

IN THE MATTER OF
PAUL M. APOSTOLO, M.D.
Respondent

License Number: D38326

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2014-0411

* * * * *

CONSENT ORDER

On October 16, 2014, Disciplinary Panel B of the Maryland State Board of Physicians (the "Board") charged **PAUL M. APOSTOLO, M.D.** (the "Respondent"), License Number D38326, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") §§ 14-101 *et seq.* (2009 Repl. Vol. & 2013 Supp.).

The pertinent provision of the Act under H.O. § 14-404 provides the following:

§ 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, 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:

(3) Is guilty of:

...

(ii) Unprofessional conduct in the practice of medicine[.]

On November 17, 2014, Disciplinary Panel B was convened as a Disciplinary Committee for Case Resolution ("DCCR") in this matter. Based on negotiations occurring as a result of the DCCR, Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Disciplinary Panel B of the Board makes the following findings of fact:

I. Background

1. At all times relevant hereto, Respondent was licensed to practice medicine in the State of Maryland. Respondent was originally licensed to practice medicine in Maryland on May 1, 1989. Respondent's license is currently active and is scheduled for renewal by September 30, 2014.

2. Respondent is a physician engaged in the private practice of orthopedic medicine as a sole practitioner in Baltimore County, Maryland.

3. Respondent holds privileges at a hospital in Baltimore County, Maryland ("Hospital A").¹

4. In 1992, Respondent became board-certified in orthopedic surgery. Respondent was recertified in 2003 and again in 2013. Respondent's current certification will expire in November 2022.

5. In 1993, Respondent became board-certified in surgery of the hand. Respondent was recertified in 2003 and again in 2013. Respondent's current certification will expire in December 2022.

6. In late 2009, 2012 and late 2013, the Board received complaints from two of Respondent's patients and a daughter of one of Respondent's patients from his private medical office. In investigating these complaints, the Board learned that there have been complaints regarding Respondent's disruptive behavior at Hospital A

¹ To ensure confidentiality, the names of individuals, patients, and institutions involved in this case are not disclosed in this document. Respondent may obtain the identity of all individuals, patients, and institutions referenced in this document by contacting the administrative prosecutor.

beginning at least in 2007 and continuing through 2013. The three complaints and the disruptive conduct at Hospital A are summarized below.

II. 2010 Complaint and Investigation

7. On December 21, 2009, the Board received a complaint from an individual, ("Patient A") alleging, among other things, that Respondent screamed at Patient A and her husband, threatened to throw Patient A and her husband out of his office, yelled at her while she was performing a test of her hands, and was "overall rude and mean."

8. On December 4, 2009, Respondent saw Patient A in his office and performed an Independent Medical Examination ("IME") regarding continuing pain in her arm following an alleged automobile accident.

9. The Board investigated Patient A's complaint in 2010 but took no disciplinary action at that time. The Board closed the complaint.

10. Five years later, on January 27, 2014, Board staff first interviewed Patient A under oath. Patient A stated that Respondent was "rude" to her regarding a discussion as to whether she should be covered while receiving an x-ray and that he was "nasty and mean, cracking gum, talking on his cell." Patient A also stated that Respondent screamed at her and her husband, told them to "shut-up," and threatened that he was going to throw them out if her husband did not leave the examination room.

III. 2012 Complaint and Investigation

11. On or about January 19, 2012, the Board received a complaint from the adult daughter ("Complainant") of one of Respondent's patients ("Patient B").² Complainant alleged that Respondent was "insensitive, unprofessional and ignorant" in his interactions with Patient B during an office appointment to remove a cast on his arm.

² Complainant also sent a copy of the complaint letter to Respondent.

Complainant stated that two months prior, on or about November 15, 2011, Patient B was admitted to Hospital A due to a fracture caused by his diagnosis of lung cancer. Respondent told Patient B that he had the option of a cast for life or he could have a rod placed in his arm. Respondent set Patient B's arm in a cast. Respondent told Patient B to return to his office in a month for a follow-up appointment. Complainant stated that they followed-up a month later than expected, due to her father's illness.

12. The Board investigated Patient B's daughter's complaint in 2012 but took no disciplinary action at that time. The Board closed the complaint.

13. Two years later on January 14, 2014, Board staff interviewed Complainant under oath. Complainant stated the following:

- a) At Patient B's follow-up appointment Dr. Apostolo's first question—he didn't introduce himself to my mom or I or say hello to my father. Dr. Apostolo basically just said 'why haven't you followed up prior to today? Why are you here two months later?' And my dad answered that he has been too sick from chemo and radiation to follow up. And Dr. Apostolo's response was, 'oh, I thought the cancer got you.' Which, at that point, the appointment went downhill from there.
- b) Respondent spoke to Patient B in a "sarcastic" tone when Respondent said 'I thought the cancer got you;'
- c) I was completely taken aback that Dr. Apostolo would make that comment as a physician, knowing what the family is going—it just blows my mind that he would be that insensitive;
- d) Dr. Apostolo just took [Patient B's arm] . . . and took the cast off. Very abruptly, he was bending [Patient B's] arm a certain way . . . my dad was flinching but Dr. Apostolo didn't stop;
- e) [Patient B's wife] was about to ask some questions, and Dr. Apostolo put his hand up like to stop her and just started talking in his recorder . . . of what the visit was about;
- f) Dr. Apostolo was kind of walking out the door as if he was trying to leave. And that's when I said 'this must be great news that my dad doesn't need another cast.' Dr. Apostolo mentioned that he'd have

a cast on for life or he'd have to have surgery. And that's when Dr. Apostolo looked at me and said, 'I didn't think he'd be alive in two months, good job,' and walked out the door.

IV. 2014 Complaint and Investigation

14. On or about October 28, 2013, the Board received a complaint from one of Respondent's patients ("Patient C").

15. Patient C's primary care physician referred Patient C to Respondent for treatment of his carpal tunnel syndrome. Patient C had a total of two office visits with Respondent.

16. Patient C stated in the complaint that at his second appointment with Respondent, Respondent became "irate" and "chastised" him over payment of his co-payment fee. Over the course of the examination, Respondent continued to chastise Patient C about the payment of his co-payment fee. Patient C stated that Respondent's "rage made me fear for my safety." At the conclusion of the appointment, Respondent "became upset" because Patient C would not shake Respondent's hand. Patient C told Respondent that he "was not comfortable with" Respondent. Respondent then "stared [Patient C] down" as he was leaving. Patient C alleged that Respondent's behavior was "uncalled for by a man in his profession."

17. Patient C further stated in the complaint that at his first appointment, Respondent spent 20 to 30 minutes in front of Patient C on his cell phone ordering chemicals for his swimming pool.

18. On January 16, 2014, Board staff interviewed Patient C under oath. Patient C stated that after Patient C had already paid his required co-payment fee Respondent told him "[I]f you're not going to pay the fee, then we're done." Patient C

further stated that Respondent had him sign a consent form saying [the surgery] won't work and don't come back to him if this doesn't work and if he continues to have pain. Patient C added that he feared for his safety, thinking that Respondent was intending on hurting him and he would have problems with his hand for the rest of my life.

V. Information from Hospital A

19. During the course of its investigation, Board staff received information from Hospital A regarding Respondent. This information revealed that:

- a) In 2007, Hospital A sent Respondent a warning letter regarding a history of complaints regarding his inappropriately angry and hostile treatment of staff and patients;
- b) In October 2008 and January 2009, Hospital A received two complaints from staff regarding Respondent's similar inappropriate behavior with two different patients;
- c) In March 2009, Hospital A received a complaint regarding Respondent having berated staff for not following his directive, and another complaint about Respondent's criticism of a surgical Physicians Assistant;
- d) As a result of these complaints, in April 2009, Hospital A referred Respondent for evaluation regarding the cause of the chronic disruptive behavior with staff and patients, and required that Respondent refrain from yelling at or verbally abusing staff in front of patients or elsewhere, or face further action;
- e) In Fall 2013, Hospital A received three separate complaints from staff alleging Respondent's insensitive and/or hostile interactions with patients and/or hospital staff; and on December 6, 2013, Hospital A referred Respondent for evaluation and counseling regarding this disruptive behavior.
- f) The files indicate a disproportionately high number of hospital and medical staff complaints against Respondent over the years compared with other physicians in Hospital A's Department of Surgery and on Hospital A's Medical Staff generally; and

- g) The common theme of the complaints involves inappropriately angry and hostile interactions with patients and staff.

VI. Summary of Findings of Unprofessional Conduct in the Practice of Medicine

20. Respondent's chronic pattern of behavior involving inappropriate, hostile, angry, and insensitive interactions with patients, family members, and hospital staff and colleagues as described above, since at least 2007, and continuing to the present, constitutes evidence of a violation of H.O. § 14-404(a)(3)(ii) (unprofessional conduct in the practice of medicine).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel B of the Board concludes as a matter of law that Respondent violated Health Occ. § 14-404(a)(3)(ii) (unprofessional conduct in the practice of medicine).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED Respondent is Reprimanded; and be it further

ORDERED effective the date of this Consent Order, Respondent shall be subject to the following terms and conditions:

1. Respondent shall enroll in the Maryland Physician Rehabilitation Program ("MPRP");
2. Respondent shall remain in the MPRP and continue in a Board-monitored Rehabilitation Agreement for the length of time recommended by the MPRP. Respondent shall fully, timely, and satisfactorily cooperate and comply with all MPRP recommendations and requirements, including but not limited to, the terms and conditions of any Rehabilitation Agreement(s) and Rehabilitation Plan(s) entered into with the MPRP.
3. Respondent agrees that the MPRP will report to the Board as frequently

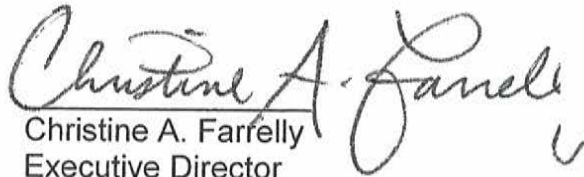
as the MPRP determines is necessary;

4. Respondent agrees that the MPRP will report to the Board failure of Respondent to comply with the recommendations and requirements of the MPRP;
5. Respondent shall be responsible for all costs associated with fulfilling the terms of this Consent Order; and be it further

ORDERED that if Disciplinary Panel B of the Board determines that Respondent has violated any of the terms of this Consent Order, Disciplinary Panel B of the Board may impose any additional disciplinary sanctions it deems appropriate after notice and a show cause hearing before Panel B; and

ORDERED that this Consent Order is a public document pursuant to Md. Gen. Prov. §§ 4-101 – 4-601 (2014).

1/14/15
Date


Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Paul M. Apostolo, M.D., License No. D38326, by affixing my signature hereto, acknowledge that:

1. I have consulted with counsel, Carolyn Jacobs, Esquire, and knowingly and voluntarily elect to enter into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.
2. I am aware that I am entitled to a formal evidentiary hearing, pursuant to Md. Health Occ. Code Ann. § 14-405 (2014 Repl. Vol.) and Md. State Gov't Code Ann. §§ 10-201 *et seq.* (2014 Repl. Vol.).

3. I acknowledge the validity and enforceability of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have 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 am waiving those procedural and substantive protections.
4. I voluntarily enter into and agree to abide by the terms and conditions set forth herein as a resolution of the Charges against me. I waive any right to contest the Findings of Fact and Conclusions of Law and I waive my right to a full evidentiary hearing, as set forth above, and my right to appeal any adverse ruling of a Disciplinary Panel of the Board that might have followed any such hearing, and any right to appeal this Consent Order.
5. I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

1/12/15
Date


Paul M. Apostolo, M.D., Respondent

NOTARY

STATE OF MARYLAND

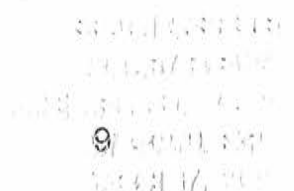
CITY/COUNTY OF ANNE ARUNDEL

I HEREBY CERTIFY that on this 12th day of JANUARY, 2015
before me, a Notary Public of the State and County aforesaid, personally appeared Paul
M. Apostolo, M.D, License number D38326, 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.


Notary Public

My commission expires _____


Shaun Cashour
Notary Public
My commission expires
March 17, 2016
Anne Arundel County, Maryland