

IN THE MATTER OF	*	BEFORE THE
LARRY H. GASTON, M.D.	*	STATE BOARD OF PHYSICIAN
Respondent	*	QUALITY ASSURANCE
License Number: D29768	*	Case Number: 93-0086
* * * * *	*	* * * * *

CONSENT ORDER

BACKGROUND

The State Board of Physician Quality Assurance (the "Board"), on April 28, 1993, charged Larry H. Gaston, M.D. (the "Respondent"), D.O.B. 7/23/51, License Number D29768, under the Maryland Medical Practice Act (the "Act"), Md. Health Occ. Ann. Code ("H.O.") §14-101 et seq. (1991).

The pertinent provisions of Section 14-404 of the Act provide:

- (a) Subject to the hearing provisions of §14-405 of this subtitle, the Board on the affirmative vote of the majority of its fully authorized membership, 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;

On July 7, 1993, a Case Resolution Conference was held. As a result of the Case Resolution Conference, the parties agreed to enter into this Consent Order.

The Board at its meeting on the 28th day of July, 1993, considered the Case Resolution Conference's recommendation and

voted to accept this Consent Order¹.

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland.

2. The Respondent maintains offices for the practice of medicine in Silver Spring, Maryland and in Baltimore, Maryland.

3. The Respondent has hospital privileges at Liberty Medical Center, Baltimore, Maryland.

4. On August 27, 1992, the Board requested that the Medical and Chirurgical Faculty of Maryland Peer Review Management Committee ("Med-Chi PRMC") review a complaint made by a female patient of child-bearing age for whose acne problem the Respondent proscribed Accutane (Isotretinoin), a drug which is known to cause severe congenital abnormalities. Med-Chi PRMC subsequently referred the case to the Montgomery County Medical Society Peer Review Committee ("MCMS PRC"). The September 30, 1992 report of the MCMS PRC concluded that the Respondent breached the standard of care in the index case by his "failure to follow the required procedures in the administration of Accutane" and recommended that a review of the Respondent's medical practice be undertaken to determine whether the Respondent's prescribing of Accutane to his patients represented an ongoing pattern of breaches of the standard of care. The MCMS PRC subsequently undertook and completed a review of the Respondent's prescribing of Accutane in his medical

¹A majority of the full authorized membership of the Board voted to accept this Consent Order.

practice.

5. On December 18, 1992, the Board received the results of the practice review from MCMS PRC. The MCMS PRC report, dated December 2, 1992, states:

In general, it was found that the physician failed to document that the patients needed this drug [Accutane], there was not an adequate history present, the charts failed to show previous therapy, there was a scanty physical exam reported, and in many cases the physician was unable to read his own handwriting after the reviewers could not read the chart and asked for clarification.

6. The MCMS PRC concluded and the Board hereby finds that the Respondent failed to meet the standard of care within the specialty of dermatology, specifically, in his prescribing of Accutane.

CONCLUSION OF LAW

Based upon the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent failed to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical care performed in the State of Maryland, in violation of Md. Health Occ. Code Ann. § 14-404 (a)(22) (1991 Repl. Vol.)

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 28th day of July, 1993:

ORDERED that the Respondent's license to practice medicine in the State of Maryland is hereby SUSPENDED for a period of one (1) year beginning September 3, 1993. On or before 5:00 p.m.,

September 2, 1993, the Respondent shall hand-deliver to Margaret P. Anzalone, Deputy Director of the Board, at the Board's office, 4201 Patterson Avenue, Baltimore, Maryland, the following items:

- (a) his original Maryland license number D29768
- (b) the renewal card of his license to practice medicine from the Board of Physician Quality Assurance;
- (c) DEA Certificate of Registration number AG2505254;
- (d) Maryland Controlled Dangerous Substances Registration Certificate number M19505;
- (e) all controlled dangerous substances in his possession or practice;
- (f) all Medical Assistance prescription forms in his possession or practice; and
- (g) any prescription pads on which his name and DEA number are imprinted; and it is further

ORDERED that the suspension shall be STAYED after 30 days, and, provided that the Respondent has complied with all aspects of this Consent Order, the Respondent shall then be placed on probation for a period of three (3) years, subject to the following terms and conditions:

1. The Respondent shall co-operate with Med-Chi PRMC and MCMS PRC, which shall conduct an immediate peer review of his medical practice. After receipt of the Peer Review Report, the Board² shall determine whether further peer reviews of the Respondent's medical practice are warranted. The Respondent shall

²All determinations which are required by this Consent Order to be made by the Board subsequent to the immediate peer review of the Respondent's medical practice, may be made by the full Board, by the Weekly Review Panel, or by a Case Resolution Conference Committee.

co-operate with any future peer reviews of his medical practice which may be ordered by the Board.

2. In the event that, subsequent to the immediate peer review of the Respondent's medical practice, the Board determines that supervision by another dermatologist of the Respondent's medical practice is appropriate, the Respondent shall comply with all conditions set by the Board regarding such supervision.

3. Subject to the further order of the Board, prior to writing any new prescriptions for Accutane, the Respondent shall obtain a second opinion from another dermatologist regarding whether Accutane is an appropriate treatment therapy for each patient concerned.

4. The Respondent shall successfully complete a course in medical record keeping within the first six (6) months of his probation.

5. Failure by the Respondent to comply with any of the foregoing conditions of probation constitutes a violation of probation.

6. If the Board determines after notification and hearing that the Respondent has violated his probation, the stay may be lifted and the Board may impose any additional disciplinary sanctions it deems appropriate.

7. If the Respondent presents a danger to the public health, safety, or welfare, the Board WITHOUT PRIOR NOTICE AND AN OPPORTUNITY TO BE HEARD may vacate the stay of suspension and reinstate the suspension provided. The Respondent will be given

notice of the Board's action and an opportunity for a hearing within thirty (30) days after the Respondent requests the hearing.

AND IT IS FURTHER ORDERED that Respondent will be responsible for all costs incurred under this Consent Order; and it is further ORDERED that this Consent Order is a public document, pursuant to Md. State Gov't. Code Ann. § 10-601 et seq.

August 13, 1993
Date

Israel H. Weiner
Israel H. Weiner, M.D., Chairperson
State Board of Physician Quality
Assurance

CONSENT

By this Consent, I hereby accept and agree to be bound by the foregoing Order and its conditions and restrictions, consisting of eight pages.

1. By signing this Consent, I acknowledge the validity of this Order as if made after a 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 law.

2. I recognize that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing. By this Consent I waive all such rights.

3. I am represented by counsel, Lorenia A. Josey. I have reviewed the Charges Under the Medical Practice Act and this Order with my attorney, Leronia A. Josey. Considering carefully the advice of my counsel, I choose to sign this Order.

4. I understand that if I fail to comply with any of the conditions of probation enumerated in this Order, I may suffer disciplinary action against my license to practice medicine in the State of Maryland.

5. I understand that if I present a danger to the public health, safety, or welfare, the Board may, WITHOUT PRIOR NOTICE AND AN OPPORTUNITY TO BE HEARD, vacate the stay of suspension, reinstate the suspension, and reinstitute formal proceedings against my license to practice medicine in Maryland.

6. I have had an opportunity to review this Order, with my

attorney. I voluntarily sign this Order understanding its meaning and effect.

07/28/93
Date

[Signature]
Larry H. Gaston, M.D.

[Signature]
Leronia A. Josey
Attorney for Respondent

STATE OF MARYLAND)
COUNTY/CITY OF Prince George's)

I HEREBY CERTIFY that on this 28th day of July, 1993, before me, a Notary Public for the State and County aforesaid, personally appeared Larry H. Gaston, M.D. and made oath in due form of law that the foregoing consent was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal.

[Signature]
Notary Public

My Commission Expires: May 1, 1997

F:SW:IHW