

IN THE MATTER OF	*	BEFORE THE
ALLAN L. LEVY, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D32252	*	Case Number: 2016-0300B

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On September 2, 2016, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") charged **ALLAN L. LEVY, M.D.** (the "Respondent"), License Number D32252, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 14-101 *et seq.* (2014 Repl. Vol. and 2015 Supp.).

Specifically, Panel B charged the Respondent with violating the following provision of the Act under Health Occ. II § 14-404:

- (a) 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 AMA CODE OF MEDICAL ETHICS

The American Medical Association ("AMA") Code of Medical Ethics provides in pertinent part:

OPINION 8.19 -- Self-Treatment or Treatment of Immediate Family Members

Physicians generally should not treat themselves or members of their immediate families. Professional objectivity may be compromised when an immediate family member or the physician is the patient; the physician's personal feelings may unduly influence his or her professional judgment, thereby interfering with the care being delivered. Physicians may fail to probe sensitive areas when taking the medical history or may fail to perform intimate parts of the physical examination. Similarly, patients may feel uncomfortable disclosing sensitive information or undergoing an intimate examination when the physician is an immediate family member. This discomfort is particularly the case when the patient is a minor child, and sensitive or intimate care should especially be avoided for such patients. When treating themselves or immediate family members, physicians may be inclined to treat problems that are beyond their expertise or training. If tensions develop in a physician's professional relationship with a family member, perhaps as a result of a negative medical outcome, such difficulties may be carried over into the family member's personal relationship with the physician.

Concerns regarding patient autonomy and informed consent are also relevant when physicians attempt to treat members of their immediate family. Family members may be reluctant to state their preference for another physician or decline a recommendation for fear of offending the physician. In particular, minor children will generally not feel free to refuse care from their parents. Likewise, physicians may feel obligated to provide care to immediate family members even if they feel uncomfortable providing care.

It would not always be inappropriate to undertake self-treatment or treatment of immediate family members. In emergency settings or isolated settings where there is no other qualified physician available, physicians should not hesitate to treat themselves or family members until another physician becomes available. In addition, while physicians should not serve as a primary or regular care provider for immediate family members, there are situations in which routine care is acceptable for short-term, minor problems. Except in emergencies, it is not appropriate for physicians to write prescriptions for controlled substances for themselves or immediate family members.

On December 21, 2016, the Respondent appeared before Panel B. As a result of negotiations occurring before Panel B, the Respondent agreed to enter into the following Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

FINDINGS OF FACT

Panel B makes the following Findings of Fact:

BACKGROUND/LICENSING INFORMATION

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 practice medicine in Maryland on May 8, 1985, under License Number D32252. The Respondent's license is current and is scheduled for renewal on September 30, 2018.

2. The Respondent is board-certified in psychiatry and maintains a medical office at 172 Thomas Johnson Drive, Suite 204, Frederick, Maryland 21702.

PRIOR DISCIPLINARY HISTORY

3. In or around 2012, the Board initiated an investigation of the Respondent after receiving two complaints that involved his prescribing of the drug Suboxone.¹ Pursuant to its investigation, the Board conducted a practice review in which it evaluated the Respondent's prescribing practices with respect to twelve patients. This review determined that in all of the cases reviewed, the Respondent failed to meet appropriate standards for the delivery of quality medical and surgical care, and failed to keep adequate medical records.

4. As a result of this investigation, the Board, on July 26, 2012, issued disciplinary charges against the Respondent in which it alleged that he failed to meet appropriate standards for the delivery of quality medical and surgical care, in violation of then Health Occ. § 14-404(a)(22), and failed to keep adequate medical records, in violation of then Health Occ. § 14-404(a)(40).

¹ Suboxone is a narcotic medication that is indicated for the maintenance treatment of opioid dependence.

5. The Respondent resolved these charges by entering into a Consent Order with the Board, dated December 19, 2012 (the "2012 Consent Order"). The Board concluded as a matter of law that the Respondent failed to meet appropriate standards for the delivery of quality medical and surgical care, in violation of then Health Occ. § 14-404(a)(22), and failed to keep adequate medical records, in violation of then Health Occ. § 14-404(a)(40).

6. Pursuant to the 2012 Consent Order, the Board reprimanded the Respondent and placed him on probation for two years, subject to probationary terms and conditions, including: (a) coursework in (i) medical recordkeeping, (ii) the assessment and treatment of attention deficit hyperactivity disorder, (iii) pharmacologic management of psychiatric conditions, (iv) the assessment and treatment of substance abuse, and (v) buprenorphine prescribing; (b) restrictions on his prescribing of "combination therapy"; and (c) practice supervision.

7. On or about May 28, 2015, the Board, under Case Number 7713-0064, issued an Order Terminating Probation, in which it terminated the probation it imposed under the 2012 Consent Order.

BOARD INVESTIGATIVE ALLEGATIONS

8. On or about October 13, 2015, the Board received a complaint from a managed health care provider alleging that the Respondent was writing multiple prescriptions for himself and family members. The complaint stated that since 2014, the Respondent self-prescribed medications on over 20 separate occasions and prescribed medications for family members on over 20 separate occasions. The complaint noted that the Board reprimanded the Respondent in 2012 for prescribing dangerous

combinations of medications, and that he wrote many of the prescriptions in question while on probation to the Board.

9. On or about October 23, 2015, the Board received a complaint from the Frederick County Sheriff's Office alleging that the Respondent was prescribing high dosages of Adderall to his patients, was self-prescribing and was prescribing medications for family members.

10. As a result of these complaints, the Board initiated an investigation of this matter. Pursuant to this investigation, the Board requested that the Respondent respond to the above complaints.

11. In a letter dated March 21, 2016, the Respondent acknowledged that in 2015, he wrote prescriptions for various medications for himself and family members, and that he did not create or maintain a medical record chart for himself or for those family members when writing such prescriptions. The Respondent provided documentation from pharmacies indicating that he wrote approximately 40 prescriptions for various medications.

12. On April 28, 2016, Board investigators conducted an under oath interview of the Respondent, during which he admitted writing prescriptions for himself and family members, stating that he did so for "more than ten years." The Respondent stated that he wrote the prescriptions for "convenience." The Respondent stated that he did not perform examinations prior to prescribing the medications, or keep copies or records of the prescriptions that he wrote for himself or his family members. The Respondent stated that in some of the instances, he did not coordinate his prescribing for family members with his family members' physicians.

13. The Respondent was also asked about the medical recordkeeping course the Board required him to take pursuant to the 2012 Consent Order. The Respondent acknowledged that in the course, he "learned things that we're talking about here," which involved topics including self-treatment, treatment of family members and the necessity to document that treatment.

14. The Board's investigation determined that for the period beginning in or around August 2011, and continuing until in or around December 2015, the Respondent wrote approximately 180 prescriptions for medications for himself and/or family members. Many of the prescriptions in questions were for medications that were outside of the Respondent's field of practice. The Respondent did not perform examinations prior to prescribing the medications, or keep copies or records of the prescriptions that he wrote for himself or his family members. In at least some of the instances, he did not coordinate his prescribing for family members with his family members' physicians.

GROUND FOR DISCIPLINE

15. The Respondent's actions constitute a violation of Health Occ. II § 14-404(a)(3), Is guilty of: (ii) Unprofessional conduct in the practice of medicine.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel B finds as a matter of law that the Respondent violated Health Occ. II § 14-404(a)(3), Is guilty of: (ii) Unprofessional conduct in the practice of medicine.

ORDER

It is, on the affirmative vote of a majority of the quorum of Panel B, hereby:

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

ORDERED that the Respondent is placed on probation for a minimum period of **ONE (1) YEAR**. During the probationary period, the Respondent shall comply with all of the following probationary terms and conditions:

1. Within **SIX (6) MONTHS**, the Respondent shall pay a civil fine in the amount of **TEN THOUSAND DOLLARS (\$10,000.00)**, by money order or bank certified check, made payable to the Maryland Board of Physicians, P.O. Box 37217, Baltimore, Maryland 21297;

2. Panel B will issue administrative subpoenas to the Maryland Prescription Drug Monitoring Program on a quarterly basis for the Respondent's prescriptions. The administrative subpoenas will request a review of the Respondent's prescriptions from the beginning of each quarter; and

3. The Respondent shall comply with the Maryland Medical Practice Act, Health Occ. II §§ 14-101--14-702, and all laws and regulations governing the practice of medicine in Maryland.

AND IT IS FURTHER ORDERED that after **one (1) year**, the Respondent may file a written petition to the Board requesting termination of his probation. After consideration of the petition, the probation may be terminated through an order of the Board or Panel B. The Respondent may be required to appear before the Board or Panel B to discuss his petition for termination. The Board or Panel B will grant the petition to terminate the probation if the Respondent has complied with all of the probationary terms and conditions and there are no pending complaints related to the charges; and it is further

ORDERED that if the Board or Panel B determines, after notice and an opportunity for a hearing before an administrative law judge of the Office of Administrative Hearings if there is a genuine dispute as to a material fact or a show cause hearing before the Board or Panel B if there is no genuine dispute as to a material fact, that the Respondent has failed to comply with any term or condition of probation or this Consent Order, the Board or Panel B may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice medicine in Maryland. The Board or Panel B may, in addition to one or more of the sanctions set forth above, impose a civil monetary penalty fine upon the Respondent; and it is further

ORDERED that the Respondent shall not apply for early termination of probation; and it is further

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

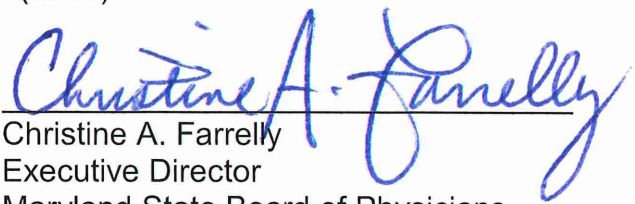
ORDERED that unless stated otherwise in this order, any time period prescribed in this order begins when the Consent Order goes into effect. The Consent Order goes into effect upon the signature of the Board's Executive Director, who signs on behalf of Panel B; and it is further

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

Date

01/20/2017

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians



CONSENT

I, Allan L. Levy, M.D., acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I agree and accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact, Conclusions of Law and Order.

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 as provided by law. I acknowledge the legal authority and the jurisdiction of Disciplinary Panel B to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of Disciplinary Panel A that might have followed any such hearing.

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

1/17/17
Date

Allan L. Levy M.D.
Allan L. Levy, M.D.
Respondent

Read and approved:

H. Kenneth Armstrong
H. Kenneth Armstrong, Esquire
Counsel for Dr. Levy

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF Frederick

I HEREBY CERTIFY that on this 17th day of January,
2017, before me, a Notary Public of the foregoing State and City/County personally
appear Allan L. Levy, 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.

Jennifer A. Tyler
Notary Public

My commission expires: 02/11/20