

IN THE MATTER OF

MICHAEL A. CADOGAN, M.D.

Respondent

License Number: D51451

*** BEFORE THE**

MARYLAND BOARD OF

PHYSICIANS

Case Number: 2005-0814

* * * * *

CONSENT ORDER

On or about August 6, 2008, the Maryland Board of Physicians (the "Board") charged Michael A. Cadogan, M.D. (the "Respondent") (D.O.B. 10-21-69), License Number D51451, with violations under the Maryland Medical Practice Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 14-101 *et seq.* (2000 & 2005 Repl. Vols.)

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

(a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on the affirmative vote of a majority of the quorum, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State.

A Case Resolution Conference was held on November 5, 2008, at the Maryland Board of Physicians, and was attended by: The Respondent and his attorney Andrew E. Vernick, Esquire, and the Administrative Prosecutor, Assistant Attorney General, Debra A. Smith. Following the Case Resolution Conference, the parties and the Board agreed to the following:

FINDINGS OF FACT

The Board makes the following findings of fact:

1. At all times relevant to this Consent Order, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on December 5, 1996, and was issued License Number D51451.
2. The Respondent is Board certified in Radiology and at all times relevant to this Consent Order maintained an office for the practice of medicine at the following location: Advanced Radiology, 1700 Reisterstown Road, Baltimore, Maryland.
3. The Respondent is currently living and working in the State of New Jersey.
4. The Board initiated an investigation of the Respondent, after receiving a complaint on April 27, 2005, from a male patient, (hereinafter, Patient "A")¹ who alleged that the Respondent failed to identify an abnormal cancerous mass found on a computerized tomography ("CT") scan of the neck that Patient A underwent on or about February 7, 2001, at Advanced Radiology. The Board's investigative findings are set forth infra.

Patient A

4. In or about 2001, Patient A, then a 51 year old man, had developed a mass in the area of his left neck. Patient A's primary care physician sent him for a CT scan, which was performed at Advanced Radiology at Pomona Square on or about February 7, 2001.
5. The Respondent reviewed the CT scan and issued a report, which noted:

¹ For confidentiality purposes the identity of the patient is not included in this document. The Respondent may obtain the identity of all individuals referenced in this document by contacting the administrative prosecutor.

[a]n opaque marker was placed on the sight of the symptomatic area. No masses were identified at the location indicated. There are small bilateral posterior triangular nodes, slightly more numerous on the left. The laryngeal structures are normal. The thyroid gland is also normal. No abnormalities are identified in the anterior mediastinum² as far as the aortic arch.

The report concluded with a final impression: "no abnormalities demonstrated in the neck."

6. According to Patient A, the mass persisted, after which, in January 2003, Patient A had the x-ray read by another physician who found a two cm by four cm enlarged lymph node and recommended a biopsy. A biopsy was performed on January 24, 2003, and the report stated that "a poorly differentiated squamous cell carcinoma" was present. As a result of this finding, Patient A underwent surgery and chemotherapy.

7. The Respondent failed to correctly interpret the CT scan and inform Patient A and the referring physician that the masses present on the CT scan were abnormal. The CT scan showed two contiguous homogeneous masses in the left neck. The larger one, posterior to the jugular vein and deep to the sternocleidomastoid³ in the posterior triangle measured 30x25x18 mm. The second mass was anterior to the jugular vein in

² The mediastinum is a non-delineated group of structures in the thorax (chest), surrounded by loose connective tissue. It is the central compartment of the thoracic cavity. It contains the heart, the great vessels of the heart, esophagus, trachea, thymus, and lymph nodes of the central chest.

³ The sternocleidomastoid or sternomastoid muscle is the muscle that passes obliquely across the neck. It is thick and narrow at its central part, but broader and thinner at either end. It arises from the sternum and clavicle by two heads. The two heads are separated from one another at their origins by a triangular interval, but gradually blend, below the middle of the neck into a thick rounded muscle.

the jugulodigastric⁴ region measured 20x18x15mm. The masses were abnormal in size and appearance and required appropriate follow-up.

8. In a written response to the Board, dated, July 1, 2005, the Respondent stated that he had no independent recollection of this particular scan and that he never physically examined the patient. He claimed that his involvement was limited to interpreting the scan. He stated that a radiology technician completed the Advanced Radiology history sheet and performed the CT scan. According to the Respondent, the technician placed an opaque marker on the skin to identify the "symptomatic site." The Respondent stated that he interpreted the scan as showing no masses at the site indicated by the opaque marker. The Respondent, however, was required to evaluate all CT images and not just the image delineated by the opaque marker. The Respondent noted, however, in his report that there were "small bilateral posterior triangular nodes" on the left side of the patient's neck.

9. The Respondent failed to meet appropriate standards for the delivery of quality medical and surgical care in violation of H.O. § 14-404(a)(22) when providing care to Patient A. The Respondent failed to properly identify and diagnose the abnormal masses in Patient A's neck that were visible on the CT scan and failed to recommend appropriate follow-up testing to the referring physician.

⁴ The jugulodigastric region is the area near the jugulodigastric node, a prominent lymph node in the deep lateral cervical group lying below the digastric muscle and anterior to the internal jugular vein and receiving lymphatic drainage from the pharynx, palatine tonsil, and tongue.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that The Respondent's failure to correctly identify and diagnose the abnormal mass on Patient A's CT scan failed to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State, in violation of H.O. § 14-404(a)(22).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 19th day of February, 2009 by a majority of the quorum of the Board considering this case hereby:

ORDERED that effective the date of this Consent Order, the Respondent's license to practice medicine in the State of Maryland shall be **REPRIMANDED** and it is further

ORDERED that Respondent shall be subject to the following conditions:

- (a) Within three (3) months of the date of this Order, the Respondent shall enroll in, and complete a Board-approved course in interpreting CT scans, with an emphasis on abnormal scans of the neck region. The Respondent is responsible for the cost of the course and all expenses associated with the course. This course may not count toward fulfilling the continuing education requirements the Respondent must fulfill in order to renew his license to practice medicine;
- (b) If the Respondent returns to the practice of medicine in the State of Maryland the Respondent will be subject to a peer review, by an appropriate peer review to be determined at the discretion of the Board. In this paragraph, the term returns to the practice of medicine in Maryland, includes

providing an interpretation of any x-ray, scan, or image of a patient taken in Maryland, irrespective of the physical location of the Respondent when he interprets the scan. The Respondent shall advise the Board when and if he returns to the practice of medicine in Maryland. The Board will attempt to initiate the peer review process, within ninety (90) days of having been notified that the Respondent has interpreted imaging studies in the cases of six Maryland patients, unless the Board determines after a chart review that a peer review is not necessary; and

- (c) The peer review will be a random review of patient records, selected in accordance with paragraph (b) above. In order to comply with this condition the Respondent's documentation and standard of quality care must be approved by the peer reviewer.

ORDERED, that the Respondent shall be responsible for all costs associated with fulfilling the terms and conditions of this Consent Order; and be it further

ORDERED that any violation of the terms/and or conditions of the Consent Order, including an unacceptable peer review as described above, shall be deemed a violation of this Consent Order; and be it further

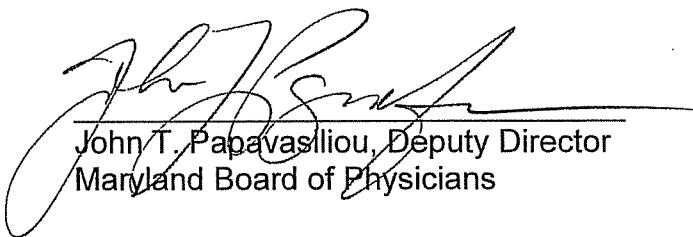
ORDERED that if the Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before an Administrative Law Judge at the Office of Administrative Hearings if there is a genuine dispute as to the underlying material facts, or an opportunity for a show cause hearing before the Board, may impose any other disciplinary sanction which the Board may have imposed in this case under §§ 14-404(a) and 14-405.1 of the Medical Practice Act, including a reprimand, probation, suspension, revocation and/or a monetary fine, said violation being proven by a preponderance of the evidence; and be it further

ORDERED that the Respondent shall comply with the Maryland Medical Practice Act and all laws, statutes and regulations pertaining to the practice of medicine; and be it further

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.* (2004 Repl. Vol.)

2/19/09

Date



John T. Papavasiliou, Deputy Director
Maryland Board of Physicians

CONSENT

I, Michael Cadogan, M.D., License No. D51451, by affixing my signature hereto, acknowledge that:

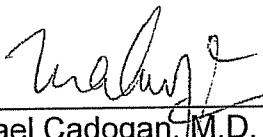
1. I have consulted with counsel, Andrew E. Vernick, Esquire, and knowingly and voluntarily elected to enter into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.
2. I am aware that I am entitled to a formal evidentiary hearing, pursuant to Md. Health Occ. Code Ann. § 14-405 (2005 Repl. Vol.) and Md. State Gov't Code Ann §§ 10-201 *et seq.* (2004 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 any right to appeal this Consent Order or any adverse ruling of the Board that might have followed any such hearing.
5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, I may be subject to disciplinary actions, which may include revocation of my license to practice medicine.
6. I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

12/22/2008

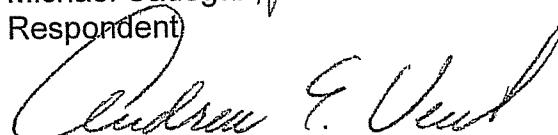
Date



Michael Cadogan, M.D.
Respondent

12/28/08

Date



Andrew E. Vernick, Esquire

NOTARY

STATE OF New Jersey
COUNTY OF Burlington

I HEREBY CERTIFY that on this 12 day of December, 2008 before me,
a Notary Public of the State and County aforesaid, personally appeared Michael Cadogan,
Michael Cadogan, M.D., License Number D51451, 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.

John J. Wekerle
Notary Public

My commission expires: June 6, 2011