

IN THE MATTER OF	*	BEFORE THE MARYLAND
SUSAN D. RICH, M.D.	*	STATE BOARD OF
Respondent	*	PHYSICIANS
License Number: D62027	*	Case Number: 2217-0116B

CONSENT ORDER

On August 15, 2018 Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") charged **SUSAN DIANE RICH, M.D.**, (the "Respondent"), License Number D62027, with violating the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") § 14-404(a)(3)(ii) and (40) (2014 Repl. Vol. 2017 Supp.).

The pertinent provisions of the Act provide:

(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 [and]

...

(40) Fails to keep adequate medical records as determined by appropriate peer review[.]

FINDINGS OF FACT

I. BACKGROUND

1. At all times relevant to these charges, 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 June 29, 2004 under license number D62027. The Respondent's license is current through September 30, 2019.
2. The Respondent is board certified in Psychiatry with subspecialty certificate in Child and Adolescent Psychiatry.
3. The Respondent is a solo-practitioner operating a practice in Potomac, Maryland, which focuses on the diagnosis, treatment, and prevention of Fetal Alcohol Spectrum Disorders ("FASD").¹
4. The Respondent has also established a non-profit organization. Through this organization the Respondent operates a therapeutic farm to help individuals with FASD.
5. The Respondent operates her practice, as well as the non-profit organization and therapeutic farm out of her residence in Potomac, Maryland.
6. On or about June 21, 2017, the Board received a complaint from a former patient ("Patient 1")² of the Respondent. The complaint alleges that the

¹ Fetal Alcohol Spectrum Disorders include an array of conditions that can occur in an individual whose mother consumed alcohol during pregnancy. The related disorders are implicated in physiological abnormalities, as well as behavioral and learning problems.

² To ensure confidentiality and privacy, the names of individuals involved in this case, other than the Respondent, are not disclosed in this document.

Respondent, after diagnosing Patient 1 with FASD, had Patient 1 move into the Respondent's residence with her where Patient 1 resided while undergoing treatment. Patient 1's treatment plan included completing household chores, acting as an unpaid au pair, and caring for the Respondent's farm animals.

7. Based on the complaint, Panel B initiated an investigation of the Respondent.

I. BOARD INVESTIGATION

8. On or about August 8, 2017, board staff conducted an interview with Patient 1, as well as Patient 1's mother.
9. On or about September 11, 2017, board staff sent an initial contact letter to the Respondent, along with a subpoena for six patient medical and billing records including those pertaining to Patient 1. This information was duly provided to board staff along with various other patient medical, billing, and prescriptions drug records.
10. On or about November 30, 2017, the Board sent the six patient medical and billing records and related investigative materials to a peer review entity for independent review by two board certified Psychiatrists.
11. Upon review of the records, the peer reviewers concurred that the Respondent engaged in unprofessional conduct in the practice of medicine with regards to Patient 1. The peer reviewers also concurred that the Respondent failed to keep adequate medical records with regards to Patients 1, 2, 4, and 5.

12. On September 28, 2017 the Respondent appeared for an interview with board staff.

II. PATIENT-SPECIFIC ALLEGATIONS

PATIENT 1

13. Patient 1, a female born in the 1990's, initially saw the Respondent on or about January 7, 2016 for an FASD evaluation at her parents' behest. Patient 1 had a history of prenatal alcohol exposure, neurodevelopmental problems, as well as alcohol and drug abuse with episodes of overdose which previously resulted in enrollment in residential treatment programs. Patient 1 also demonstrated a history of psychosocial dysfunction, eating disorders, prior trauma and academic difficulties.

14. The Respondent began seeing Patient 1 approximately one to five times per week for individual psychotherapy sessions, as well as parental psychosocial and educational meetings.

15. The Respondent diagnosed Patient 1 with FASD, Post-Traumatic Stress Disorder ("PTSD")³, and Neurobehavioral Disorder associated with Prenatal Alcohol Exposure ("ND-PAE.")⁴

³ PTSD is a mental health disorder that develops in some people who have experienced a shocking, scary or dangerous event according to the National Institutes of Mental Health.

⁴ND-PAE is one of the group of Fetal Alcohol Spectrum Disorders that can result from being exposed to alcohol in-utero.

16. In or around March 2016, the Respondent advised Patient 1 and her parents that Patient 1 should move into the Respondent's residence to continue her treatment. An agreement to that effect was entered by the aforementioned parties on or about March 13, 2016.
17. Per the agreement, Patient 1 was to meet with the Respondent for individual sessions for five hours per week. These therapy sessions would take place over the course of a five-month period during which Patient 1 would function as an "au pair in-training" at the Respondent's residence.
18. In addition to psychotherapy sessions, the Respondent assigned routine chores to Patient 1. Many of these tasks amounted to personal chores which were beneficial to the Respondent including: childcare for the Respondent's two children, preparing meals, assisting with homework as well as laundry, kitchen chores, grocery shopping, organizing the Respondent's closet, and animal husbandry.
19. The Respondent indicated during her interview with board staff that many of the tasks performed by Patient 1 pursuant to the "au pair in-training" portion of their agreement, were done in lieu of paying rent while living at the Respondent's residence.
20. The Respondent conducted some informal therapy sessions with Patient 1 while riding in the car with the Respondent's children present. Patient 1 indicates that the Respondent took phone calls from other patients and

engaged in conversations with them in Patient 1's presence, without informing the other patients that their conversation was being overheard.

21. The Respondent on at least one occasion took Patient 1 to a professional presentation conference and openly spoke with other professionals about Patient 1's treatment and progress in her presence, without first acquiring Patient 1's permission to do so.

22. The Respondent's treatment and billing records pertaining to Patient 1 fail to consistently include progress notes, medication management or documentation of the daily or weekly individual sessions. Those notes that are present often do not correspond to or support her billing.

23. The Respondent's conduct, as set forth above, constitutes engaging in unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(ii), for reasons including:

- a. Breaching therapeutic boundary by arranging to have Patient 1 live at the Respondent's residence and interact with the Respondent's children acting as an au pair in-training.
- b. Breaching therapeutic boundary by having Patient 1 perform household chores as well as caring for the Respondent's farm animals.
- c. Breaching therapeutic boundary by forming a business relationship with Patient 1, in which Patient 1 performed personal and farm chores in lieu of paying room and board to the Respondent.

24. The Respondent fails to keep adequate medical records with respect to Patient 1, in violation of Health Occ. § 14-404(a)(40), for reasons including:
- a. Failing to consistently document progress notes, medication management and daily or weekly individual session notes; and
 - b. Failing to maintain records that correspond to and support her billing.

PATIENT 2

25. Patient 2, a male born in the 2000's, sought treatment from the Respondent beginning in or around December 2015 after referral from another psychiatrist. The Respondent treated Patient 2 for approximately eighteen months. Patient 2 had a history of behavioral problems including suicide attempts. The Respondent evaluated Patient 2 and diagnosed him with FASD, ADHD⁵, and ASD⁶.
26. The Respondent's treatment of Patient 2 consisted of regular sessions of outpatient psychotherapy approximately every other week comprising both individual and family sessions. Patient 2 made several visits to the Respondent's therapeutic animal farm, and was treated with various medications as deemed appropriate.
27. A review of the Respondent's recordkeeping with respect to Patient 2 revealed failure to maintain consistent documentation of progress notes and

⁵ Attention Deficit Hyperactivity Disorder (ADHD) according to the DSM-5 is a brain disorder marked by a persistent pattern of inattention and/or hyperactivity-impulsivity that interferes with functioning or development.

⁶ Autism Spectrum Disorder (ASD) is a developmental disorder that affects communication and behavior according to the DSM-5.

medication management. The progress notes that the Respondent did keep failed to include mental status examinations and specific treatment plans. The progress notes also fail to list any diagnoses.

28. The Respondent also failed to adequately document support for her billing. The Respondent's clinical documentation failed to correspond to the billing sheets.

29. The Respondent fails to keep adequate medical records with respect to Patient 2, in violation of Health Occ. § 14-404(a)(40), for failing to maintain consistent documentation of progress notes and medication management.

PATIENT 4

30. Patient 4, a female born in the 1970's, presented to the Respondent for treatment on or about January 10, 2017, with complaints of depression and anxiety as a result of many life stressors. The Respondent continued to see Patient 4 through approximately April 21, 2017. The Respondent diagnosed Patient 4 with Generalized Anxiety Disorder, Acute Stress Disorder, and Bipolar II Disorder.

31. The Respondent's records for Patient 4 included psychiatric evaluation, initial treatment plan and maintenance phase of treatment. However, the Respondent failed to consistently document follow-up clinical notes for individual sessions. The notes the Respondent did document failed to include

mental status examinations and treating diagnoses to support billing complex medication management.

32. The Respondent fails to keep adequate medical records with respect to Patient 4, in violation of Health Occ. § 14-404(a)(40), for failing to consistently document follow-up clinical notes for individual sessions.

PATIENT 5

33. Patient 5, a female born in the 1990's initially sought the Respondent's services on or about April 10, 2012, for ADHD, depression and anxiety.
34. The Respondent diagnosed Patient 5 with partial FASD, mild intellectual disability, and ND-PAE.
35. Patient 5's treatment plan included visits approximately three times per year for supportive psychotherapy, and medication management. Patient 5 also received treatment from another psychotherapist/family therapist for treatment of anxiety and depression related issues.
36. A review of Patient 5's record revealed that the Respondent failed to keep adequate follow-up notes that corresponded with billing entries and that included mental status examinations and detailed medication entries.
37. The Respondent failed to keep adequate medical records with respect to Patient 5, in violation of Health Occ. § 14-404(a)(40), for failing to keep adequate follow-up notes that corresponded with billing entries and that included mental status examinations and detailed medication entries.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel B of the Board concludes as a matter of law that the Respondent is guilty of unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(ii), and of failing to keep adequate medical records as determined by appropriate peer review, in violation of Health Occ. § 14-404(a)(40).

ORDER

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

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

ORDERED that the Respondent's license to practice medicine is **SUSPENDED** for **60 DAYS**. The Suspension goes into effect **30 DAYS** after the Consent Order effective date.

(a) During the suspension period, the Respondent shall not:

- (1) practice medicine;
- (2) take any actions after the effective date of this Order to hold himself or herself out to the public as a current provider of medical services;

- (3) authorize, allow or condone the use of the Respondent's name or provider number by any health care practice or any other licensee or health care provider;
 - (4) function as a peer reviewer for the Board or for any hospital or other medical facility in the state;
 - (5) dispense medications, or
 - (6) perform any other act that requires an active medical license.
- (b) The Respondent shall establish and implement a procedure by which the Respondent's patients may obtain their medical records without undue burden and notify all patients of that procedure; and
- (c) The Respondent shall not apply for early termination of suspension; and
- (d) The Respondent shall notify in writing all Athletic Trainers with whom there is an evaluation and treatment protocol and all Physician Assistants with whom there is a delegation agreement that all Evaluation and Treatment Protocols for Athletic Trainers and all Delegation Agreements for Physician Assistants are terminated; and it is further

ORDERED that after the minimum period of suspension imposed by the Consent Order has passed the disciplinary panel will administratively terminate the Respondent's suspension through an order of the disciplinary panel; and it is further

ORDERED that upon termination, the Respondent is placed on **PROBATION** for a minimum period of **10 MONTHS**.⁷ During the probationary period the Respondent shall comply with the following probationary terms and conditions:

- (a) The Respondent is required to take **TWO** courses. The first course shall be in ethics. A second course shall be in proper record-keeping practices.

The following terms apply to each course:

1. It is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the courses before they are begun;
2. The disciplinary panel will not accept courses taken over the internet;
3. The Respondent shall enroll in and successfully complete panel approved courses within six months;
4. The Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the courses;
5. The courses may not be used to fulfill the continuing medical education credits required for license renewal; and
6. The Respondent is responsible for the cost of the courses.

⁷ If the Respondent's license expires while the Respondent is on probation, the probationary period and any probationary conditions will be tolled.

(b) The Respondent shall pay a civil fine of \$15,000. The payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297. The Board will not renew or reinstate the Respondent's license if the Respondent fails to timely pay the fine to the Board;

(c) The Respondent shall comply with the Maryland Medical Practice Act, Md. Code Ann., Health Occ. §14-401 – 14-702, and all federal and state laws and regulations governing the practice of medicine in Maryland; and it is further

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

ORDERED that after the Respondent has complied with all terms and conditions of probation and the minimum period of probation imposed by the Consent Order has passed the Respondent may submit a written petition for termination of probation. After consideration of the petition, the probation may be terminated through an order of the disciplinary panel. The Respondent may be required to appear before the disciplinary panel to discuss his or her petition for termination. The disciplinary panel may grant the petition to terminate the probation, through an order of the disciplinary panel if there are no pending complaints relating to the charges; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice

and an opportunity for a hearing. If there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings followed by an exceptions process before a disciplinary panel; and if there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel 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 disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order; 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 this Consent Order is a public document. See Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

01/22/2019
Date

Christine A. Farrelly
Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Susan D. Rich, M.D., acknowledge that I have consulted with counsel before signing this document.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* concerning the pending charges. I waive these rights and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered after the conclusions 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 waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order.

I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

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

Signature on File

01/17/2019
Date

Susan D. Rich, M.D.
Respondent

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF

Montgomery

I HEREBY CERTIFY that on this 17th day of January,

2019, before me, a Notary Public of the foregoing State and City/County personally appear Susan D. Rich, 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.

Tangela M. Connelly
Notary Public

My commission expires:

TANGELA MARIE CONNELLY
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
MY COMMISSION EXPIRES APRIL 19, 2022