

IN THE MATTER OF

*

BEFORE THE

NAGBHUSHAN S. RAO, M.D.

*

MARYLAND STATE

Respondent

*

BOARD OF PHYSICIANS

License Number: D19204

*

Case Number: 2014-0632

* * * * *

CONSENT ORDER

Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged Nagbhushan S. Rao, M.D. (the "Respondent"), License Number D19204, 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:

- ...
- (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 facility, office, hospital, or any other location in this State[.]

Prior to the issuance of a charging document, the Respondent agreed to enter into the following Consent Order, consisting of Findings of Fact, Conclusion 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 May 20, 1976. The Respondent holds an active license in Pennsylvania and Virginia and inactive licenses in New Hampshire, Ohio, Kentucky, Michigan, Wyoming, Alabama, New York and the District of Columbia.

2. The Respondent is board-certified in neurophysiology (general).
3. On or about February 11, 2014, Panel A received a complaint alleging that patients at the practice where the Respondent had been previously employed were being prescribed excessive quantities of Controlled Dangerous Substances (“CDS”).
4. Panel A initiated an investigation of the Respondent’s current prescribing practices. The investigation included a peer review of ten patient records at the group practice where he is currently employed (“Practice A”),¹ an interview of the Respondent and the Respondent’s response to reports of the peer reviewers. Pertinent findings of the investigation are set forth below.

I. The Respondent’s Interview

5. On September 8, 2014, Board staff interviewed the Respondent under oath. The Respondent stated that he had not taken any courses in pain management, but had read MedScape articles that contained information about patients similar to those who were treated at Practice A. The Respondent characterized the patients as “typical pain management patients.”
6. The Respondent further stated that patients usually pay the cost of an office visit (\$200) in cash.

¹ The names of facilities and patients are confidential.

II. Summary of Peer Review Findings

7. The peer reviewers concurred that the Respondent failed to meet the standard of quality care in his treatment of nine of the ten patients whose records were reviewed. The patients, the majority of whom were in their twenties and thirties, presented with chronic pain of the lower back, neck or arm. The patients had been seen by other physicians at Practice A; the Respondent saw each patient for only one or two office visits.
8. The reviewers agreed that for each of the nine patients, the Respondent inappropriately continued to prescribe excessive quantities of a short-acting highly addictive opioid, typically oxycodone 30 mg² every four to six hours (#120), that other Practice A physicians had previously prescribed for months and even years.
9. The reviewers noted that the Respondent failed to attempt to transition the patients to a less addictive long-acting opioid, failed to consider alternatives to opioid therapy and failed to closely monitor patients for abuse or diversion.

CONCLUSION OF LAW

The Respondent's conduct, in whole or in part, constitutes failure to meet the standard of care for delivery of quality medical services, in violation of H.O. § 14-404(a)(22).

ORDER

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

ORDERED that the Respondent is **REPRIMANDED**; and it is further

² Oxycodone is a Schedule II CDS.

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

ORDERED that as a condition of probation, the Respondent shall successfully complete a Board-approved course in prescribing CDS; and it is further

ORDERED 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 probation and 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, Panel A, 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 for with 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., General Provisions, §§ 4-101 *et seq.* (2014).

9/11/2015
Date


Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Nagbushan S. Rao, 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.

September 1st, 2015
Date

N. Rao.
Nagbushan S. Rao, M.D.,
Respondent

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF Montgomery

I HEREBY CERTIFY that on this 1 day of September 2015, before me, a Notary Public of the foregoing State and City/County, personally appeared Nagbushan S. Rao, M.D., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.



Albert Wilson
Notary Public
My COMMISSION Expires 02/22/17