

IN THE MATTER OF

GERALDINE F. GOERTZEN, M.D.

Respondent

License Number: D47698

*

BEFORE THE

*

MARYLAND STATE

*

BOARD OF PHYSICIANS

*

Case Number: 2013-0115

* * * * *

CONSENT ORDER

On August 7, 2015, the Maryland State Board of Physicians (the "Board") charged **GERALDINE F. GOERTZEN, M.D.** (the "Respondent"), License Number D47698, with violating the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 14-101 *et seq.* (2014 Repl. Vol.).

Specifically, the Board charged the Respondent with violating the following provisions 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 pertinent provisions of the Board's regulations under Md. Code Regs. ("COMAR") 10.32.03(2015) provide:

COMAR 10.32.03.02 - Definitions

B. Terms Defined.

- (25) "Primary supervising physician" means physician who:

- (a) Completes a delegation agreement that meets the requirements under Health Occupations Article, §§

15-301(d) and (c) and 15-302, Annotated Code of Maryland;

- (b) Acts as the physician responsible to ensure that a physician assistant practices medicine in accordance with Health Occupations Article, Title 15, Annotated Code of Maryland and this chapter[.]

(30) Supervision.

- (a) "Supervision" means responsibility of the physician to exercise on-site supervision or provide immediately available direction for physician assistants performing delegated medical acts.
- (b) "Supervision" includes:
 - (i) Oversight of the physician assistant and acceptance of direct responsibility for the patient services and care rendered by the physician assistant[.]

COMAR 10.32.03.07 - Supervising Physicians.

A. A primary supervising physician shall:

- (2) Accept responsibility for any medical acts performed by the physician assistant[.]

COMAR 10.32.03.11 - Prohibited Conduct.

- C. Unprofessional conduct in the practice of medicine, Health Occupations Article, § 14-404(a)(3), Annotated Code of Maryland, includes the failure of a physician to comply with the statute and regulations governing the physician's duty to supervise the physician assistant.

On November 18, 2015, a conference was held before Disciplinary Panel B of the Board sitting as the Disciplinary Committee for Case Resolution. At the conclusion of the conference, the Respondent agreed to enter into this public Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Disciplinary Panel B 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 12, 1995, under License Number D47698. The Respondent's license is current through September 30, 2016.

2. The Respondent is board-certified in emergency medicine, and at all times relevant, owned and operated three urgent care centers, one of which was located in Salisbury, Maryland ("Facility A").¹

3. The Board initiated an investigation of the Respondent after receiving a complaint on or about August 14, 2012, from a patient ("Patient A"), who saw the Respondent's physician assistant (the "Physician Assistant") at Facility A on or about May 27, 2012, with complaints of sore throat and vaginal discharge. In the complaint, Patient A alleged that the Physician Assistant did not perform a vaginal or pelvic examination during the visit but documented in her medical record that he did.

BOARD INVESTIGATION

Board Interview of Physician Assistant

4. Board staff interviewed the Physician Assistant at the Board's offices on or about May 7, 2013. After reviewing Patient A's medical record, the Physician Assistant agreed that it contained errors. The Physician Assistant stated that he erroneously

¹ To ensure confidentiality, the names of individuals, hospitals and healthcare facilities involved in this case are not disclosed in this document. The Respondent may obtain the identity of the referenced individuals or entities in this document by contacting the administrative prosecutor.

documented in Patient A's record that he had performed a genital urinary examination on May 27, 2012. He acknowledged that he did not perform a genital urinary examination on Patient A. The Physician Assistant explained that if he had done a genital urinary examination on Patient A, there would have been notations in her record for a pelvic setup and the presence of a chaperone. The Physician Assistant attributed the error to computer software problems, which he stated Facility A had subsequently corrected.

Board interview of the Respondent

5. Board staff interviewed the Respondent at the Board's offices on or about June 25, 2013. When asked to explain how she supervised her staff, the Respondent stated:

Yes. And I'm actually very proud of how we supervised our staff. It's better than anywhere I have ever worked, and I have worked in seven ERs.

[Physician Partner] and I feel like -- well, our goal is always to have a physician on site. We have not been able to accomplish that, but we're close. In order to do it -- I'm pulling out one of my doctors who have a special duty. We need six doctors, and we have five. But they work more than full time. So, they cover more than five spots. So, we're a little but short . . .

And then after the care is completed, [Physician Partner] and I code the charts. And so we're going through the charts in detail. Going through what the patient -- what happened during the visit. I mean, way greater detail than anyone just signing off, because we're actually coding and looking at what happened.

6. In its investigation of the Respondent, the Board subpoenaed medical records of ten patients whom the Physician Assistant treated at Facility A and submitted them to a certified physician assistant (the "Expert") for an expert review on the issues

of quality medical and documentation standards. A summary of the Expert's findings with respect to Patients E, G and I is set forth below.

Patient E

7. Patient E, a female born in the 1990s, presented to Facility A on or about January 8, 2013, for a sexually transmitted disease ("STD") evaluation and with complaints of vaginal itching and discharge. The Physician Assistant diagnosed Patient E with candida vulvovaginitis and prescribed Diflucan 150 mg and Miconazole Nitrate topical cream.

8. During the visit, the Physician Assistant performed a gynecological examination, noting "inflammatory vaginitis with a whitish cottage cheese discharge consistent with candida. The inguinal area is inflamed and irritated consistent with fungal infection." The Physician Assistant, however, failed to document his observation of Patient E's vaginal vault, cervix and vaginal canal in his evaluation of Patient E for sexually transmitted diseases.

9. The Physician Assistant also obtained cultures for laboratory testing. The testing results confirmed heavy presence of yeast.

10. The Respondent engaged in unprofessional conduct in the practice of medicine, in violation of Health Occ. II, § 14-404(a)(3)(ii), in that she was directly responsible for the Physician Assistant's medical acts, including his failing to keep adequate medical records of his observation of Patient E's vaginal vault, cervix and vaginal canal in his evaluation, in violation of Health Occ. § 15-314(a)(40).

Patient G

11. Patient G, a female born in the 1970s, presented to Facility A on or about April 5, 2013, with complaints of vaginal discharge. The Physician Assistant diagnosed Patient G with vaginitis and prescribed azithromycin 250 mg and Diflucan 150 mg.

12. Patient G's medical record stated that she refused a pelvic examination but showed that she underwent molecular testing with a SureSwab. Patient G's test results were supportive of yeast infection and not bacterial vaginosis.

13. The Respondent engaged in unprofessional conduct in the practice of medicine, in violation of Health Occ. II, § 14-404(a)(3)(ii), in that she was directly responsible for the Physician Assistant's medical acts, including his failing to meet quality medical and documentation standards, in violation of Health Occ. § 15-314(a)(22) and (40), for reasons including:

- a. Prescribing azithromycin for the treatment of vaginitis; and
- b. Failing to document how the Respondent was able to obtain a specimen using a SureSwab when Patient G refused a pelvic examination.

Patient I

14. Patient I, a female born in the 1980s, presented to Facility A on or about November 30, 2012, for STD evaluation and testing. The Physician Assistant diagnosed Patient I with tobacco use, sore throat, pharyngitis and exposure to STD, and prescribed azithromycin 250 mg and Diflucan 150 mg.

15. During the visit, the Physician Assistant failed to perform or document a vaginal or pelvic examination. Patient I's medical record indicated that cultures were

collected and sent for testing, the results of which were positive for strep A but negative for Chlamydia/Gonorrhoeae.

16. The Respondent engaged in unprofessional conduct in the practice of medicine, in violation of Health Occ. II, § 14-404(a)(3)(ii), in that she was directly responsible for the Physician Assistant's medical acts, including his failing to meet quality medical standards, in violation of Health Occ. § 15-314(a)(22), for reasons including:

- a. Prescribing azithromycin for the treatment of strep pharyngitis; and
- b. Prescribing Diflucan without any medical indication.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel B concludes as a matter of law that the Respondent's actions as set forth above constitute unprofessional conduct in the practice of medicine, in violation of Health Occ. II, § 14-404(a)(3)(ii).

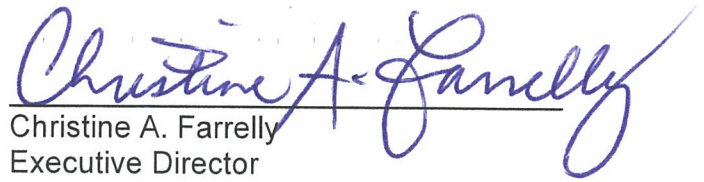
ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 9th day of December, 2015, by a majority of the quorum of Disciplinary Panel B of the Board considering this case:

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

ORDERED that the Respondent shall comply with the Maryland Medical Practice Act and all laws, statutes and regulations pertaining thereof; 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).


Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

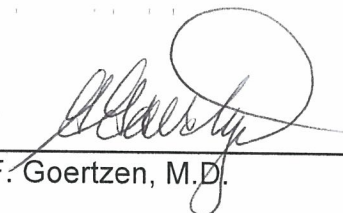
CONSENT

I, **GERALDINE F. GOERTZEN, M.D.**, acknowledge that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and solely 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.

Dec 4, 2015
Date


Geraldine F. Goertzen, M.D.

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF Dorchester

I HEREBY CERTIFY that on this 4th day of December,
2015, before me, a Notary Public of the foregoing State and City/County personally
appear Geraldine F. Goertzen, M.D. and made oath in due form of law that signing the
foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notary seal.

Traci Murphy
Notary Public

My commission expires: April 22, 2017

