

IN THE MATTER OF
MARK R. Geier, M.D.,

Respondent.

License No. D24250

BEFORE THE MARYLAND
STATE BOARD OF
PHYSICIANS

Case No. 2012-0223

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FINAL DECISION AND ORDER

I. PROCEDURAL HISTORY

On April 27, 2011, the Board summarily suspended the medical license of Mark R. Geier, M.D. ("Dr. Geier"). That summary suspension remained in effect at all times relevant to the present case.¹

On February 22, 2012, the Board issued an Amended Cease and Desist Order, under Md. Health Occ. Code Ann. § 14-206(e), requiring Dr. Geier to cease practicing medicine while his license was suspended. On June 15, 2012, the Board charged Dr. Geier with violating the summary suspension order by practicing medicine while his license was suspended, in violation of Md. Health Occ. Code Ann. §§ 14-601 & 602. Both the Cease and Desist Order and the charges of practicing while suspended were based on the factual allegations that Dr. Geier had prescribed medications for three persons while his license was suspended.

¹ After a full evidentiary hearing, the summary suspension was affirmed by the Board in a Final Decision and Order issued on March 22, 2012. On August 22, 2012, the Board issued a Final Decision and Order in another case revoking Dr. Geier's license. As part of that August 22, 2012 revocation order, the summary suspension at issue in this case was vacated as moot.

A full evidentiary hearing was held before an Administrative Law Judge ("ALJ") of the Office of Administrative Hearings on August 16th and 20th, 2012. On November 19, 2012, the ALJ issued a proposed decision recommending that the charges not be upheld. The Administrative Prosecutor filed exceptions to the Board and Dr. Geier filed a response to those exceptions. An exceptions hearing was held before the full Board on February 27, 2013. This is the Board's Final Decision and Order in this case, after consideration of the entire record in this case, including the arguments made in the written and oral exceptions.

II. FINDINGS OF FACT

Dr. Geier's medical license was summarily suspended by the Board on April 27, 2011. On June 27, 2011, prescription numbers 6905885 and 6905888 were renewed for two different patients. A renewal, as opposed to a refill, is the supplying of a drug by a pharmacy in response to a new authorization from a physician. The authorization of a renewal amounts to prescribing medication and can be accomplished only by a licensed health care professional with prescribing authority.

On June 29, 2011, three additional renewals were authorized for two different patients in prescriptions numbers 6905885, 6906071 and 6906072.

The question in this case is who authorized these renewals. The State's argument is that Mr. David Geier called in the prescriptions, and that he was acting on behalf of Dr. Mark Geier, and that Dr. Mark Geier thus authorized the refills and thus practiced medicine without a license. Dr. Geier argued that the pharmacy records were in disarray, that extensive efforts were made after Dr. Mark Geier's suspension to have only Dr. John Young authorize any prescriptions formerly authorized by Dr. Mark Geier,

and that the personnel authorized by the medical practice to call in prescriptions for Dr. Mark Geier and Dr. Young did not call in these particular prescriptions for either of these physicians.

The pharmacy technician who obtained the authorizations over the phone did not write anything in the "Doctor Signature" blank or the "Authorized Person" blank, but she did write the single word "Geier" at a seemingly random place on the form. She testified, however, that she knew who called the prescriptions in and that it was Mr. David Geier, Dr. Geier's son. Mr. David Geier is not a licensed practitioner of any kind.

The pharmacy records were certainly not kept in an overly meticulous manner, but the pharmacy technician who took the prescriptions over the phone did handwrite the word "Geier" on the prescriptions at issue. This pharmacy technician testified that she wrote this to indicate Mr. David Geier because she recognized that it was he who was calling. Mr. David Geier testified that he did not call in the prescriptions, but the ALJ did not believe him. Neither does the Board. The Board finds as a fact that Mr. David Geier called in these prescriptions.

The State's case relies on the further implication that, if Mr. David Geier called in the prescriptions, Dr. Mark Geier must have authorized him to do this. The Board, like the ALJ, will decline to make the inference that Dr. Mark Geier authorized Mr. David Geier to call in these prescriptions. As the ALJ pointed out, Mr. David Geier, who was a long-time employee of the practice, could have called in the prescriptions without any authorization from any authorized prescriber.

Dr. Mark Geier's former medical practice had made extensive arrangements for his practice partner, Dr. Young, to take over the prescribing formerly done by Dr. Mark

Geier, and the evidence shows that Dr. Young did in fact prescribe hundreds of times in this manner. He certainly could have easily authorized these particular prescriptions; but he did not testify, and his name appears nowhere on these particular prescription records. The Board does not believe that Dr. Young authorized these particular prescriptions. If he did, it is likely that his name would have appeared on the prescription records.

The Board finds by a preponderance of the evidence that Mr. David Geier called in these prescriptions on his own, without the authorization of either Dr. Mark Geier or Dr. Young. Because there is no finding that Dr. Mark Geier authorized the calling in of these prescriptions, the charge that Dr. Mark Geier practiced medicine while his license was suspended will be dismissed.²

III. CONCLUSIONS OF LAW

The preponderance of the evidence having shown that Mr. David Geier, not Dr. Mark Geier, authorized the prescriptions at issue in this case, Dr. Mark Geier did not violate the Summary Suspension Order or practice medicine without a license within the meaning of Md. Health Occ. Code Ann. § 14-606(a)(4). The Cease and Desist Order becomes moot as of the issuance of this decision.³

² Of course, practicing medicine without a license is a felony and may also subject the perpetrator to a civil fine of up to \$50,000. Md. Health Occ. Code Ann. § 14-606(a)(4). The Board notes, however, that Mr. David Geier was not charged *in this case* with practicing medicine without a license.

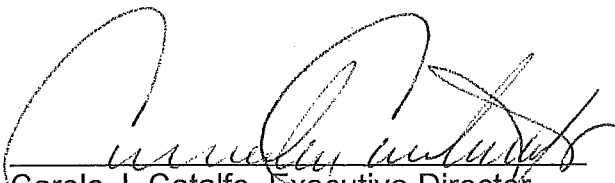
³ The Cease and Desist Order will be vacated as moot, though this does not in any way mean that Dr. Mark Geier may practice medicine while his license is revoked.

IV. ORDER

It is hereby **ORDERED** that the charges issued on June 15, 2012 against Dr. Mark Geier for practicing medicine without a license and for violating his summary suspension order by doing so are hereby **DISMISSED**, and it is further

ORDERED that the Amended Cease and Desist Order issued on February 22, 2012 is hereby terminated as moot.

SO ORDERED this 22ND day of March, 2013.



Carole J. Catalfo, Executive Director
Maryland State Board of Physicians