

IN THE MATTER OF
MARSHA J. BROWN, M.D.

Respondent

License Number: D18847

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BEFORE THE

MARYLAND STATE

BOARD OF PHYSICIANS

Case Number: 2015-0334

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CONSENT ORDER

Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged Marsha J. Brown, M.D. (the "Respondent"), License Number D18847, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") §§ 14-101 *et seq.* (2014 Repl. Vol.).

The pertinent provisions of the Act provide as follows:

§ 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 of the Board, 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;
...

- (22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical center, hospital, or any other location in this State;
...

- (40) Fails to keep adequate medical records as determined by appropriate peer review[.]

THE AMA CODE OF MEDICAL ETHICS

The American Medical Association (“AMA”) Code of Medical Ethics provides in pertinent part:

Opinion 8.19 – Self-treatment or Treatment of Immediate Family Members

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.

...Concerns regarding patient autonomy and informed consent are also relevant when physicians attempt to treat members of their immediate family. Family members may be reluctant to state their preferences for another physician or decline a recommendation for fear of offending the physician...

Prior to the issuance of a charging document, the Respondent agreed to enter into the following Consent Order, consisting of Findings of Fact, Conclusions of Law, Order and Consent.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in Maryland. The Respondent was initially licensed to practice medicine in Maryland on February 2, 1976. Her license is scheduled to expire on September 30, 2016.
2. The Respondent is not board-certified.
3. The Respondent maintains an office for the practice of internal medicine in Baltimore City, Maryland.

4. On or about November 6, 2014, the Board received a complaint from a pharmacist alleging that the Respondent had written prescriptions for Controlled Dangerous Substances (“CDS”) for herself using her spouse’s surname. The complaint further alleged that the Respondent also wrote prescriptions for other family members.
5. The Board thereafter initiated an investigation of the Respondent. The investigation included a peer review of the Respondent’s medical records that she maintained for herself and the family members to whom she had written prescriptions, the Respondent’s written responses to the allegations and an interview by Board staff of the Respondent. The pertinent findings of the Board’s investigation are set forth below.
6. In the Respondent’s initial written response to the complaint, she stated that she “[had] never placed any patient or family member in danger by prescribing any medication that is unwarranted or out of line with sound medical practice.”
7. Upon review of the Respondent’s medical records, the peer reviewers concurred that the Respondent failed to meet the standard of quality care and failed to maintain adequate medical records for reasons including the following:
 - a. the Respondent wrote multiple prescriptions for CDS and other drugs for herself and two family members. As stated above, the Respondent used her spouse’s surname when prescribing to herself;
 - b. the Respondent ordered laboratory and imaging studies for herself;

- c. the Respondent failed to document a patient-physician relationship in any of the records reviewed; specifically, she failed to document medical histories, progress notes, treatment rationale, medication lists and problem lists.
8. On April 14, 2015, the Respondent was interviewed under oath by Board staff. During the interview, the Respondent acknowledged that she had prescribed to two family members and herself.
9. By letter dated August 22, 2015, the Respondent, at the Board's request, responded to the peer reviewers' reports. The Respondent wrote: "I value the knowledge and opinions of my peers...As such, my direct response to their summaries is to acknowledge their findings and apologize for my errors in judgment by writing prescriptions for myself and family members."

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, Disciplinary Panel A concludes as a matter of law that the Respondent engaged in unprofessional conduct in the practice of medicine, in violation of H.O. § 14-404(a)(3)(ii), failed to meet standards of care for the delivery of quality medical or surgical care, in violation of H.O. § 14-404(a)(22) and failed to maintain adequate medical records, in violation of H.O. § 14-404(a)(40).

ORDER

Based on the foregoing Findings of Fact and Conclusion of Law, it is, by Disciplinary Panel A, hereby

ORDERED that Respondent is reprimanded; and it is further

ORDERED that the Respondent shall cease prescribing to herself and her family members; and it is further

ORDERED that the Respondent shall be placed on probation for a minimum of two years; and it is further

ORDERED that as a condition of probation, the Respondent shall successfully complete a Board-approved ethics course, which course shall not count towards the Continuing Medical Education credits required for licensure renewal; and it is further

ORDERED that the Respondent shall comply with the Maryland Medical Practice Act and all laws and regulations applicable to the practice of medicine in Maryland; and it is further

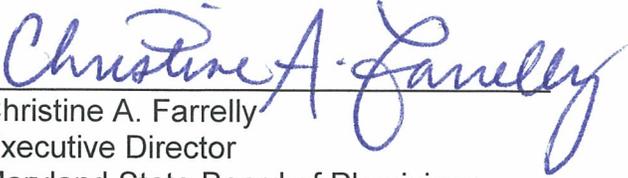
ORDERED that the Respondent's failure to comply with any of the conditions of this Consent Order shall be considered a violation of this Consent Order; and it further

ORDERED that if the Respondent violates any of the terms and conditions of this Consent Order, a Disciplinary Panel of the Board, after notice and an 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, or an opportunity for a show cause hearing before a Panel of the Board, may impose any other disciplinary sanction the Board may have imposed, including a reprimand, probation, suspension, revocation and/or monetary fine, said violation being proven by a preponderance of the evidence; and it is further

ORDERED that the Respondent is responsible for all costs associated with the Consent Order; and it is further

ORDERED that the Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014).

01/14/2016
Date


Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Marsha J. Brown, M.D., acknowledge that I am represented by counsel and have consulted with counsel before entering this Consent Order. By this Consent and for the purpose of resolving the issues raised by Disciplinary Panel A, 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 the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority

and jurisdiction of Disciplinary Panel A to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of a disciplinary panel of the Board that I might have filed after any such hearing.

I sign this Consent Order after having an opportunity to consult with counsel, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of the Consent Order.

January 8, 2016
Date

Marsha J. Brown, MD
Marsha J. Brown, M.D.,
Respondent

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF BALTIMORE

I HEREBY CERTIFY that on this 8th day of JANUARY 2016, before me, a Notary Public of the foregoing State and City/County, personally appeared Marsha J. Brown, M.D., and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

[Signature]
Notary Public

My Commission expires: 09/19/2018

