

IN THE MATTER OF

HASAN H. BABATURK, M.D.

Respondent

License Number: D37592

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BEFORE THE

MARYLAND STATE

BOARD OF PHYSICIANS

Case Number: 2016-0465 A

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ORDER OF SUMMARY SUSPENSION OF LICENSE TO PRACTICE MEDICINE

Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** Hasan H. Babaturk, M.D.'s (the "Respondent") license to practice medicine in the State of Maryland, License Number D37592.

Panel A takes such action pursuant to its authority under Md. Code Ann., State Gov't II § 10-226(c)(2) (2014 Repl. Vol. and 2015 Supp.), concluding that the public health, safety or welfare imperatively requires emergency action. Panel A bases its conclusions on the following investigative findings after conducting an investigation.

INVESTIGATIVE FINDINGS¹

Panel A of the Board has obtained investigatory information that Respondent is selling and prescribing controlled dangerous substances ("CDS") for illegitimate medical purposes and engaging in unprofessional conduct in the practice of medicine as evidenced by his:

1. Failing to adhere to safeguards for the responsible prescribing of CDS, including but not limited to: performing comprehensive evaluations of patients including taking an appropriate history and performing appropriate physical examinations; creating and implementing comprehensive

¹ The statements regarding the Board's investigative findings are intended to provide the Respondent with notice of the basis of the summary suspension. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

treatment plans; obtaining proper informed consent; undertaking periodic review and monitoring to include routine urine drug screening, referrals for specialist consultations; and recording adequate documentation.

2. Practicing medicine, which consisted solely of prescribing CDS, for eight months without an adequate facility to properly examine and treat patients.
3. Providing CDS prescriptions, predominately oxycodone, to individuals in parked vehicles on parking lots, at shopping malls or motels, or in the individuals' homes without performing legitimate medical evaluations.
4. Conducting examinations of purported patients in the presence of Respondent's family members.
5. Maintaining scant notes of purported patient encounters in notebooks or on notepads that are devoid of medical history and medical reasoning, and consist mainly of demographic information and the name, milligram strength, and amount of CDS that he prescribed.
6. Failing to secure confidential patient medical records, which he maintains in his home and to which other family members had access.
7. Providing CDS prescription to purported patients on a cash-only basis for \$300 to \$350 per visit.
8. Admitting to law enforcement officers that he uses "crack cocaine" and occasionally uses heroin that he obtains from at least one of his patients.
9. Admitting to law enforcement officers that a member of his family ("Family Member A") smokes crack cocaine in his presence while he is "examining patients."
10. Acting in an explosive and profane manner toward office staff in the presence of patients.

Based on the investigatory information obtained by Panel A as summarized above, and the specific instances described below, Panel A has reason to believe that Respondent poses a substantial likelihood of risk of serious harm to the public health, safety, or welfare.

I. Licensure Information

1. At all times relevant hereto, Respondent was and is licensed to practice medicine in the State of Maryland. Respondent was originally licensed to practice medicine in Maryland in 1988.

2. Respondent completed his post graduate training in general surgery. Respondent has not provided the Board with a self-designated specialty. Respondent reported to the American Medical Association that his self-designated practice specialty is general surgery.

3. Respondent is not board-certified by any of the specialty boards recognized by the American Board of Medical Specialties.

4. Respondent does not hold any hospital privileges.

II. Employment Background

5. From in or around 2004 to June 2, 2015, Respondent was employed at a large multispecialty group practice ("the Practice")² that had multiple locations in Baltimore City and Baltimore County. The Practice specializes in neuromusculoskeletal services for personal injury and workers' compensation cases. Respondent's area of practice was pain management.

6. On June 2, 2015, the Practice terminated Respondent from its employment for cause.

7. From on or about June 3, 2015, to February 2, 2016, Respondent practiced medicine without maintaining a medical office.

² To ensure confidentiality, the names of health care facilities patients, hospitals and other individuals involved in this case, other than the Respondent, are not disclosed in this document. The Respondent may obtain the identity of all individuals referenced in this document by contacting the administrative prosecutor.

8. Since February 3, 2016, Respondent has maintained an office for the solo practice of medicine in Dundalk, Maryland.

III. Complaints

A. December 2015 Complaint

9. On December 21, 2015, the Board received an anonymous written complaint stating as follows:

Mr. (sic) Babaturk is using illegal drugs regularly. His [family members] are also using. There is speculation that that are dealing drugs as well. The Harford County Sheriff has visited their home 25 times in 2015 alone.

I understand that he was recently terminated due to his erratic behavior. Please don't allow him to practice medicine. It would endanger his patients. The neighbors in his sub division have requested that the police consider both him and his family a nuisance. The state's attorney should be involved shortly. Although I wish to remain anonymous, the Harford County Sheriff's Office should be able to assist you.

B. January 2016 Complaint

10. On January 5, 2016, a detective from the Baltimore County Police Department, Narcotics Pharmaceutical Diversion Team (the "BCPD") notified the Board that his unit was conducting a criminal investigation of Respondent and requested the Board's further assistance in its investigation.

III. Investigation of Complaints

A. Criminal Investigation and Surveillance

11. On February 9, 2016, and February 18, 2016, Board staff met with representatives of BCPD, who provided information regarding BCPD's investigation of Respondent. The information provided to Board staff revealed the following:

a. Between October 8, 2015, and November 18, 2015, approximately six

pharmacists from national chain pharmacies located in Eastern Baltimore County notified BCPD about individuals who presented prescriptions Respondent provided them for oxycodone.

- b. One of the pharmacists reported that when she called to verify the prescriptions, the call went to a standard telephone voice mailbox, and not to an answering service or an office. The pharmacist checked Respondent's address on the prescriptions and noted that it was in a residential neighborhood.
- c. One of the pharmacists determined that the DEA number on the prescription was not valid and refused to fill the prescription. Respondent called the pharmacy and stated that he had changed his DEA number when he left his office to work from home.
- d. All of the pharmacists refused to fill the prescriptions.
- e. At one of the pharmacies, two of Respondent's patients ("Patients 1 and 2") together presented prescriptions Respondent had written for them for opioid medications.
- f. When BCPD contacted Respondent using the telephone number that was listed on the prescription, he stated that he had seen the patients and that he makes "house calls." He stated that a lot of his patients are "drug addicts" and that he tries to help wean them off the drugs and that he works out of his home.
- g. BCPD conducted background checks on the patients and determined that most of them had a history of arrests related to possession/distribution of narcotics.
- h. On October 14, 2015, BCPD conducted surveillance of narcotics activity in Dundalk, during which time they interviewed an individual ("Patient 3") who told them that Respondent goes to a house in Inverness where provides prescriptions to multiple individuals who meet him there. During this encounter, a detective contacted Respondent who stated that he did not have an office and that the address on the prescription was his home. Respondent stated he is working on getting back to an office setting. Respondent stated that he saw Patient 3 at Patient 3's cousin's home in Dundalk.
- i. From October 14, 2015, through January 6, 2016, BCPD conducted surveillance on Respondent and reported the following information:
 - i. On October 14, 2015, BCPD observed Respondent drive from his residence in Harford County and park at a motel in Edgewood,

Maryland. BCPD then observed another vehicle drive up to this location, after which the passenger of the vehicle entered the back seat of Respondent's vehicle. The detectives observed Respondent give the passenger several pieces of paper.

- ii. On November 12, 2015, BCPD observed Respondent drive from his home to an apartment complex in Rosedale, after which an individual, identified as one of Respondent's patients ("Patient 5"), walked up to Respondent's vehicle. The detective observed an "exchange." BCPD observed another individual with Patient 5 who was identified as also being one of Respondent's patients ("Patient 7").
- iii. On November 20, 2015, BCPD observed Patient 2 knock on the door of Respondent's residence. An unidentified individual opened the door and detectives observed "an exchange." Patient 2 returned to her vehicle and drove away.
- iv. On December 2, 2015, BCPD observed Respondent drive his vehicle from his home to the parking lot of a shopping mall in Harford County. BCPD observed an individual approach Respondent's vehicle and enter the back seat of his vehicle. They then observed Respondent write on a pad of paper. Respondent then drove to an address in East Baltimore. Respondent got into the back seat of his vehicle with the individual. Respondent had a pad of paper and was observed testing the individual's reflexes in the back seat.
- v. On December 4, 2015, BCPD observed Family Member A engaging in behavior that, based on their training and expertise, is consistent with smoking crack cocaine. Officers placed her under arrest and recovered a crack pipe from her.
- vi. On January 6, 2016, BCPD observed Respondent and Family Member A drive to a location in Essex. They then observed an individual, later identified as one of Respondent's patients ("Patient 4"), walk up to the passenger side of Respondent's vehicle and conduct a "transaction." After the transaction, Respondent drove away.
- vii. On January 13, 2016, BCPD followed Respondent, who was driving his vehicle with Family Member A in the passenger seat, to an abandoned gas station in Harford County. A little while later, they observed another vehicle enter the gas station parking lot and park next to Respondent's vehicle. The driver of the other vehicle, who was later identified as one of Respondent's patients ("Patient

8"), entered Respondent's vehicle through the rear driver's side door. BCPD observed Respondent passing papers to Patient 8, writing on a notepad and counting currency. Respondent then left his vehicle and retrieved a vacuum sealed package from the trunk of his vehicle and handed it to Patient 8. Patient 8 returned to her vehicle and drove away. A short time later, Patient 8 returned to the gas station parking lot and handed a cup to Respondent, who placed it on his dashboard. After a short discussion, Respondent handed two prescriptions to Patient 8, who returned to her vehicle with the prescriptions and the cup, and drove away.

- viii. Later during the day, on January 13, 2016, BCPD observed Respondent with Family Member A drive to a fast-food restaurant in Harford County. Respondent went through the drive-thru and purchased some food. He then drove to the back of the parking lot, where he was approached by another vehicle. The individual from the second vehicle left his vehicle, and entered Respondent's vehicle by way of the rear driver's side door. BCPD observed Respondent write on a notepad and hand the individual a prescription. The individual returned to his vehicle with the prescription and left the parking lot.
- ix. On January 15, 2016, BCPD observed Respondent drive his vehicle to a shopping mall parking lot in Baltimore County, whereupon an individual entered Respondent's vehicle through the rear driver's side passenger seat. A short time later, the individual left Respondent's vehicle, after which Respondent left the parking lot. Later that day, BCPD followed Respondent's vehicle to the parking lot of a pharmacy in Baltimore County. BCPD observed Family Member A in the front passenger seat lighting and smoking a glass pipe. Respondent and Family Member A then switched seats, and Family Member A drove the vehicle out of the parking lot. BCPD followed Respondent's vehicle to an apartment complex in Rosedale, where they observed Patient 5 approached Respondent's vehicle and lean into Respondent's driver's side window. After a short period of time, Patient 5 walked away from Respondent's vehicle and appeared to place something into his pants pocket.
- j. BCPD also met with officers from the Harford County Sheriff's Department ("HCSD") in reference to their investigation of Respondent. Several pharmacists contacted HCSD regarding possible fraudulent prescriptions for CDS. HCSD reported that one of the patients ("Patient 6") stated that he met Respondent in the parking lot at a shopping mall in Eastern Baltimore County. Patient 6 identified Respondent's vehicle and added that Respondent was accompanied by his family members.

- k. BCPD obtained a download of Patient 6's cell phone from HCSD. Patient 6's cell phone had two of Respondent's telephone numbers on "speed dial." BCPD examination of the incoming/outgoing/missed calls revealed that Patient 6 received three calls from Respondent's cell phone on November 12, 2015, within less than one hour. Patient 6 placed two calls to Respondent on November 11, 2015, one on November 12, 2015, and 25 calls between November 12 and November 13 with most of the calls being in the late afternoon and evening hours.
- l. HCSD interviewed Patient 9 who stated that he received prescriptions from Respondent who comes to his home because Respondent is "in between practices and is looking for a new location." Patient 9 stated that Respondent charges him \$300 but then stated that Respondent had taken his insurance and he only paid \$25 as a co-pay.

B. Police Interview of Respondent

11. On or about February 5, 2016, BCPD detectives interviewed of Respondent, who stated the following:

- a. He has no physical office. He has been seeing patients at his home and then began seeing patients in various parking lots, on the street and occasionally in their homes.
- b. He maintains "active and complete" patient files on all of his patients which he maintains in his bedroom.
- c. He does not have signed opioid agreements with patients, as they are all stored "in his head" as verbal agreements.
- d. He charges \$200 to \$400 per patient.
- e. He prescribes 15 mg and 30 mg oxycodone to patients so that they do not have to purchase heroin on the street. He believes the police are the source of the heroin problem.
- f. He prescribes high doses of oxycodone strictly for money. He states that he became a pain management physician because it was an "easy way to make money."
- g. He purchases urine testing kits from pharmacies for use with his patients. He tells his patients to go to a bathroom and return with a urine sample.
- h. He uses marijuana several times per week, and crack cocaine two-to-

three times per week. He initially stated he did not use heroin but later stated that he used it once in a while.

- i. He obtains crack cocaine from one of his patients in Essex.
- j. He provides Family Member A \$100 to \$120 per day to purchase crack cocaine "to feed her habit."
- k. He provides CDS prescriptions to his patients in exchange for heroin for his family member ("Family Member B"), who is addicted.
- l. Family Member A sometimes uses crack cocaine in his presence while he is examining patients.
- m. He once treated a patient for a gunshot wound in his home without reporting it to law enforcement. He states that he did not know that he had to make such a report.
- n. He admits to making "some mistakes" but "feels good" about what he has done.

C. Patient Records

12. In the course of its investigation, Board staff obtained Respondent's composition books, notepads and other miscellaneous documents containing patient information.

13. A review of the materials revealed that Respondent failed to keep a centralized system for maintaining patient records. Respondent's composition books and notepads contain his handwritten notes regarding patient visits. Others materials obtained include a file that contained only patient MRI or imaging reports, files with patient names that contained only registration and blank medical history forms, and some files with patient names that contain assorted documents including patient registration/medical history forms, copies of prescriptions issued, imaging reports and Respondent's handwritten notes.

14. A review of the various documents recovered revealed that between June

2, 2015, when Respondent was terminated from the Practice, and February 5, 2016, Respondent wrote CDS prescriptions for approximately 145 patients. Of those 145 patients, Respondent wrote prescriptions to approximately 134 patients for 90 to 120 tablets of oxycodone, typically in 10 mg to 30 mg strengths. Respondent also wrote prescriptions for Methadone 10 mg (#60) to many of his patients.

15. Respondent wrote most of his patient progress notes in composition books and notepads, and not in patient files. Respondent's handwritten notes are scant and are generally devoid of any physical examination findings or documentation of a legitimate medical rationale for prescribing opioid medications. Respondent's notes are more akin to transaction ledgers where he recorded the dates of visits, the patients' names, addresses, dates-of-birth, ages, telephone numbers and a list of prescriptions he issued to them.

16. These records further revealed that during this time period, Respondent generally maintained his patients either on same dosages of oxycodone or increased the dosages/quantities prescribed. These records did not show that Respondent attempted to titrate down his patients' oxycodone dosages.

17. Respondent's patient records also showed that he rarely performed or documented performing urine drug screens on his patients and that he almost never referred his patients for specialty consultations. Moreover, there was no evidence that Respondent maintained pain management or opioid agreements or informed consent forms among the documents recovered.

D. Employment Records

18. On January 29, 2016, pursuant to a Board subpoena, the Board received Respondent's personnel file from his last place of employment. The file revealed the following:

- a. From in or around 2004 to June 2, 2015, Respondent was employed at the Practice specializing in neuromusculoskeletal services for personal injury and workers' compensation cases. Respondent's area of practice was pain management;
- b. On June 2, 2015, Respondent was notified in writing by the Practice that he was terminated "for cause;"
- c. On June 3, 2015, a district manager of the Practice sent an electronic mail to human resources describing a telephone call that the district manager received from Respondent on June 3, 2015. Respondent screamed and used profanity regarding the lack of 120 days notice for his termination. Respondent stated "I am going to (one of the managing partner's) house. I am going to burn his f**king house down and f**king kill him. There was screaming in the background by a male and a female and then the phone was disconnected.
- d. Previously, on June 2, 2015, a "patient representative" of the Practice sent email correspondence to one of the managing partners and the director of human resources of the Practice informing him of an incident that occurred on May 22, 2015 at one of the locations of the Practice. According to the patient representative, Respondent overheard a staff person explaining to a patient that the patient's physician would not "back date" the patient's out-of-work slip. Respondent advised the patient that he would back date the work slip and "made" the staff person generate the out-of-work slip. Respondent, who was "agitated," "cursed" the other physician and the Practice in front of the patient and the staff person. The patient representative characterized Respondent as "a ticking time bomb and who knows what he is capable of doing."
- e. Also on June 2, 2015, another patient representative sent email correspondence to one of the managing partners and the director of human resources about an incident that occurred on June 1, 2015. The patient representative reported that when Respondent presented to the office on June 1, he was "flipping out about his schedule and how many patient's (sic) he had. He was in the

waiting room yelling this is bullshit, is it because he is Middle Eastern (sic) maybe he should start acting like it and start cutting heads off... He walked out of the medical office came back and was cursing more. (A patient) and his 5 year old son were in the waiting room when he was cursing. (The patient) stood up and stated that it is not ok for a Doctor to be cursing like that in front of his 5 year old son."

- f. Also on June 2, 2015, a medical assistant sent email correspondence to one of the managing partners and the director of human resources about the same incident. The medical assistant wrote: "When (Respondent) arrived at our office on Monday June 1, he was in a very bad mood yelling and cussing while a patient in (sic) his child was in the waiting room. (The patient representative) told him that a child was in the waiting room and he said it's probably nothing that he has not heard before. He continued as he said how he felt like going down stairs and smashing (the managing partner's) head in. He said he had a very bad morning and that he is not sure what he may do today. He was very upset that he had received a letter over the weekend that he was going to be fired...."
- g. On May 15, 2013, a staff person described an incident that on May 14, 2013, when the staff person informed Respondent that she had made a mistake in setting up a chart, Respondent "became very upset and started to scream and cursed at all of us. The patient was still in the room." Respondent continued with cursing at several staff and stated "I will f**king kill you."

E. Interview of Respondent

19. On February 22, 2016, Board staff interviewed Respondent under oath at the Board's offices. During the interview, Respondent confirmed most of what he told BCPD on February 5, 2016, with the exception of his use of illicit drugs, which he denied using recently. Respondent stated the following:

- a. "The last 10 years I worked at [the Practice] and then I left there and, and I've been trying to do it on my own, which has been difficult, but I kind of got into this pain thing and that I'm kind of regretting now but, you know, it's easy money to get started on, so I'm doing that right now or trying to right now.
- b. He stated that he attended "CME courses and stuff in pain management." He said they were "more like audio stuff, the audio

visual stuff that you see from California."

- c. He stated that after he left the Practice he started seeing patients from his home office. He said his neighbors started complaining, so he began making house-calls. The house-calls became difficult, so he decided to use his personal vehicle as a "mobile office." He stated that eventually two of his pain patients agreed to invest in helping him rent an office space in Dundalk for his practice.
- d. When asked what would an office visit for a new patient consist of, Respondent stated, "So, so I, you know, do you have an MRI, this will be -- or an X-ray available or some history or some paperwork that shows that, you know, they had previous pain management somewhere else and, et cetera, et cetera . . . If they haven't had pain management for -- pain medicine for awhile, I usually start off low because a lot of these pharmacies just won't start, you know, start low, or 10 or 15 is, is where they'll start you off, 15 milligrams.
- e. He confirmed that he charged between \$250 to \$350 cash-only per patient visit. He stated, "We're trying, we're trying to go up a little bit because of the overhead."
- f. When asked whether he performed urine drug screens on patients, he stated, "if I, if I had to critique myself, I'd say probably, should probably give more urine tests, but I'm, I'm actually doing that now."
- g. When asked whether he utilized drug contracts, Respondent stated, "In the beginning they were verbal, now we're, we're making them sign staff --."
- h. Respondent admitted that he was fully aware that his patients were diverting CDS. He stated, "But, I mean, but you know that if any doctor comes and tells you here that, that they don't know it's being diverted, they're lying, because that's part of the underground. That's, I mean that's part of the underground. Very rarely are they not diverted. That's my opinion."
- i. When asked whether he threatened to burn his employer's house down, he stated, "In the heat of battle, I did."
- j. When asked whether he saw patients in parking lots, he stated, "Well I was using, believe it or not I thought I had a nice little Mercedes that I got from that -- it was a big back space. I was

using it as like a mobile office."

- k. When asked whether he was aware that his family members were obtaining illicit drugs from his patients, he stated, "And as a matter of fact, one of the patients turned out to be one of her dealers and they, you know, they freaked out on that and I said well, look, you know, and my, my opinion is that, yes, it's, it's not common, but, you know, drug dealers, drug addicts, I mean they're people too. I mean they have medical problems just like anybody else . . ."

F. Laboratory Testing

20. During Respondent's interview on February 22, 2016, Board staff served him with a written Board directive requiring him to submit for toxicology screening of urine and hair samples the same day at a specified time and laboratory location. Respondent appeared at the laboratory approximately 90 minutes late. He agreed to provide an urine sample but refused to provide a hair sample. The results of the toxicology screening are pending.

CONCLUSIONS OF LAW

Based upon the foregoing Investigative Findings, the Board concludes that the public health, safety, or welfare imperatively requires emergency action, and that pursuant to Md. Code Ann., State Gov't II § 10-226(c)(2), Respondent's license must be immediately suspended.

ORDER

Based on the foregoing Investigative Findings and Conclusions of Law;

IT IS by an affirmative vote of a majority of the quorum of Disciplinary Panel A of the Maryland Board of Physicians;

ORDERED that pursuant to the authority vested in Panel A by Md. Code Ann., State Govt. II § 10-226(c)(2) (2014 Repl. Vol. and 2015 Supp.), Respondent's license

to practice medicine in the State of Maryland be and is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that a post-deprivation hearing on the summary suspension in accordance with Md. Code Regs. 10.32.02.08 B(7) will be held on **Wednesday, March 9, 2016 at 9:30 a.m.** at the Maryland Board of Physicians, 4201 Patterson Avenue, Baltimore, Maryland, 21215-0095; and it is further

ORDERED that at the conclusion of the **SUMMARY SUSPENSION** hearing before Panel A, Respondent, if dissatisfied with the result of the hearing, may request with the (10) days, an evidentiary hearing, such hearing to be set within thirty (30) days of the request, before an Administrative Law Judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and it is further

ORDERED that upon receipt of this Order, Respondent **SHALL SURRENDER** to Board staff the following items:

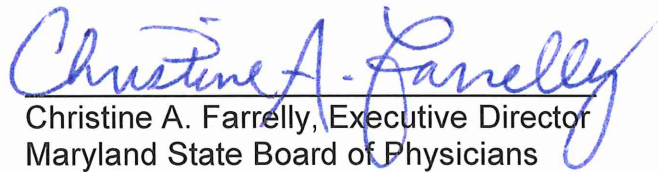
- (1) Respondent's original Maryland license D37529;
- (2) Any renewal, wallet card or wall certificate; and
- (3) Respondent's drug dispensing permit.

AND IT IS FURTHER ORDERED that Respondent **SHALL PROVIDE** patients with access to and copies of medical records upon request and **SHALL have a continuing duty**, on proper request, to provide details of a patient's medical record to a patient, another physician or a hospital in accordance with Title 4, subtitle 3 of the Health General Article; and be it further

ORDERED a copy of the Order of Suspension shall be filed with Panel A immediately in accordance with Health Occ. II § 14-407 (2014 Repl. Vol.); and be it further

ORDERED that this is an Order of Panel A, and as such, is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann. Gen Prov. §§ 4-101 *et seq.* (2014).

02/25/2016
Date


Christine A. Farrelly, Executive Director
Maryland State Board of Physicians