

IN THE MATTER OF
GRACE EDITH ZIEM, M.D.

Respondent

License Number: D18732

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BEFORE THE
MARYLAND STATE

BOARD OF PHYSICIANS

Case Numbers: 2015-0695

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ORDER OF SUMMARY SUSPENSION OF LICENSE TO PRACTICE MEDICINE

Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** Grace Edith Ziem's, M.D. (the "Respondent") license to practice medicine in the State of Maryland, License Number D18732.

Panel B takes such action pursuant to its authority under Md. Code Ann., State Gov't II ("S.G.") § 10-226(c)(2) (2014 Repl. Vol. and 2015 Supp.), concluding that the public health, safety or welfare imperatively requires emergency action. Panel B bases its conclusion on the following investigative findings after conducting an investigation.

INVESTIGATIVE FINDINGS

Panel B has obtained investigatory information that Respondent habitually is intoxicated as evidenced by:

1. Her abuse of alcohol which results in poor judgment, lack of emotional control such as being verbally abusive to a family member and office staff, weav(ing) back and forth, slam(ing) into things, and slurring her words on numerous occasions since at least 2013, often requiring intervention of the Frederick County Sheriff's Office, as reported by an officer, office staff, and by her family member in his petition for a Protective Order, which was granted by the District Court of Frederick County;
2. Her explanations for her actions which are not logical;
3. Being intoxicated during office hours;
4. Failing to see patients as scheduled due to being asleep and very difficult to arouse at 9:00 am, being overwhelmed by personal problems, and /or

- being distracted from patient care and angry by being on the internet;
5. Ordering Controlled Dangerous Substances for her personal use; and/or for dispensing to family, friends, or patients, without a permit to dispense prescription drugs;
 6. Her corroborating admission that she drinks vodka and/or beer (at least two or three times a week; and
 7. The summary and conclusions of a Neuropsychological testing that was ordered by Panel B.

Based on the investigatory information obtained by Panel B as summarized above, and the specific instances described below, Panel B has reason to believe that the following facts are true and that there is a substantial likelihood of a risk of serious harm to the public health, safety, or welfare by Respondent.

I. Background of License

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 1975. Respondent last renewed her license in or about September 2015, which will expire on September 30, 2017.

2. Since 1997, Respondent has maintained an office for the solo practice of medicine in Emmitsburg, Maryland. The office is located on the lower level of her split level residence in a rural part of northern Frederick County.

3. Respondent's self-designated specialty is "occupational medicine and toxicology." Respondent specializes in "outpatient care of patients with chronic illness following toxic exposure." Respondent sees two or three patients a month for face-to-face office visits. Many of her patients are from out-of-state. Respondent has teleconference consultations with four or five patients a day. Respondent practices

medicine 3 and ½ days a week.

4. Respondent is not board-certified by any of the specialty boards of the American Board of Medical Specialties.

5. Respondent does not hold any hospital privileges.

II. Background Complaints

A. 2014 Incident Report

6. On March 31, 2015, the Board received an Incident Report from the Frederick County Sheriff's Office (the "Sheriff's Office") describing an incident that occurred on August 12, 2014, at 10:55 p.m. at Respondent's residence in the bathroom.

7. According to the Report, Respondent called "911" because during an attempt to have a discussion with a family member ("Family Member A"), he bit her left arm and pushed her. Respondent stated that she then bit Family Member A. Respondent did not appear to have any physical injuries.

8. According to the Report, Respondent scooped urine from the toilet and threw it on Family Member A. When he attempted to walk past Respondent, she pushed him into the wall and bit the left side of his face on his cheek. Family Member A went into the bedroom and called the police. Family Member A had what appeared to be a bite mark on the left cheek that had blood around it.

9. The Sheriff's Office placed Respondent under arrest and transported Respondent to Frederick County Detention Center.

10. Thereafter, on August 16, 2014, a Sheriff's Deputy responded to an eye care center in Thurmont, Maryland at the request of the Thurmont Police. An employee stated that Respondent, who was there for an eye examination, asked the employee to

photograph a bite mark on her left triceps which was a result of an incident. The employee observed a bruise with no teeth marks. The Deputy photographed the bruise.

11. Previously, on August 5, 2014, Sheriff's deputies also responded to Respondent's residence. According to the report, Respondent wanted to speak with Family Member A so she tapped on his bedroom door with a hammer. A deputy observed circular marks on Family Member A's bedroom door which appeared consistent with a hammer and the door knob also had damage.

B. 2015 Incident Report

12. On May 13, 2015, the Board received a second Incident Report from the Sheriff's Office describing an incident that occurred on March 19, 2015, at Respondent's residence. A corporal from the Sheriff's Office (the "Corporal"), and other officers, went to Respondent's residence to serve a protective order on Family Member A and to take custody of all firearms. The Order had been obtained by Respondent on March 18, 2015, dictating that Family Member A should have no harassing or threatening contact with Respondent, although Family Member A was permitted to continue living on the upper floor of the residence and granted Respondent the lower level for her medical practice and to reside.

III. Investigation of Complaints

A. Interview of Corporal and Respondent

13. On May 15, 2015, Board staff interviewed the Corporal under oath. The Corporal testified to the following:

- a. Her first contact with Respondent was on March 18, 2015, when she and several other officers went to Respondent's residence to serve a protective order on Family Member A that had been filed by Respondent and to obtain all firearms in his possession.

- b. Because Family Member A seemed a little disoriented and confused, the Corporal called Emergency Medical Services ("EMS") to check him over.
- c. According to the Corporal, when the ambulance arrived, Respondent, who was on her way out to a dental appointment, turned her car around and tried to block the ambulance from getting up the driveway.
- d. Respondent "yelled" at the EMS team that they were not to touch Family Member A and that she was his family physician. The Corporal told Respondent she could not examine Family Member A and directed Respondent to go to her dental appointment.
- e. Family Member A told the Corporal that according to the protective order, he is not allowed to go downstairs between 9:00 p.m. and 9:00 a.m. Family Member A said that during the daytime there is not an issue between him and Respondent. In the evening time, Respondent drinks and when she runs out of alcohol, she comes upstairs looking in the cabinets for more alcohol. She drinks "quantities of vodka" and when she does, she becomes "irate, easily agitated." He has tried to hide the alcohol but if Respondent cannot find it, she becomes violent with him. Family Member A referenced an incident in late summer 2014 as an example. Family Member A provided the Corporal with a photograph of his face to support his statement that when he was trying to get the bottle of vodka away from her, Respondent hit him with the vodka bottle in the mouth. Family Member A played a tape recording he had made of Respondent "ranting and raving" about his hiding her alcohol. Family Member A said that the incident where Respondent bit him on the cheek was because he would not give her any alcohol. Family Member A reported that he is scared for his safety when Respondent gets out of control. The Corporal stated that most of the "911" calls that they receive are from Family Member A calling for help.

14. On June 3, 2015, Respondent submitted to the Board a written response to the report of her having been criminally charged with physical assault and the report of her treating Family Member A. Respondent stated that when she attempted to speak to Family Member A about a home maintenance issue, he "rushed to leave the room" and bit her in the left triceps. She tried to "slow him down" but her sandals got caught on the carpet. To prevent herself from falling backwards, she "nipped him on the cheek." Family Member A called "911." When a deputy spoke with Family Member A, "the story

changed” and she ended up being taken into custody. Respondent stated that Family Member A’s medical care is very complex, including the necessity for pain control.

15. On June 4, 2015, Board staff interviewed Respondent under oath.

Respondent testified to the following:

- a. On the evening of August 12, 2014, prior to her arrest, she wanted to speak with Family Member A, who was in the bathroom, about hiring someone to clean the gutters of the house. He “barged out” of the bathroom, bit her on the left triceps, pushed against her, and broke her glasses. She started to fall backwards and “nipped him on the cheek so I could catch my footing and not fall backwards.”
- b. She said that the reason she threw urine on Family Member A was because “he was sitting on the edge of the tub and I was trying to get him to listen.”
- c. She is Family Member A’s treating physician which involves coordinating his care since he has many medical problems. His former physician is now retired.¹ She follows the former physician’s “pain control regimen.” She prescribes medications, such as oxycodone,² diazepam,³ and Propranolol⁴ and she also uses natural approaches. She treats Family Member A for joint discomfort and she prescribed physical therapy. Family Member A has had a spinal fusion by a neurosurgeon.
- d. She acknowledged drinking two or three times a week, either a beer or “a little vodka in some juice.”
- e. She denied taking any medications.
- f. She filed for a protective order against Family Member A because “I was getting pretty sleep deprived ... exhaustion and stress in my adrenals ... he gets loud and angry near my bedtime.”

16. On June 4, 2015, at the conclusion of the interview, Respondent was hand

¹ This physician is in Indiana. Family Member A last saw him prior to 1999 when Family Member A moved to Maryland.

² Oxycodone is a Schedule II Controlled Dangerous substance (“CDS”).

³ Diazepam is a Schedule IV CDS.

⁴ Propranolol is a beta-blocker that is used to treat tremors, angina (chest pain), hypertension (high blood pressure), heart rhythm disorders, and other heart or circulatory conditions.

delivered correspondence from the Board directing her to present to a designated laboratory for a series of drug and alcohol tests.

17. On June 9, 2015, Respondent called the Board staff person stating that she forgot to mention something during her interview on June 4. She stated that on the evening of June 3, she took a 5 mg tablet of Valium that was prescribed for Family Member A. She took the Valium because she had a nightmare and needed help going back to sleep. She stated that she suffers from nightmares related to being in Vietnam from 1968 to 1970 when she was employed as a volunteer.

B. Laboratory Testing

18. On June 15, 2015, the Board received a facsimile of the reports from laboratory on June 5, 2015. The reports revealed the following:

- a. Positive urine for Oxazepam, Nordiazepam, and Temazepam;⁵
- b. Positive urine for Ethyl Glucuronide;⁶ and
- c. Positive urine for Ethyl Sulfate.⁷

C. Neuropsychological Testing

19. On June 19, 2015, the Board sent correspondence to Respondent directing her to undergo a neuropsychological evaluation on July 2, 2015.

20. On June 30, 2015, the Board sent the following documents to the

⁵ Oxazepam, Nordiazepam, and Temazepam are metabolites of diazepam (Valium).

⁶ Ethyl Glucuronide (EtG) is a urine alcohol test to check for the presence of the Ethyl (drinking) Alcohol metabolite, Ethyl Glucuronide. The detection period is generally up to 80 hours after ingestion.

⁷ Ethyl Sulfate (EtS) is a second specific metabolite or biomarker of ethanol. EtS is tested and reported in conjunction with EtG, to confirm recent ethanol ingestion or exposure. The detection of EtG and EtS offers greater sensitivity and accuracy for determination of recent ethanol ingestion, than by detection of either biomarker alone.

psychologist:

- a. Complaint from the Frederick County Sheriff's Office, March 31, 2015;
- b. Respondent's written response to complaint with photographs;
- c. Transcript of Interview of Corporal McCutcheon, May 15, 2015;
- d. Transcript of the interview of Respondent, June 4, 2015;
- e. Board memo regarding a telephone call received from Respondent, June 9, 2015; and
- f. Toxicology report from Friends Laboratory, June 23, 2015.

21. On July 9, 2015, the Board received the psychologist's neuropsychological test report.⁸

D. Criminal Justice Involvement

22. On August 13, 2014, a Statement of Criminal Charges was issued by the District Court for Frederick County, Maryland (the "District Court") against Respondent, charging her with assault in the second degree resulting from an incident on August 12, 2014. Respondent prayed a jury trial.

23. On August 22, 2014, Family Member A filed a Petition for a Protective Order against Respondent.

24. On August 25, 2014, the District Court granted an interim order, ordering that Respondent "shall not abuse."

25. On September 8, 2014, the Order was dismissed at the request of the Petitioner, Family Member A.

26. On November 7, 2014, the District Court issued a "Stet" in regard to Respondent's charge of assault.

27. On March 18, 2015, Respondent obtained a "Temporary Protective Order"

⁸ The tests that were performed, the findings, summary and conclusions are not included in the Order of Summary Suspension. Respondent has been provided a copy of the full report and a copy will be available to Panel B at the Show Cause Hearing.

against Family Member A based on her “fear of imminent serious bodily harm.” Respondent wrote in the Petition, “I am also his (Family Member A’s) treating physician.”

28. On March 27, 2015, the Petition was dismissed because Respondent “failed to appear.”

29. On October 19, 2015, Family Member A obtained a temporary protective order against Respondent. In his Petition for Protection, Family Member A alleged the following acts of abuse on October 6, 8, 13, 14, and 16, 2015:

- a. October 6, 2015 - Respondent threw a scoop of dog pellets on his head, “screaming epithets,” yanked his reading glass cord and shirt. They both fell to the floor. Family member called 911. Two deputies responded.
- b. October 8, 2015 - Respondent was drinking vodka and taking valium. She went outside, naked, “screaming her grievances.” Respondent threw pieces of lumber at Family Member A’s new car, causing dents and shattering the back window. A Frederick County detective arrived and made a report.
- c. October 13, 2015 – Respondent was unable to sleep. She took vodka and valium. Respondent was in a “tirade” and making threatening comments, until early morning. Episodes such as this have occurred on numerous occasions.
- d. October 14, 2015 – During the day and when office staff were present, Respondent shouted at family member, grabbing him and pushing him against a door jamb when he entered the first floor where an electric panel is located in order to reset the circuit breaker.
- e. October 16, 2015 - During the day, when patients and staff were not present, Respondent pushed Family Member A against a stone fireplace shouting that she would have him committed and that she has two board-certified psychologists who are ready to testify.
- f. October 17, 2015 – Respondent caused property damage at the residence.
- g. Family Member A attached photographs of himself indicating injuries to his face allegedly caused by Respondent, including a bite mark on August 13, 2014 which “required two antibiotics.”⁹

⁹ On August 22, 2014, Respondent prescribed Azithromycin 500 mg to Family Member A.

30. On October 26, 2015, the District Court issued a Final Protective Order, effective through October 26, 2016, ordering that Respondent “shall not abuse, shall not contact, and shall not enter the residence of Family Member A on the second floor.” She is allowed to live and work on the first floor of the residence. Respondent and Family Member A were each ordered to undergo psychiatric evaluations no later than 60 days from the Order.

E. Interviews with Family Member A

31. On November 23, 2015 and November 30, 2015, Board staff interviewed Family Member A under oath.

F. Interviews with Office Staff

32. Respondent employs two individuals in her practice. On December 3, 2015, Board staff interviewed Employee A, under oath; and on December 4, 2015, Board staff interviewed Employee B under oath.

33. Employee A, a medical assistant, began working for Respondent in May 2011, primarily typing reports. She worked from 10:00 a.m. to 5:00 p.m. Employee A quit her position on November 5, 2015, because Respondent was having her type personal reports rather than dealing with the practice, and it became “confusing.”

34. Employee B began her employment in March 2003 and submitted her resignation approximately on November 20, 2015, because she “could no longer tolerate Respondent’s verbal abuse of her.” Employee B’s duties included answered the telephone, sending out new patient forms, scheduling visits, obtaining vitals, billing, and filing. Employee B worked from 9:00 a.m. to 5:00 p.m.

35. Employees A and B stated the following:

- a. In the last few months, Respondent began reading a newspaper online during her lunch time but she would “run over” during patient time. She would respond online to the articles and become angry. Then she got angry at patients by screaming and yelling at them on the telephone. Also, Respondent would speak to patients about her religious views. Patients complained to office staff.
- a. Office staff state that Respondent’s patients are less of a priority for her now than has been the case in the past. Recently, Respondent has not always been able to see patients on the scheduled day because she would be “overwhelmed” by her personal problems or she would refuse to get off the internet to see and/or talk with patients. If office staff attempted to get her off the internet, she became “verbally nasty” with them. Patients have become upset when office staff have had to reschedule an appointment
- b. In approximately 2010 or 2011, office staff first became aware of Respondent’s “drinking problem.” A patient had presented to the office, having traveled two days from Alaska. Office staff were unable to get Respondent out of bed. They could not waken her. Then they were unable to get Respondent downstairs to see the patient. Respondent “managed to sober up a little bit” enough to see the patient.
- c. In the past two years, on approximately 24 occasions, office staff believe that Respondent has been drinking when, during the day, they have observed Respondent being verbally abusive, weav(ing) back and forth, slam(ing) into things, and slurring her words. Office staff report that sometimes they can smell alcohol on her breath. They report that Respondent drinks vodka even though usually vodka is not detectable.
- d. On one occasion, since August 2014 when Respondent began sleeping downstairs, Respondent was still asleep when office staff arrived. When office staff entered Respondent’s office where she sleeps on the floor, Respondent had a vodka bottle by her sleeping bag.
- e. Office staff have seen vodka bottles in the office on numerous occasions.
- f. Office staff believe that Respondent was intoxicated on December 3, 2015, because she was stumbling at work and had patients scheduled.

G. Respondent’s Medical Records of Treatment of Family Member A

36. In response to a Board subpoena, Respondent produced the following records of her care and treatment of Family Member A:

- a. Clinical Notes on the following dates: October 29, 2009, July 23, 2012, January 5 and 23, March 1 and 11, July 6, August 16, September 24, October 25, November 22, December 6, 2013, January 21, May 24, July 1, November 24, 2014, January 8 and 29, March 16, and April 8, 2015.
- b. Handwritten prescriptions for:
- i. "Ulcer cream" July 7, 2006 and Wound Care cream, January 18, 2008;¹⁰
 - ii. Morphine 504 1 mg/0.1 ml #30, January 18, 2008;
 - iii. Diazepam¹¹ 5 mg one every 4 to 6 hours #180, July 6, 2013, January 24, and July 1, 2014;
 - iv. Oxycodone¹² 5 mg ½ tab every 4 to 6 hrs, #90, July 6, September 20, October 25, 2013; January 22, April 4, May 24, July 1, November 24, 2014; January 8, and April 8, 2015;
 - v. Propranolol¹³ 40 mg. 1 tab two times a day, September 20, 2013;
 - vi. Sonata¹⁴ 10 mg #60, October 25, 2013
 - vii. Hydrocortisone¹⁵ 10 mg, one q am #90 October 25, 2013 and January 21, 2014;
 - viii. Ciprodex otic¹⁶ 7.5 ml bottle, March 4, July 31, and November 24, 2014;
 - ix. Ranitidine¹⁷ 300 mg #60, July 1, 2014;
 - x. Avelox¹⁸ 400 mg #14, October 27, 2014
 - xi. Uzithromycin¹⁹ 500 mg #5, November 1, 2014
 - xii. "Physical Therapist Expert Consultation," April 8, 2015
- c. Laboratory reports of testing that Respondent ordered between April 2006

¹⁰ Sent by facsimile to a compounding center in Kent, Washington.

¹¹ Diazepam, a benzodiazepine, used to treat anxiety disorders, alcohol withdrawal symptoms, or muscle spasms, is a Schedule IV CDS.

¹² Oxycodone, an opioid, used to treat moderate to severe pain, is a Schedule II CDS.

¹³ Propranolol is a beta blocker used to treat high blood pressure, angina (chest pain), irregular heartbeat, migraine headaches, tremors, and lowers the risk of repeated heart attacks. Propranolol is also used to treat anxiety.

¹⁴ Sonata is a non benzodiazepine Schedule IV sleep aid.

¹⁵ Hydrocortisone is a corticosteroid hormone.

¹⁶ Ciprodex is a combination antibiotic and anti-inflammatory corticosteroid.

¹⁷ Ranitidine is used to treat stomach acid.

¹⁸ Avelox is used to treat acute bacterial sinusitis or chronic bronchitis.

¹⁹ Uzithromycin is an antibiotic used to treat a variety of bacterial infections.

and February 2015;

- d. Reports and referrals for evaluation of medical and orthopedic conditions; and
- e. Reports to Medicare in support of recommended services.

H. Pharmacy Records

37. Pursuant to a Board subpoena to area pharmacies, a computer printout from one of the pharmacies confirmed that Respondent wrote at least a total of 64 prescriptions for Family Member A between January 1, 2014 and November 24, 2015.

38. The computer printout also revealed that between January 1, 2014, and November 24, 2015, Respondent wrote additional prescriptions for Family Member A for Diazepam 5mg #180 tablets, every four to six weeks that were not documented in her medical record. On only a couple of occasions the span between prescriptions was approximately every 8 weeks.

I. Mail Order Pharmacy Records

39. Pursuant to a subpoena to two mail order pharmacies, invoices revealed that from January 1, 2013 to December 1, 2015, Respondent ordered, and was shipped, the following CDS:

- a. May 2013 - Zaleplon²⁰ 10 mg – two bottles of 100 tablets each
- b. May 2103 - Amitriptyline²¹ 75 mg. – three bottles of 100 tablets each
- c. May 2013 - Diazepam 5 mg – one bottle of 1000 tablets
- d. June 2013 - Clonazepam 2 mg - one bottle of 500 tablets
- e. January 2014 - Amitriptyline 75 mg – five bottles of 100 tablets
- g. April 2014 – Diazepam 10 mg – two bottles of 500 tablets
- h. July 2014- Amitriptyline 75 mg – one bottle of 100 tablets
- i. May 2015 - Diazepam 10 mg - two bottles of 100 tablets each

²⁰ Zaleplon, marketed under the brand name of Sonata, is a sedative-hypnotic used for the management/treatment of insomnia.

²¹ Amitriptyline, a tricyclic antidepressant, also known as Elavil, is used to treat symptoms of depression.

40. Respondent does not hold a dispensing permit.

CONCLUSIONS OF LAW

Based upon the foregoing Investigative Findings, the Board concludes that the public health, safety, or welfare imperatively requires emergency action, and that pursuant to Md. Code Ann., State Gov't II § 10-226(c)(2), Respondent's license must be immediately suspended.

ORDER

Based on the foregoing Investigative Findings and Conclusions of Law;

IT IS by an affirmative vote of a majority of the quorum of Disciplinary Panel B of the Maryland Board of Physicians;

ORDERED that pursuant to the authority vested in Panel B by Md. Code Ann., State Govt. II § 10-226(c)(2) (2014 Repl. Vol. and 2015 Supp.), Respondent's license to practice medicine in the State of Maryland be and is hereby **SUMMARILY SUSPENDED**; and be it further

ORDERED that a post-deprivation hearing on the summary suspension in accordance with Md. Code Regs. 10.32.02.08 B(7) will be held on **Wednesday, December 16, 2015 at 12:15 p.m.** at the Maryland Board of Physicians, 4201 Patterson Avenue, Baltimore, Maryland, 21215-0095; and be it further

ORDERED that at the conclusion of the **SUMMARY SUSPENSION** hearing before Panel B, Respondent, if dissatisfied with the result of the hearing, may request within the (10) days, an evidentiary hearing, such hearing to be held within thirty (30) days of the request, before an Administrative Law Judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy road, Hunt Valley,

Maryland 21031-1301; and be it further

ORDERED that on presentation of this Order, Respondent **SHALL SURRENDER** to Board staff the following items:

- 1) Respondent's original Maryland license D18732;
- 2) Respondent's current renewal certificate;
- 3) Respondent's current Federal DEA certificate of Registration # AZ6887799, exp. 05/31/16;
- 4) Respondent's current Maryland Controlled Substance Registration # M63105, exp. 06/30/17;
- 5) All Medical Assistance prescription forms in her possession and/or practice;
- 6) All prescription forms and pads in her possession and/or practice; and
- 7) All prescription pads on which her name and DEA number are imprinted; and be it further

ORDERED that a copy of the Order of Suspension shall be filed with Panel B immediately in accordance with Health Occ. II § 14-407 (2014 Repl. Vol.); and be it further

ORDERED that this is an Order of Panel B, and as such, is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann. Gen Prov. §§ 4-101 et seq.

12/11/2015

Date



Christine A. Farrelly
Executive Director