IN THE MATTER OF	*	**BEFORE THE**
CARL F. OLTMAN, SR., PA-C	*	**MARYLAND STATE**
Respondent	*	**BOARD OF PHYSICIANS**
License Number: C01407	*	**Case Number: 2221-0144 B**

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CHARGES UNDER THE MARYLAND PHYSICIAN ASSISTANTS ACT

Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") hereby charges **CARL F. OLTMAN, SR., PA-C** (the "Respondent"), License Number C01407, with violating the Maryland Physician Assistants Act (the "Act"), Md. Code Ann., Health Occ. §§ 15-101 *et seq.* (2021 Repl. Vol.).

Specifically, Panel B charges the Respondent with violating the following provisions of the Act under Health Occ. § 15-314:

> (a) Subject to the hearing provisions of § 15-315 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum, may reprimand any physician assistant, place any physician assistant on probation, or suspend or revoke a license if the physician assistant:
>
> (3) Is guilty of:
>
> (ii) Unprofessional conduct in the practice of medicine; …
>
> (18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine; …
>
> (22) Fails to meet appropriate standards for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State; …

(28) Fails to comply with the provisions of § 12-102 of this article;[1] …

(40) Fails to keep adequate medical records;

(41) Performs delegated medical acts beyond the scope of the delegation agreement filed with the Board or after notification from the Board that an advanced duty has been disapproved; [and]

(45) Fails to comply with any State or federal law pertaining to the practice as a physician assistant.

ALLEGATIONS OF FACT[2]

Disciplinary Panel B bases its charges on the following facts that it has reason to believe are true:

Background

1. At all relevant times, the Respondent was and is licensed to practice as a physician assistant in the State of Maryland. The Respondent originally was licensed to practice as a physician assistant in Maryland on October 9, 1991, under License Number C01407. The Respondent's medical license is scheduled for renewal on June 30, 2023.

The Complaints

2. On or about September 29, 2020, the Board received a complaint ("Complainant No. 1") concerning a Clinic (the "Clinic") located in Baltimore County,

[1] § 12-102(c)(2)(i)(3) of the Health Occupations Article requires a physician to obtain a written permit from the Board to dispense prescription drugs.

[2] The allegations set forth in this document are intended to provide the Respondent with reasonable notice of the asserted facts. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with these charges.

Maryland that offered medical treatment to men for erectile and sexual dysfunction. Complainant No. 1 stated that he was a prostate cancer survivor and started going to the Clinic for erectile dysfunction treatment. Complainant No. 1 shared this information with his urologist who informed him the Clinic "is out to get over on people and he told me to stop going there because it's not safe." Complainant No. 1 also stated he spoke to his insurance company who informed him the Clinic was "a Scam Organization," and was told to "contact the Attorney General Office and the Better Business Bureau." Complainant No. 1 provided an invoice that he was billed $2,700.00 for treatment at the Clinic, and stated the Clinic "would not take my insurance."

3. On or about October 29, 2020, the Board received a second complaint ("Complainant No. 2") concerning the Clinic. Complainant No. 2 stated the Clinic "advertises that: 'Our doctors will provide a personal diagnosis and treatment plan.'" However, Complainant No. 2 stated he "visited the clinic and was examined by a Physician Assistant…." Complainant No. 2 stated he "was never seen by an M.D. or D.O. Does the Board consider a P.A. to be a doctor? This clinic continues to advertise on [a] Baltimore radio station."

4. On or about January 14, 2021, the Board received a third complaint ("Complainant No. 3") concerning the Clinic. Complainant No. 3 stated he had filed a medical malpractice case against the Clinic and the Respondent, who worked as a Physician Assistant at the Clinic. In part, Complainant No. 3 stated the Clinic "is owned and operated by a convicted felon…[who] operate[s] multiple erectile dysfunction Clinics across the country." Complainant No. 3 further stated Clinics in other states allowed

"non-physician Clinic staff 'determine treatment eligibility and dosing and even allowed them to administer the injection to patients' penises.'"

5. After reviewing these Complaints, the Board opened an investigation of the Respondent.

The Board Investigation

6. In furtherance of its investigation, Board staff in part interviewed the Respondent, a Physician who was employed by the Clinic and supervised the Respondent pursuant to a Delegation Agreement (the "Physician"), Complainant No. 2 and Complainant No. 3. Board staff also subpoenaed medical records from the Clinic for Complainant No. 1, Complainant No. 2 and Complainant No. 3. The Board also received a written summary of care from the Respondent for Complainant No. 1, Complainant No. 2 and Complainant No. 3. The Board also received appointment logs from the Clinic, and records from the Prescription Drug Monitoring Program ("PDMP") for the Respondent. The Board also received a response to the Complaints from the Respondent and the Physician. The Board also received the personnel files from the Clinic for the Respondent, the Physician and a staff member ("Staff Member No. 1"). The Board also received policies and procedures from the Clinic. The Board also conducted an onsite inspection of the Clinic with the Maryland Office of Controlled Substances Administration ("OCSA").

The Investigation

7. The investigation revealed that since approximately 2017, the Clinic was registered with the State of Maryland to conduct business. The Clinic advertised that its

"goal is to provide the best treatment options for erectile dysfunction. Our licensed physicians provide real, long lasting solutions for erectile dysfunction, premature ejaculation, and low testosterone. Our doctors will provide a personal diagnosis and treatment plan to safely awaken your sex life in just one visit." The treatments included penile injection therapy called an intracavernosal injection ("ICI"), and prescribing medication to assist men in having and maintaining erections. The Clinic charged thousands of dollars for these treatments.

8. An ICI is a combination of drugs including alprostadil, papaverine, phentolamine, and atropine that are injected directly into the penis to provide an erection immediately after injection.

9. Through at least August 19, 2021, the Physician was listed as the Medical Director of the Clinic on its website. The Physician stated he was unaware of being advertised as the Medical Director and stated he did not serve in this capacity.

10. At all relevant times, the Respondent provided treatment to Complainant No. 1, Complainant No. 2, Complainant No. 3 and other individuals at the Clinic. At all relevant times, the Physician was the supervising physician for the Respondent at the Clinic pursuant to a Delegation Agreement.

11. On July 24, 2020, Complainant No. 1 was treated at the Clinic by the Respondent. During this visit, Complainant No. 1 received an ICI that was performed by the Respondent. The Respondent stated that the "only person that injects the patients…is the physician assistant in this office that is authorized by my supervising physician."

12. On September 30, 2020, Complainant No. 2 was treated at the Clinic by the Respondent. During this visit, Complainant No. 2 received an ICI that was performed by the Respondent. Complainant No. 2 paid $500.00 as a down payment for his recommended treatment and was provided an invoice in the amount of $4,430.00.

13. Complainant No. 3 was treated by the Respondent at the Clinic in July and August 2020. Complainant No. 3 received ICI injections that resulted in him developing priapism, ultimately resulting in hospitalization and injury to his penis. (See summary of care for Complainant No. 3 *infra*.)

14. On April 19, 2022, Board staff interviewed the Physician under oath. In the interview, the Physician stated since 2009, he has been the medical director of a State of Maryland government agency. In addition, the Physician testified that in approximately 2016, he was hired by the Clinic to work "one to two days a month." The Physician stated the Clinic is "an erectile dysfunction clinic. It fills an itch between the little blue pill, when the oral agents aren't working, and for individuals who aren't ready to get surgical procedures done. So it provides them with injection therapy." The Physician stated he did not have any "specific training in erectile dysfunction." The Physician stated as "an ER doctor it's within my scope to do the rescue procedures for priapism."

15. The Physician testified that he is "in the clinic usually a part day every week to two weeks." The Physician stated he is paid "a flat rate of $250 a week basically to provide supervision and follow up and guidance for [the P.A.]…. I just supervise the P.A. now." The Physician has not performed any clinical duties at the Clinic since approximately 2020. The Physician stated "I function as [the P.A.'s] oversight and

supervisor, supervision. I'm not Clinically in the Clinic – I won't say never, but any extensive period of time." The Physician has been supervising the Respondent pursuant to a Delegation Agreement since 2018.[3]

16. The Delegation Agreement identified the Physician's primary practice areas as urology and internal medicine. The Physician admitted that his primary practice area is emergency medicine, and that the Delegation Agreement was "errantly marked" by someone other than himself. The Physician also stated in the Delegation Agreement that he would review the Respondent's practice via "chart review, observation of clinical practice" and provide supervision via on site, electronic means and written instructions. The Physician admitted that he never provided written instructions to the Respondent. The Physician stated that he occasionally talked to the Respondent on the telephone. The Physician stated he initially provided "chart review, and now that's predominantly verbal conversation regarding patients who present issues." The Physician testified he looks at charts by the Respondent "only infrequently, if there is a specific issue with them."

17. In the Delegation Agreement, the Physician and the Respondent did not seek approval from the Board for the Respondent to treat priapism. Additionally, the Physician and the Respondent did not seek approval from the Board for the Respondent to delegate treatment of priapism to medical assistants. Despite this, the Respondent

[3] A "Delegation Agreement" is "a document that is executed by a primary supervising physician and a physician assistant containing the requirements of § 15-302 of this title." Md. Health Occ. Code Ann. § 15-101(i). (Note: § 15-302 sets forth the requirements of a delegation agreement and practice).

treats priapism with phenylephrine injections without seeking permission from the Physician or having been approved to do so by the Board.

18. Rather than see a licensed physician, patients of the Clinic are treated by the Respondent. Also, Staff Member No. 1, who does not hold a license in any medical field, and a CNA/Phlebotomist (Staff Member No. 2) assist the Respondent.

19. In his interview, the Respondent testified all staff follow a script written by the Owner of the Clinic. The Owner is not a trained medical professional. The Respondent stated "[t]here's a script for everything…There's a script for answering the phone, there's a script for therapy coordinator, there's a script for me."

20. The Clinic has guidelines written by the Owner that every patient receives an ICI consisting of a mix of mostly non-FDA approved vasodilators to cause the patients to obtain immediate erections. The Respondent stated he prescribed ICIs to 75-80% of his patients and is aware that compared to oral medications like Viagra, the ICI he administers carries an increased risk of priapism. Priapism is a medical emergency and may cause permanent tissue damage and loss of penile function (fibrosis) if not successfully treated within 36-48 hours of onset. Despite being the only healthcare provider onsite at the Clinic for treating priapism, the Respondent stated he did not know how long it takes priapism to cause fibrosis.

21. When a patient reports priapism, Clinic staff, including Staff Member No. 1, first tell the patient to take Sudafed, drink water and take warm baths. If these methods do not relieve the priapism, the Clinic does not tell the patient that they are facing a medical emergency and to go to the emergency room for prompt treatment. Staff Member

No. 1 stated that "I do not advise patients to go to the ER. I have always talked to [the Respondent] before recommending anything in that area." Instead, Clinic staff instructs the patient to return to the Clinic where he will receive a shot of phenylephrine in an attempt to relieve the priapism.

22. While the Clinic prepares emergency room referral forms for all of its patients prescribed ICIs, it is not Clinic policy and practice to send patients to an emergency room for priapism. The Respondent testified that if a patient experienced priapism following an ICI, he would expect the patient to call the Clinic first. The Respondent stated he recalls referring two patients of the Clinic to the emergency department. However, this was only after the patients returned to the Clinic and were administered phenylephrine that did not relieve the priapism. Additionally, the Physician testified that he only is contacted by the Respondent every three to four months regarding a patient with priapism.

23. The Respondent stated he is responsible for supervising the medical assistants at the Clinic, including Staff Member No. 1 and Staff Member No. 2. Although Staff Member No.1 and Staff Member No. 2 are not licensed to practice medicine, the Respondent testified that the "medical assistants are trained in giving phenylephrine shots to treat priapism. They come in in the middle of the night sometimes, when I'm not available. They come in on weekends, when I'm not available. I'm always apprised of it."

24. Staff Member No. 1 stated that his role at the Clinic was limited. "Yeah, I prepare-stock the rooms. Just escort patients to the rooms to meet with [the Respondent]. Sterilize the office and all that." Nevertheless, Staff Member No. 1 acknowledged that the

Clinic trained him to administer phenylephrine injections into the penises of Clinic patients experiencing priapism. Staff Member No. 1 claimed that he had never administered phenylephrine to any patients. However, Complainant No. 3, his fiancée, and the Respondent testified that Staff Member No. 1 administered phenylephrine to Complainant No. 3 to treat his priapism. (See summary of care for Complainant No. 3 *infra*.)

25. Staff Member No. 2 denied that he ever gave a patient any ICIs or phenylephrine shots.

26. The Physician stated that he was unaware the Respondent allowed medical assistants to administer phenylephrine, and that medical assistants should not be administering phenylephrine when the Respondent was unavailable.

Complainant No. 3

27. On July 20, 2020, Complainant No. 3 contacted the Clinic concerning his erectile dysfunction after hearing radio advertisements. On July 21, 2020, Complainant No. 3 initially met with the Clinic Manager who told him "a physician will attend to you shortly."

28. Complainant No. 3 met with the Respondent for his initial consultation. During the consultation, the Respondent only recommended an ICI. The Respondent admittedly did not discuss less-invasive oral erectile dysfunction medications such as Viagra with Complainant No. 3. At the initial consultation, Complainant No. 3 received an ICI as the Respondent advised. However, the ICI failed to produce an erection while Complainant No. 3 was at the Clinic. The Respondent instructed Complainant No. 3 to

administer two ICIs himself at home during the week. Complainant No. 3 self-administered the ICI on July 23, 2020 and July 26, 2020, both times without results.

29. On Tuesday July 28, 2020, Complainant No. 3 returned to the Clinic for a scheduled follow-up appointment. On this day, Complaint No. 3 met with Staff Member No. 1. Although Staff Member No. 1 is not licensed in any health field, Staff Member No. 1 demonstrated a technique to improve the effectiveness of the ICI at causing an erection, and provided Complainant No. 3 with additional ICIs and a supply of Cialis for use if the injections again proved ineffective. During the investigation, the Clinic produced three different notes for this visit, two of which appear to have been prepared during the pendency of the investigation.

30. Thereafter, on July 28, 2020 at 1:00 pm, Complainant No. 3 again self-administered the ICI and developed an erection. The erection continued for hours and developed into painful priapism. Per the instructions provided by the Respondent, Complainant No. 3 called the Clinic for assistance and was advised to take 4-8 Sudafeds, drink 6-10 cups of water and return to the Clinic on July 29, 2020. Complainant No. 3 reported he did as he was advised, but the priapism did not abate.

31. On the morning of July 29, 2020, Complainant No. 3 arrived at the Clinic at 9:00 am and was administered a shot of phenylephrine in an attempt to relieve the priapism. The shot did not relieve the priapism. Complainant No. 3 asked the Respondent how long it would take for the priapism to resolve and was told by the Respondent that it depends. Complainant No. 3 was sent home by the Respondent who instructed him to drink a lot of water, take a sitz bath and take Sudafed.

32. On July 30, 2020, Complainant No. 3 returned to the Clinic with priapism. Complainant No. 3 testified the Respondent again administered a shot of phenylephrine that failed to relieve the priapism. Complainant No. 3 testified the Respondent again instructed Complainant No. 3 to take sitz baths and drink plenty of water. During his interview, the Respondent denied that he administered the phenylephrine on July 30, 2020 and stated he was unaware of this visit occurring. Rather, the Respondent stated that Staff Member No. 1 administered the shot.

33. On Friday, July 31, 2020, Complainant No. 3 returned to the Clinic again with priapism. Complainant No. 3 was accompanied by his fiancee at this visit. The Complainant and his fiancee stated that the Respondent came into the room, had a conversation with Staff Member No. 1, and then left the room. Then, Staff Member No. 1 administered a phenylephrine shot into Complainant No. 3's penis. Again, there was no relief; however Complainant No. 3 experienced severe pain when the shot was administered. The Respondent then returned to the room and gave Complainant No. 3 and his fiancee instructions to purchase and administer Sudafed before they left the Clinic.

34. The priapism continued and on Saturday, August 1, 2020, Complainant No. 3 and his fiancee called the Clinic for advice on how much Sudafed to take. Staff Member No. 1 responded with dosage instructions and asked Complainant No. 3 to return to the Clinic so he could give him another phenylephrine shot before Staff Member No. 1 left for the day. Complainant No. 3 did not return to the Clinic that day.

35. On Sunday, August 2, 2020, Complainant No. 3 sought treatment at a local Health Care Facility for priapism. The Health Care Facility documented it was unable "to get priapism to resolve as expected due to the long duration of 5 days." A specialist informed Complainant No. 3 that he likely will require a penile prosthesis due to the development of fibrosis from prolonged priapism.

36. During the treatment of Complainant No. 3, no one from the Clinic including the Respondent contacted the Physician. The Physician stated the Respondent should have contacted him since Complainant No. 3 was not responding to usual priapism treatment. The Physician also stated that had he been contacted by the Respondent or Clinic staff, he would have referred Complainant No. 3 to the emergency department or a urologist. Both the Physician and the Respondent admitted that the Physician did not supervise the Respondent during his treatment of Complainant No. 3.

Clinic Site Inspection

37. On December 14, 2021, Board staff and a representative from the Maryland Office of Controlled Substances Administration ("OCSA") conducted an unannounced site visit at the Clinic. The purpose of the OSCA presence was to investigate whether any prescription drugs were being directly dispensed to or prescribed to patients of the Clinic.

38. During this site visit, the Respondent informed OCSA that the drugs involved in the ICI are compounded by an out-of-state pharmacy (the "Pharmacy"). The Respondent informed the OCSA that the Pharmacy shipped the drugs both directly to patients and also to the Clinic which then would dispense to patients onsite. The

Respondent said prescriptions were not provided to patients by the Clinic. The Respondent admitted to the OSCA that neither he nor the Physician had a dispensing permit issued by the Board to dispense prescriptions drugs directly to patients of the Clinic.

39. The OCSA also learned during the onsite inspection that the Clinic also directly dispensed testosterone injections, generic Levitra and generic Cialis to patients. Testosterone is a Schedule III controlled dangerous substance. Testosterone only for direct administration in the Clinic was ordered using the DEA number of the Physician. Testosterone ordered to be dispensed directly to patients was ordered under the DEA number of the Respondent.

40. Based on its inspection, OCSA concluded that the "clinic practitioners are dispensing prescription drugs, including CDS medications, directly to patients without any of the practitioners possessing a dispensing permit issued by the Maryland Board of Physicians." This is in violation of "COMAR 13.01.04 B." The OCSA also concluded the "clinic provides an injection to patients with a dosage significantly higher than the highest recommended dosage in a commercially available product containing the same ingredient. This compounded product was involved with medical emergencies involving priapism for patients of the clinic."

Practice Review of the Respondent

41. As part of its investigation, the Board issued subpoenas to the Clinic for 16 patient records in total and supporting materials and ordered a practice review (referred to *infra* as "Patients 1 through 16"). The review was performed by a physician assistant

delegated to work in urology.[4] The patients whose cases were reviewed were adult male patients to whom the Respondent treated at the Clinic, including Complainant No. 1, Complainant No. 2 and Complainant No. 3. The Respondent provided a summary of care for the 16 patients. The reviewer concluded that in nine (9) of the cases reviewed, the Respondent failed to meet appropriate standards for the delivery of quality medical care. The reviewer also concluded that in eleven (11) of the cases reviewed, the Respondent failed to keep adequate medical records.

42. Specifically, the reviewer found the Respondent failed to meet appropriate standards for the delivery of quality medical care and/or failed to keep adequate medical records in that the Respondent:

a) failed to treat priapism as a medical emergency (Patients 4, 5, and 11);

b) failed to change or alter ICI dosage after adverse events (Patients 6, 11, 13 and 16);

c) failed to order appropriate laboratory tests when prescribing testosterone (Patients 7, 11 and 16);

d) provided ICI before recommending oral/non-invasive interventions (Patient 3);

e) no evidence the Respondent had any interaction with patient (Patient 15);

[4] The specific findings of the reviewer pertaining to the 16 patients reviewed are set forth completely in the Report which will be provided to the Respondent upon request.

f) failed to document physical examination findings, vital signs, laboratory results, prescriptions and/or antidote dosing for priapism (Patients 1, 3, 5, 6, 8, 9, 12, 13, 15); and

g) failed to document who saw patient as records not signed (Patient 4).

Grounds for Discipline

The Respondent's actions, as described above, constitute, in whole or in part, a violation of the following provisions of the Act under Health Occ. § 15-314(a): (3) Is guilty of…(ii) Unprofessional conduct in the practice of medicine; (18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine; (22) Fails to meet appropriate standards for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State; (28) Fails to comply with the provisions of § 12-102 of this article; (40) Fails to keep adequate medical records; (41) Performs delegated medical acts beyond the scope of the delegation agreement filed with the Board or after notification from the Board that an advanced duty has been disapproved; and (45) Fails to comply with any State or federal law pertaining to the practice as a physician assistant.

NOTICE OF POSSIBLE SANCTIONS

If, after a hearing, a disciplinary panel of the Board finds that there are grounds for action under Health Occ. § 15-314(a)(3)(ii), § 15-314(a)(18), § 15-314(a)(22), § 15-314(a)(28), § 15-314(a)(40), § 15-314(a)(41) and/or § 15-314(a)(45), it may impose disciplinary sanctions against the Respondent's license, in accordance with the Board's regulations under Md. Code Regs. 10.32.03.11, 10.32.03.17, and 10.32.03.18 when

applicable, including revocation, suspension, or reprimand, and may place the Respondent on probation, and/or may impose a monetary fine.

NOTICE OF DISCIPLINARY COMMITTEE FOR CASE RESOLUTION CONFERENCE, PREHEARING CONFERENCE AND HEARING

A conference before Disciplinary Panel B sitting as a Disciplinary Committee for Case Resolution ("DCCR") in this matter, is scheduled for **Wednesday, March 22, 2023, at 9:00 a.m**., at the Board's office, 4201 Patterson Avenue, Baltimore, Maryland 21215. The Respondent must confirm in writing the Respondent's intention to attend the DCCR. The Respondent should send written confirmation of the Respondent's intention to participate in the DCCR to: Christine A. Farrelly, Executive Director, Maryland State Board of Physicians, 4201 Patterson Avenue, 4th Floor, Baltimore, Maryland 21215. The nature and purpose of the DCCR and prehearing conference is described in the attached letter to the Respondent.

If the case cannot be resolved at the DCCR, a pre-hearing conference and a hearing in this matter will be scheduled at the Office of Administrative Hearings, 11101 Gilroy Road, Hunt Valley, Maryland 21031. The hearing will be conducted in accordance with Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq*.

BRIAN E. FROSH
ATTORNEY GENERAL OF MARYLAND

December 12, 2022 *Gregory L. Lockwood*

_____ _____

Date

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