a public document pursuant to Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2009 Repl. Vol. and 2012 Supp.).

Date 06/26/2013



Richard Proctor
Acting Executive Director
Maryland State Board of Physicians

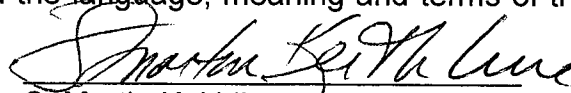
CONSENT

I, S. Martin Keithline, by affixing my signature hereto, acknowledge that:

1. I have consulted with counsel, Sara Mortensen, 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. Health Occ. Code Ann. § 14-405 (2009 Repl. Vol. & 2012 Cum. Supp.) and Md. State Gov't Code Ann §§ 10-201 *et seq.* (2009 Repl. Vol. & 2012 Cum. Supp.).
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 any right to appeal this Consent Order or any adverse ruling of the Board that might have followed any such hearing.
5. I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

Date

5/30/13



S. Martin Keithline
Respondent

NOTARY

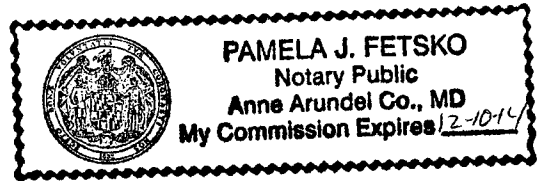
STATE OF MARYLAND

CITY/COUNTY OF Anne Arundel

I HEREBY CERTIFY that on this 30th day of May, 2013
before me, a Notary Public of the State and County aforesaid, personally
appeared S. Martin Keithline, and gave oath in due form of law that the foregoing
Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Pamela J. Fetsko
Notary Public



My commission expires DEC 10, 2014