

IN THE MATTER OF	*	BEFORE THE
DAVID J. SALINGER, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D43535	*	Case Number: 2015-0735B

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On December 16, 2015, Disciplinary Panel B of the Maryland State Board of Physicians (the "Board") voted to charge **DAVID J. SALINGER, M.D.** (the "Respondent"), License Number D43535, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 14-101 *et seq.* (2014 Repl. Vol.).

Specifically, Disciplinary Panel B voted to charge the Respondent with violating the following provision of the Act under Health Occ. II § 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 suspend 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 or about July 9, 2008, The Joint Commission 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 outcome . . . 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.¹

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.

Prior to the issuance of charges, the Respondent agreed to enter into this public Consent Order consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

FINDINGS OF FACT

Panel B of the Board makes the following Findings of Fact:

I. BACKGROUND

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

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

practice medicine in Maryland on July 10, 1992, under License Number D44152. The Respondent's license is current until September 30, 2017.

2. The Respondent is board-certified in radiation oncology.

3. At all times relevant hereto, the Respondent practiced as a radiation oncologist at a health care facility (the "Facility")² that is located in the State of Maryland. The Respondent initially became affiliated with the Facility in or around 1998.

II. THE COMPLAINT

4. On or about April 20, 2015, the Board received a Mandated 10-Day Report from the Facility, which stated that it terminated the Respondent's medical staff privileges for cause, effective April 14, 2015. The basis of the termination involved the Respondent's direction of loud and demeaning comments towards Facility staff members. The termination was rescinded by the Facility on July 17, 2015, and the Respondent was granted a personal leave of absence.

III. BOARD INVESTIGATIVE FINDINGS

5. As a result of the above complaint, the Board initiated an investigation of the Respondent's conduct at the Facility. As part of the Board's investigation, Board staff interviewed the Respondent, who reported that he was under significant stress in his personal life and at work during much of the time in question. The Respondent stated that he was obtaining professional counseling in several contexts to address his poor stress management skills.

6. The Board's investigation determined that over a period of years, and more particularly, the last two years, Respondent engaged in a pattern of

² For confidentiality reasons, the names of health care facilities, complainants, patients, Facility staff members and other individuals, other than the Respondent, will not be identified by name in this document.

unprofessional conduct while practicing at the Facility, despite counseling and warnings to desist from such actions. Such unprofessional conduct included: acting in a rude, demeaning, or disrespectful manner towards some Facility staff; engaging in loud and tense outbursts that may have been overheard by patients; speaking to patients or family members of patients in an abrupt and dismissive manner, causing them concern about receiving further oncology treatment from him; making derogatory comments about and criticizing some Facility staff in a manner that intimidated, undermined their confidence, and belittled or implied their stupidity or incompetence; acting in a manner toward a Facility staff member that caused other staff members to become alarmed; and acting in an inappropriate manner toward a Facility official who attempted to address behavioral issues with him.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel B concludes as a matter of law that the Respondent's actions, as set forth above, violated the following provision of the Act: Health Occ. II § 14-404(a)(3), Is guilty of: (ii) Unprofessional conduct in the practice of medicine.

ORDER

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

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

ORDERED that the Respondent shall fully and satisfactorily comply with the following terms and conditions:

1. Within fifteen (15) days of the date of this Consent Order, the Respondent shall enroll in the Maryland Professional Rehabilitation Program ("MPRP") for evaluation and treatment. The Respondent shall enter into a Participation Rehabilitation Agreement and Participant Rehabilitation Plan and successfully complete the MPRP program;
2. The Respondent shall fully, timely, and satisfactorily cooperate and comply with all MPRP directives, referrals, rules and requirements, including but not limited to, the terms and conditions of any Rehabilitation Agreements and Rehabilitation Plans entered into with the MPRP;
3. The Respondent shall sign any written release/consent forms, and update them, as required by the Board or the MPRP. Specifically, the Respondent shall sign any written release/consent forms as required by the Board to authorize the MPRP to make verbal and written disclosures to the Board, including disclosures of any and all MPRP records and files about the Respondent. The Respondent shall also sign any written release/consent forms required by the MPRP to authorize MPRP to exchange with (*i.e.*, disclose to and receive from) outside entities (including all of the Respondent's current therapists and treatment providers, if any) verbal and written information about him; and
4. The Respondent shall comply with the Act and all laws, statutes and regulations pertaining thereof.

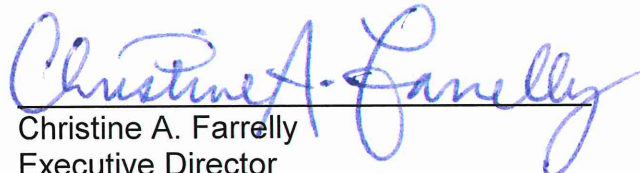
AND IT IS FURTHER ORDERED that if the Respondent violates any conditions set forth in this Consent Order, Panel B, or the Board, in its discretion, after notice and

an opportunity for an evidentiary hearing before the Office of Administrative Hearings if there is a genuine issue as to the underlying material facts, or an opportunity for a show cause hearing before Panel B or the Board otherwise, may impose additional sanctions authorized under the Act, including a reprimand, probation, suspension, revocation, and/or a monetary fine; and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the condition of this Consent Order; and it is further

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

02/10/2016
Date


Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, David J. Salinger, 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 Disciplinary Panel B 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 Disciplinary Panel A of the Board that might have followed after any such hearing.

I sign this Consent Order, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

Feb. 5, 2016
Date

David J. Salinger
David J. Salinger, M.D.
Respondent

Read and approved:

Sigrid C. Haines
Sigrid C. Haines, Esquire
Counsel for Dr. Salinger

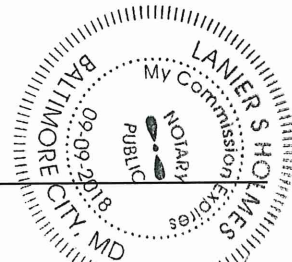
NOTARY

STATE OF Maryland
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 5th day of February, 2016, before me, a Notary Public of the foregoing State and City/County personally appear **David J. Salinger, 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.

[Signature]
Notary Public



My commission expires: 09/09/2018