

IN THE MATTER OF	*	BEFORE THE
SARKIS G. AGHAZARIAN, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D28245	*	Case Number: 2012-0504
* * * * *	*	* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On February 14, 2013, the Maryland State Board of Physicians (the "Board") charged **SARKIS G. AGHAZARIAN, M.D.** (the "Respondent") (D.O.B. 11/16/1954), License Number D28245, under the Maryland Medical Practice Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 14-101 *et seq.* (2005 and 2009 Repl. Vols. and 2012 Supp.).

Specifically, the Board charged the Respondent under the following provision of the Act under H.O. § 14-404:

- (a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on the affirmative vote of a majority of the quorum, 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[.]¹

**JOINT COMMISSION ON ACCREDITATION OF HEALTHCARE ORGANIZATIONS'
("JCAHO") CRITERIA FOR DISRUPTIVE BEHAVIOR**

¹ Pursuant to Chapter 539, Acts 2007, effective June 1, 2007, H.O. § 14-404(a)(3) was rewritten without substantive change. Prior to June 1, 2007, H.O. § 14-404(a)(3) stated as follows: Is guilty of immoral or unprofessional conduct in the practice of medicine.

On July 9, 2008, JCAHO issued a Sentinel Event alert entitled “Behaviors that Undermine a Culture of Safety,” which stated in pertinent part:

Intimidating and disruptive behaviors can foster medical errors...contribute to poor patient satisfaction and to preventable adverse outcomes...Safety and quality of patient care is dependent on teamwork, communication, and a collaborative work environment. To assure quality and to promote a culture of safety, health care organizations must address the problem of behaviors that threaten the performance of the health care team. Intimidating and disruptive behaviors include overt actions such as verbal outbursts and physical threats...Intimidating and disruptive behaviors are often manifested by health care professionals in positions of power...Overt and passive behaviors undermine team effectiveness and can compromise the safety of patients...All intimidating and disruptive behaviors are unprofessional and should not be tolerated.²

AMERICAN MEDICAL ASSOCIATION’S (“AMA’S”) OPINION ON PHYSICIANS WITH DISRUPTIVE BEHAVIOR

AMA Opinion 9.045, adopted in June 2000 provides in pertinent part:

...

- (1) Personal conduct, whether verbal or physical, that negatively affects or that potentially may negatively affect patient care constitutes disruptive behavior. (This includes but is not limited to conduct that interferes with one’s ability to work with other members of the health care team.) However, criticism that is offered in good faith with the aim of improving patient care should not be construed as disruptive behavior.

On April 3, 2013, a Case Resolution Conference was convened in this matter. Based on negotiations occurring as a result of this Case Resolution Conference, the Respondent agreed to enter into this Consent Order, which consists of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

² In 2011, JCAHO revised the term “disruptive behavior” to “behavior or behaviors that undermine a culture of safety.”

BACKGROUND FINDINGS

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was originally licensed to practice medicine in Maryland on August 20, 1982, under License Number D28245. The Respondent's license is current through September 30, 2014.

2. At all times relevant hereto, the Respondent was board-certified in general surgery and maintained an office for the practice of medicine at 201 East University Parkway, Baltimore, Maryland 21218.

3. On July 23, 2003, the Board issued a Final Order under Case Number 2000-0242, in which it found as a matter of law that the Respondent failed to meet appropriate standards for the delivery of quality medical and surgical care, in violation of H.O. § 14-404(a)(22). The Board reprimanded the Respondent.

CURRENT INVESTIGATIVE FINDINGS

4. The Board initiated an investigation of the Respondent under Case Number 2012-0504 after a Maryland hospital ("Hospital A")³ reported that it suspended his clinical privileges for 90 days, effective January 30, 2012. Hospital A determined after investigation that the Respondent behaved in a manner that directly violated its Medical Staff Disruptive Behavior Policy, based on multiple complains from operating room ("OR") associates. Hospital A reported that the complaints reviewed included the Respondent's "use of abusive language, angry and intimidating behavior, and extreme rudeness in a professional setting in the operating room."

³ For confidentiality purposes, the names of all individuals or health care entities referred to in this Consent Order have not been identified by name. The Respondent is aware of the identity of all individuals referenced herein.

5. Hospital A informed the Respondent that the suspension was a “last chance” action and that if there were any subsequent reports of a similar nature that he violated the Medical Staff Disruptive Behavior Policy, his clinical privileges and medical staff membership would be “automatically, immediately, and permanently terminated.”

6. Hospital A took disciplinary action against the Respondent based on his history of disruptive workplace behavior, which culminated in a series of incidents occurring in or around October 2011, in which he engaged in disruptive and intimidating behavior. Among other acts, the Respondent berated staff members in front of patients, exhibited uncontrolled anger and used demeaning language towards professional associates. Hospital staff often avoided contacting the Respondent and instead contacted residents to get post-operative orders due to their fear that the Respondent would yell, demean, or berate them. Examples of these behaviors include but are not limited to the following:

(a) the Respondent yelled at staff and was extremely rude to a new staff member in the OR. He also delayed a surgical case with one of his patients who was in the OR under moderate sedation for about 50 minutes, awaiting his return from another area of the hospital when he was supposed to be in the OR;

(b) the Respondent berated an anesthesiologist who was attempting to put in an intravenous line, saying at one point, “You are trying to kill my patient”;
and

(c) the Respondent yelled and screamed at the staff at the control desk because a patient of his was sent back to the floor as a result of the Respondent being 50 minutes late and not appearing on time to do the case. The

Respondent continuously berated staff in an angry manner, allowing patients in the recovery area to hear his comments.

7. A few days subsequent to these events, the Respondent engaged in further intimidating behavior towards a nurse. The Respondent verbally challenged the staff's competency in a loud, intimidating and rude manner.

8. In or around May 2009, hospital officials at Hospital A cited the Respondent for disrespectful and argumentative behavior towards both nursing staff and a patient in a disagreement about the start time of a surgical procedure. The patient had been told by the Respondent's office to arrive at 6:45 a.m. for an 8:00 a.m. procedure. The Respondent stated that the procedure was scheduled for 1:00 p.m. The Respondent initially did not want to proceed with the surgery and but then initiated it. When he did, he continued to direct angry comments at the patient while she was on the operating table. After this incident, hospital officials at Hospital A ordered the Respondent to seek consultation and treatment.

9. The Respondent's professional history includes acts of disruptive workplace behavior occurring at another Maryland hospital ("Hospital B"), which include the following:

(a) In or around September 2001, the Respondent was reported for an incident that occurred in or around September 2011, for insulting behavior towards a charge nurse at Hospital B because of a posting issue. In that matter, the Respondent berated the charge nurse in front of colleagues and patients.

(b) In or around the first quarter of 2005, the Respondent was involved in two incidents in which he was cited for being rude and degrading towards

Hospital B staff. In one incident, he engaged in “rude and degrading” behavior when addressing a posting clerk who attempted to schedule a patient for surgery. In a second incident, the Respondent yelled and verbally berated a consulting nutritionist when she attempted to discuss his treatment choice for feeding a patient with esophageal cancer. At one point during the encounter, the consulting nutritionist had to ask the Respondent to repeat himself because he was so irate.

(c) Hospital B officials notified the Respondent in writing that his actions were “abrupt, unprofessional and demeaning,” which “raise serious concerns about ...[his]...recent conduct and professionalism,” and that his actions were “even more disturbing in view of the questions raised of a similar nature in February, 2004.”

(d) In an incident that occurred in or around December 2007, the Respondent, when told that his surgical case would be delayed for a short period of time, told the patient in question that he was “too busy” to wait around and he would have to cancel her surgery. The patient began “to beg” the Respondent to do the surgery as she was in pain. The Respondent reportedly became louder and louder and continued to tell the patient he could not wait. Despite the patient’s distress, the Respondent left Hospital B. Another surgeon reportedly intervened and performed the procedure for the patient. As a consequence, the Respondent was reportedly removed from Hospital B’s Emergency Room Call Roster for an indefinite period.

(e) In a letter sent to the Respondent in or around January 2008, hospital officials at Hospital B stated, "We would like to remind you that you have been involved in a number of documented inappropriate and sometimes disruptive interactions with staff over the last several years. You do at times exhibit behavior towards others which is perceived as angry and insensitive." The Respondent was encouraged to seek help in managing interpersonal interactions.

(f) In or around August 2008, hospital officials at Hospital B convened a meeting to address several incidents of unprofessional behavior involving the Respondent that were reported over a three month period. All of the incidents involved allegations that the Respondent was angry and disrespectful towards other professionals.

10. The Respondent has had no new incidents of disruptive behavior since his privileges were reinstated.

11. The Respondent's actions, as described above, constitute unprofessional conduct in the practice of medicine, in violation of H.O. § 14-404(a)(3)(ii).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated the following provision of the Act: H.O § 14-404(a)(3), Is guilty of (ii) unprofessional conduct in the practice of medicine.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is, by the affirmative vote of a majority of the quorum of the Board considering this case:

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

ORDERED that the Respondent shall be placed on **PROBATION** for a minimum period of **TWO (2) YEARS**, to commence on the date the Board executes this Consent Order, and continuing until the Respondent successfully complies with the following terms and conditions:

1. Within sixty (60) days of the date the Board executes this Consent Order, the Respondent shall pay a civil fine in the amount of \$5,000.00, by certified check or money order, payable to the Maryland Board of Physicians, P.O. Box 37217, Baltimore, Maryland 21297;

2. Within six (6) months of the date the Board executes the Consent Order, the Respondent shall successfully complete a Board-approved course of significant duration in professional relations, with an emphasis in appropriate professional interactions. The Respondent shall submit written documentation to the Board regarding the particular course he proposes to fulfill this condition. The Board reserves the right to require the Respondent to provide further information regarding the course he proposes, and further reserves the right to reject his proposed course and require submission of an alternative proposal. The Board will approve a course only if it deems the curriculum and the duration of the course adequate to satisfy its concerns. The Respondent shall be responsible for submitting written documentation to the Board of

his successful completion of this course. The Respondent understands and agrees that he may not use this coursework to fulfill any requirements mandated for licensure renewal. The Respondent shall be solely responsible for furnishing the Board with adequate written verification that he has completed the course according to the terms set forth herein;

3. The Respondent shall immediately notify the Board if he is the subject of any documented complaints, reports or disciplinary action regarding disruptive behavior at any hospital, surgical center or facility in which he has privileges;

4. Within seven (7) days of the date the Board executes this Consent Order, the Respondent shall enroll in the Maryland Professional Rehabilitation Program (the "MPRP") for evaluation and treatment, follow all rules and regulations of the MPRP and terms and conditions of any rehabilitation agreements and rehabilitation plans, and sign all releases and consent forms necessary for the Board to have access to his treatment information and records; and

5. The Respondent shall practice according to the Maryland Medical Practice Act and in accordance with all applicable laws, statutes, and regulations pertaining to the practice of medicine.

AND IT IS FURTHER ORDERED that after the conclusion of the entire **TWO (2) YEAR** period of **PROBATION**, the Respondent may file a written petition to the Board requesting termination of his probation. After consideration of his petition, the probation may be terminated through an order of the Board or designated Board committee. The Respondent may be required to appear before the Board or designated Board committee. The Board, or designated Board committee, will grant the termination if the

Respondent has fully and satisfactorily complied with all of the probationary terms and conditions of this Consent Order, including the expiration of the **two (2) year** period of probation, and if there are no outstanding complaints related to the charges before the Board; and it is further

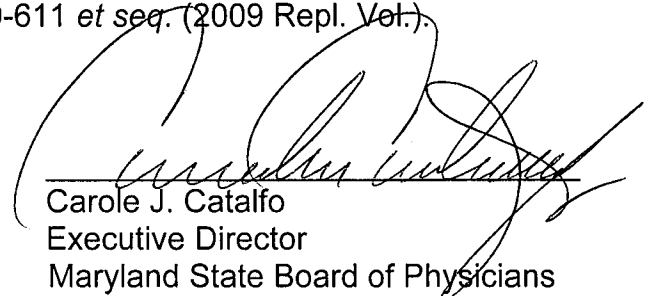
ORDERED that if the Respondent violates any of the terms or conditions of this Consent Order or of probation, the Board, in its discretion, after notice and an opportunity for a hearing before an administrative law judge at the Office of Administrative Hearings if there is a genuine dispute as to the underlying material facts, or an opportunity for a show cause hearing before the Board, may impose any other disciplinary sanctions the Board may have imposed, including a reprimand, probation, suspension, revocation and/or a monetary fine, said violation being proven by a preponderance of the evidence; and it is further

ORDERED that the Respondent shall not apply for early termination of probation; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of the Consent Order; and it is further

ORDERED that the Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't. Code Ann. § 10-611 *et seq.* (2009 Repl. Vol.).

April 17, 2013
Date


Carole J. Catalfo
Executive Director
Maryland State Board of Physicians


CONSENT

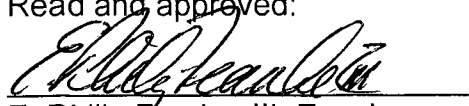
I, Sarkis G. Aghazarian, M.D., acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I agree to the foregoing Consent Order, which consists of Procedural Background, Findings of Facts, Conclusions of Law, Order, and Consent, and I agree and accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

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 as provided by law. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

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

4/15/13
Date


Sarkis G. Aghazarian, M.D.
Respondent

Read and approved:

E. Philip Franke, III, Esquire
Counsel for Dr. Aghazarian

NOTARY

STATE OF MARYLAND

~~CITY~~COUNTY OF: HARFORD

I HEREBY CERTIFY that on this 15TH day of APRIL, 2013, before me, a Notary Public of the State and County aforesaid, personally appeared Sarkis G. Aghazarian, M.D., and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Kirola J. Heath
Notary Public

My commission expires: 10/8/2015