

IN THE MATTER OF * BEFORE THE
MICHAEL D. MARTIN, M.D. * MARYLAND STATE
Respondent * BOARD OF PHYSICIANS
License Number: D41968 * Case Number: 2014-0341

* * * * *

CONSENT ORDER

On October 1, 2014, Disciplinary Panel A of the Maryland State Board of Physicians (the "Board") charged **MICHAEL D. MARTIN, M.D.** (the "Respondent"), License Number D41968, with violating the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2014 Repl. Vol.).

Specifically, Disciplinary Panel A charged the Respondent with violating the following provisions of the Act under Health Occ. § 14-404:

- (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 suspended or revoke a license if the licensee:
 - (3) Is guilty of:
 - (ii) Unprofessional conduct in the practice of medicine.

THE JOINT COMMISSION'S CRITERIA FOR DISRUPTIVE BEHAVIOR

On July 9, 2008, The Joint Commission issued a Sentinel Event alert entitled "Behaviors that Undermine a Culture of Safety," which states 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 healthcare 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 position 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.¹

AMERICAN MEDICAL ASSOCIATION'S ("AMA'S") OPINION ON PHYSICIAN 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 February 11, 2015, a conference was held before Disciplinary Panel A serving as the Disciplinary Committee for Case Resolution. As a resolution of the case, the Respondent agreed to enter into this public Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

BACKGROUND

1. At all times relevant, 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 July 1, 1991, under License Number D41968. The Respondent's license is current through September 30, 2015.

¹ In 2011, The Joint Commission revised the term "disruptive behavior" to "behavior or behaviors that undermine a culture of safety."

2. The Respondent is board-certified in family medicine, and at all times relevant, practiced as a primary care practitioner at a health care facility ("Facility A")² in Baltimore, Maryland.

COMPLAINTS

3. This case involves instances in which the Respondent acted in a disruptive manner with patients and a staff member. The Board initially received a complaint from an adult female patient ("Patient A") in 2007, who stated that the Respondent made discourteous and disrespectful remarks to her and used profanity when she asked him to call in a prescription cough medication to her pharmacy. The Board investigated this complaint under Case Number 2008-0321 but subsequently closed it without formal disciplinary action.

4. In 2009, the Board received a second complaint from an adult male patient ("Patient B"), who stated that the Respondent used profanity and made inappropriate sexual references regarding an actress/model during an office visit. Patient B complained that when he later attempted to switch to another physician at Facility A, the Respondent telephoned him and "berated" him for 23 minutes. The Board investigated this complaint under Case Number 2009-0610 but subsequently closed it without formal disciplinary action.

5. In 2012, the Board received a third complaint from the daughter of an elderly female patient ("Patient C"), who stated that the Respondent was rude and disrespectful to her and Patient C during an office visit. Patient C's daughter stated that when she later attempted to switch Patient C to another physician at Facility A, the

² To protect confidentiality, the names of individuals, patients, facilities and hospitals are not disclosed in this document.

Respondent telephoned her and told her to "shut up." The Board investigated this complaint under Case Number 2013-0380 but subsequently closed it without formal disciplinary action.

6. In 2013, the Board initiated an investigation of the Respondent after receiving a fourth complaint from the daughter of an elderly female patient ("Patient D"), who stated that the Respondent was rude and demeaning to her and Patient D during an office visit. Patient D's daughter complained that the Respondent reprimanded them and told them that it was "not his job" to refer Patient D to a specialist.

7. As a result of Patient D's daughter's complaint, the Board reopened and reinvestigated the cases involving Patients A, B and C.

INVESTIGATION

8. Board investigations revealed that the Respondent, when interacting with patients and medical staff, acted in a disruptive manner towards them in that he: was demeaning to them and failed to treat them with courtesy and respect; routinely used profanity when speaking to patients; made sexually inappropriate references to a patient during an office visit; and posted sexually inappropriate communication to a medical assistant in a patient's medical record.

Patient A

9. Patient A generally saw another physician for primary care at Facility A. On or about Friday, September 28, 2007, Patient A called Facility A's answering service at approximately 6:30 p.m. to request a call-in to her pharmacy for a prescription cough medication. The Respondent, who was on-call at that time, telephoned Patient A and informed her that he would take care of the prescription.

10. At approximately 10:00 p.m., when Patient A went to her pharmacy to pick up the cough medication, the pharmacy technician informed her that no one had called in a prescription for her. Patient A left the pharmacy and called Facility A's answering service again. Shortly thereafter, she received a call from the Respondent. During the conversation, the Respondent stated that he took care of the prescription and demanded to speak to the pharmacist. When the pharmacist refused to speak with the Respondent on a private line, the Respondent stated to Patient A, "take the f***** damn Percocet tonight, and go to the store tomorrow and get yourself some [Robitussin] DM. Goodbye" and then hung up.

11. Patient A felt that the Respondent's remarks were discourteous and disrespectful to her.

12. On or about November 4, 2007, Patient A filed a written complaint with the Board against the Respondent.

Patient B

13. Patient B, an adult male, was the Respondent's patient for approximately ten years. On or about January 19, 2009, Patient B saw the Respondent for a pre-operation physical examination prior to undergoing a hernia operation.

14. During the visit, the Respondent made several inappropriate and disrespectful sexual remarks, which made Patient B feel uncomfortable. Initially, the Respondent made inappropriate sexual remarks about an actress/model's breasts. The Respondent then told Patient B about how much he hated his "f***** job." When Patient B tried to ask the Respondent some questions, the Respondent told him, "Not now. I'm too busy and can't do two things at once." The Respondent went on to tell

Patient B again about how he hated his job because he had to spend all weekend doing "f***** paperwork."

15. Patient B's scheduled hernia operation was later canceled as a result of abnormal laboratory results. On or about February 3, 2009, Patient B complained about the Respondent's unprofessional behavior to Facility A's practice manager and asked to switch to another physician at Facility A. A couple of days later, on or about February 5, 2009, Facility A's practice manager informed Patient B that after speaking to the Respondent, Facility A had decided to "drop" Patient B as a patient there.

16. On the same day, the Respondent called Patient B and "berated" him on the telephone for approximately 23 minutes. The Respondent told Patient B that he had told his colleagues what a "liability" Patient B was, so that none of them would accept Patient B as a patient. At one point during the call, Patient B placed the Respondent on speaker-phone so that Patient B's family members could hear the conversation.

17. On or about February 18, 2009, the Board received a written complaint from Patient B regarding the Respondent.

Patient C

18. Patient C, an elderly female, saw the Respondent on or about November 6, 2012, for a follow up visit for issues regarding bowel control and memory loss. During the visit, Patient C was accompanied by her daughter, who had power of attorney over Patient C's health and financial affairs. The Respondent performed a short-term memory test on Patient C, which she passed, and referred her to a specialist for her bowel issues. Patient C's daughter still had concerns about her mother's memory loss but the Respondent quickly dismissed those concerns. Patient C's

daughter reported that during the visit the Respondent spent more time talking about his athletic achievements than treating Patient C.

19. Due to her dissatisfaction with the Respondent's behavior and services, Patient C's daughter contacted Facility A on or about November 9, 2012, and requested that Patient C be switched to another physician at the practice. A few hours later, the Respondent contacted Patient C's daughter by telephone and stated that he did not appreciate her complaining to Facility A about him. In the ensuing conversation, during which Patient C's daughter attempted to explain why she wanted another physician to care for her mother, the Respondent told her, "why don't you just shut up lady."

20. After the Respondent's telephone call, Patient C's daughter contacted Facility A to complain about the Respondent's behavior. While she was speaking with a staff member at Facility A, the Respondent telephoned Patient C directly and complained to her about her daughter, which made Patient C extremely upset.

21. On or about November 15, 2012, Patient C's daughter filed a written complaint against the Respondent with the Board.

Patient D

22. On or about September 27, 2013, Patient D, an elderly female, saw the Respondent at Facility A for a follow up visit after being discharged from a hospital. During the visit, Patient D was accompanied by her daughter. While waiting in the examination room, the Respondent came in and began reprimanding Patient D, telling her that he did not have time for a patient "with her needs." In a hostile tone, the Respondent asked Patient D, "What do you want from me?" Patient D told the Respondent that she would like a referral to a heart specialist, because the discharge

physician from the hospital told her that she may have some heart issues. The Respondent replied that it was "not his job" to refer her to a heart specialist. He told her that the discharge physician from the hospital should have made the referral.

23. The Respondent then turned to Patient D's daughter and reprimanded her for previously asking him to review Patient D's medical records without having Patient D present in his office. The Respondent stated to Patient D's daughter that he "could not get paid unless there was a body in his office."

24. After reprimanding Patient D and her daughter, the Respondent left the examination room and did not return. Patient D never received a referral to a heart specialist.

25. On or about October 15, 2013, Patient D filed a written complaint with the Board against the Respondent.

Medical Assistant A

26. On or about February 19, 2008, two medical assistants ("Medical Assistants B and C") at Facility A made a complaint to their supervisor that the Respondent posted inappropriate communications of a sexual nature to a female medical assistant ("Medical Assistant A") in patients' medical records. Medical Assistants B and C stated that the Respondent posted an assigned task to Medical Assistant A using symbols depicting a woman's breasts in a patient's medical record. Medical Assistants B and C found the Respondent's inappropriate posting to be upsetting and degrading.

27. During an inquiry by staff at Facility A that occurred on or about February 20, 2008, the Respondent stated that he sent the "task messages" to Medical Assistant

A using symbols depicting a woman's breasts because he found out that Medical Assistant A's last name sounded like the word "boobs." When the staff member advised the Respondent that his documentation was inappropriate and offensive to other people, the Respondent became defensive and stated, "so what are you going to do - have me arrested, fired - do you want me to pay a fine?"

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel A of the Board concludes as a matter of law that the Respondent engaged in unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(ii), in that he: was rude, demeaning and exhibited disruptive behaviors towards Patients A, B, C and D, and failed to treat them with courtesy and respect; routinely used profanity when speaking with patients; made inappropriate sexual remarks to Patient B during an office visit; and posted inappropriate messages to Medical Assistant A that contained sexual contents or could be construed to be of a sexual nature in a patient's medical record.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by a majority of the quorum of Disciplinary Panel A of the Board considering this case:

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

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov., §§ 4-101 et seq. (2014).

Date

3/20/2015


Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Michael D. Martin, M.D., acknowledge that I am represented by counsel and have consulted with counsel before entering 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.

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

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

3/16/15
Date



Michael D. Martin, M.D.
The Respondent

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF Harford

I HEREBY CERTIFY that on this 16 day of March, 2015, before me, a Notary Public of the foregoing State and City/County personally appear Michael D. Martin, M.D., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notary seal.

Marta G. Markin Tashner
Notary Public

My commission expires: 2/25/2019