

IN THE MATTER OF

JEREMY A. HERSCHLER, M.D.

Respondent

LICENSE NUMBER: D52458

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BEFORE THE

MARYLAND BOARD

OF PHYSICIANS

CASE NUMBER: 2005-0805

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CONSENT ORDER

The Maryland Board of Physicians (the "Board") on July 5, 2006, charged Jeremy A. Herschler, M.D. (the "Respondent") (D.O.B. 5/10/1963) license number D52458 with violating the Maryland Medical Practice Act (the "Act") codified at Md. Health Occ. Code Ann. (H.O.) §§ 14-101 *et seq.* (2005 Repl. Vol.).

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

(a) *In general.* --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:

(4) Is professionally, physically, or mentally incompetent.

On August 2, 2006, a Case Resolution Conference was held; and, as a result of negotiations between the Respondent's attorney, Kevin M. Dunne, Esquire, the Office of the Attorney General, Janet Klein Brown, Assistant Attorney General, and the Board, the parties agreed to enter into this Consent Order as an appropriate resolution of the Charges.

FINDINGS OF FACT

The Board makes the following findings of fact:

I. Background

1. At all times relevant to the Charges, the Respondent was licensed to practice medicine in Maryland. The Respondent was originally licensed to practice medicine in Maryland on August 6, 1997, under license number D52458. The Respondent continued to maintain licensure in Maryland until February 14, 2006 when the Board summarily suspended his medical license pursuant to Md. State Govt. Code Ann. § 10-226(c), finding that the public health, safety and welfare required emergency action.

2. The Respondent had been practicing psychiatry at the Thomas B. Finan Center ("Finan Center"), 10102 Country Club Road, SE, P.O. Box 1722, Cumberland, Maryland from on or about mid-November 2005 through February 14, 2006 when he received notice of the Board's Order of Summary Suspension.

3. The Respondent has a history of mental health problems. His difficulties primarily manifested themselves after he was admitted to medical school in approximately 1987.

II. Respondent's 2005 Suspension from the Department of Veteran Affairs Maryland Health Care System

4. On or about April 28, 2005, the Board received a letter from the Department of Veteran Affairs ("VA"), disclosing that the Respondent's privileges to practice medicine within the VA Maryland Health Care System were summarily suspended on April 18, 2005. The VA reported that the Respondent had been absent without leave from his position with the VA for over two months. The VA expressed concern with the Respondent's psychiatric stability and ability to safely manage patients.

5. The Board opened the case for investigation. Investigation revealed the Respondent had left his position with the VA without notice and had engaged in a course of erratic behavior from approximately December 2004 to July 2005, culminating in multiple incidents with law enforcement and multiple involuntary inpatient stays at mental health facilities.

III. Respondent's Actions from December 2004 to July 2005

6. The Respondent's erratic behavior was first reported on or about December 17, 2004, when the police were called after the Respondent walked out of a restaurant in Baltimore, Maryland, without paying for the drinks and dinner he consumed.

7. On or about December 21, 2004, the police responded to a complaint from the Respondent's wife alleging that she had been sound asleep at the family residence in Maryland and the Respondent woke her up. The Respondent then asked her to leave the house. The Respondent's wife advised the police that the Respondent had not been taking his medications and had been acting strange.

8. On or about December 22, 2004, at approximately 4:00 a.m., the Respondent was observed in Florida by an officer of the Brevard County Sheriff's Office, walking his dog in the middle of the roadway. The Respondent's vehicle was parked in the middle of the roadway with no lights on. The Respondent was unable to say why he was in Florida, was unable to complete a sentence, was shaking profusely, and could not stay on any one subject for any length of time. The Respondent did state he was looking for the person that named the White House the White House. He also explained that he was coming from Maryland and someone kept taking the gas out of

his vehicle. The Respondent was taken to Wuesthoff Hospital, Rockledge, Florida to be evaluated. He was admitted until December 24, 2004, and then released.

9. On or about December 28, 2004, the Respondent was observed driving in Florida in the emergency lane at approximately 120 miles per hour. Upon his arrest, the Respondent was unable to produce his wallet and had no identification. The Respondent was charged with reckless driving, failure to provide proof of insurance, failure to wear a seatbelt, and failure to carry/exhibit a driver's license. The Respondent was incarcerated and later transported and admitted to the Mental Health Center in Jacksonville, Florida. He was released on or about January 21, 2005.

10. On or about January 24, 2005, the Respondent was back in Maryland. The Respondent was in a coffee shop, walked into a wall, and fell onto the ground. The Respondent lost consciousness for approximately one minute. The Respondent was transported to a Sinai Hospital emergency room. The Respondent walked out of the emergency room without receiving treatment or notifying hospital personnel.

11. On or about January 26 2005, the Respondent left his home in Maryland and drove to California. On or about January 28, 2005, the Respondent's wife filed a missing person report with the police. The Respondent's wife informed the police that he was suffering from an unknown mental illness that had gotten worse over the past month. While in California, the Respondent was incarcerated for taking someone's car without permission.

12. On or about March 16, 2005, to on or about April 6, 2005, the Respondent was involuntarily admitted to Northwest Hospital in Baltimore, Maryland. The Respondent was certified to the inpatient psychiatric unit after becoming manic,

engaging in dangerous behaviors, displaying paranoid delusions, and verbalizing threats to kill his wife. The Respondent was referred for involuntary admission to a psychiatric hospital for continued treatment.

13. The Respondent was transferred to Sheppard Pratt Hospital in Baltimore, Maryland, where he was involuntarily admitted from on or about April 6, 2005, to on or about April 13, 2005, after being released by the administrative law judge.

14. On or about April 23, 2005, the Respondent was observed by an officer of the Maryland Transportation Authority Police Department, playing his guitar in the Baltimore Washington International Airport (BWI) Terminal, Baltimore, Maryland. Upon being observed, the Respondent gathered his things and moved to another section of BWI and went to sleep on a bench. Upon being approached by an officer, the Respondent made numerous rambling outbursts concerning harming his wife, being homeless, and being placed into a mental institution. The Respondent was taken to St. Agnes Hospital emergency room and later transferred to Sheppard Pratt Hospital in Ellicott City, Maryland.

15. Upon transfer, the Respondent was again involuntarily admitted to a Sheppard Pratt Hospital from on or about April 24, 2005, to on or about May 25, 2005. The Respondent exhibited disorganized thoughts and paranoia. He was also initially adamant about not taking any medications. Upon discharge, the Respondent was to attend the Sheppard Pratt Partial Hospitalization Program, a day program, and follow up with a psychiatrist for referral to a therapist.

16. On or about June 8, 2005, the Respondent drove up to the main gate of the Naval Surface Warfare Center in Indian Head, Maryland. The Respondent indicated

he was lost and asked the guard where he could get a beer. The guard informed the Respondent to pull the vehicle over and park near the visitor center. It was determined that the tags on the car the Respondent was driving were expired. The guard spoke to the Respondent then left to retrieve information from the Motor Vehicle Administration. Upon returning to the vehicle, the Respondent had abandoned the vehicle and was nowhere to be found. The interior of the vehicle was dirty and filled with clothes and personal effects and had the overall appearance that the Respondent had been living in the vehicle.

17. On or about June 9, 2005, the Respondent was observed in a local bank in Annapolis, Maryland, acting confused and agitated. An officer from the Anne Arundel County Police Department responded to the bank. Upon approach, the Respondent advised he was a doctor and was homeless. The officer observed that he made no sense and he was mumbling and gesturing to himself. The Respondent advised the officer that he had walked from Baltimore to Annapolis. The officer transported the Respondent to a local hospital.

18. The Respondent was later transferred and again involuntarily admitted to Sheppard Pratt Hospital, from June 9, 2005, to July 5, 2005. The Respondent was loose, disorganized, rambling, and grandiose with religious preoccupation. Non-compliance with his medications and treatment plan since his release from his prior psychiatric hospitalization in May 2005 was noted. There was also concern noted about the difficulty of the Respondent establishing an ongoing relationship with a psychiatrist based on his own belief that he is a superior clinician. The Respondent was discharged on July 5, 2005, and again referred to the Partial Hospitalization Program.

19. On or about June 28, 2005, the Respondent resigned from his position with the VA.

20. On or about August 24, 2005, the Respondent had an office visit with a psychiatrist in Annapolis, Maryland.

21. Other than the August 2005 visit, the Respondent was not under the treatment of a psychiatrist or other mental health provider until after February 14, 2006 when he received notice of the summary suspension of his license.

22. On or about December 8, 2005, the Respondent was interviewed by Board Staff and admitted that he was working as an attending psychiatrist at a psychiatric hospital, was not under the treatment of a psychiatrist or other mental health professional, and had been self-prescribing Risperidone since his August 2005 visit with the psychiatrist in Annapolis, Maryland. He also noted only the one visit with a psychiatrist since his release from a psychiatric hospital in July 2005.

IV. Board Directed Psychiatric Evaluation

23. Pursuant to Md. Health Occ. Code Ann. ("H.O.") § 14-402(a) (2005 Repl. Vol.), the Board directed the Respondent to submit to a psychiatric evaluation. An independent psychiatric evaluation of the Respondent was conducted by a licensed psychiatrist. On approximately, February 2, 2006, the Board received the results of the evaluation. The evaluating psychiatrist opined the Respondent should not be allowed to practice medicine absent continuous, supervised treatment, including antipsychotic medication and individual therapy.

V. Summary Suspension Show Cause Hearing

24. On February 14, 2006, the Respondent was served an Order for Summary Suspension of his license to practice medicine in Maryland.

25. The Respondent appeared before the Board on March 22, 2006 at a show cause hearing on the summary suspension.¹ The Respondent informed the Board that he has had one outpatient appointment with a psychiatrist on March 9, 2006.

26. On March 27, 2006, the Board issued an Order continuing the summary suspension that was imposed on February 14, 2006.

VI. Summary

27. As of July 5, 2006, the date of the Board's charges, based on the investigation:

- A. The Respondent has a serious mental disorder and is not competent to practice medicine.
- B. The Respondent has not consistently been under the care of a psychiatrist or other mental health provider for a continuous period of time.
- C. The Respondent has a demonstrated lack of awareness about the severity of his illness and his mental illness seriously impairs his judgment.
- D. The Respondent has a history of non-compliance with medication, self-prescribing, and a pattern of resistance to treatment.

28. As of July 5, 2006, the date of the Board's charges, based on the investigation, the Respondent's actions, as described herein, demonstrated that he is mentally incompetent.

¹ The Respondent requested the hearing that was originally scheduled for February 22, 2006 be rescheduled to March 22, 2006.

VII. Respondent's Recent Treatment

29. Since the show cause hearing on March 22, 2006, the Respondent has had regular appointments with the outpatient psychiatrist, who is now seeing the Respondent on a monthly basis for pharmacological management.

30. On April 6, 2006, the Respondent also began weekly outpatient psychotherapy with a psychiatrist and has regular ongoing individual therapy sessions.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent, at the time of the issuance of disciplinary charges, was mentally incompetent to practice medicine in violation of § 14-404(a)(4) of the Act.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 24th day of September, 2006, by a majority of a quorum of the Board considering this case:

ORDERED that Respondent's license to practice medicine shall be **REINSTATED**, effective the date of this Consent Order, and be it further

ORDERED that Respondent shall be on **PROBATION** for a minimum of five (5) years under the following conditions:

Professional Rehabilitation Program

1. Shall continue to comply with all of the provisions of his Professional Rehabilitation Program ("PRP") Rehabilitation Agreement and Plan of February 24, 2006 for five (5) years from the date of this Consent Order. For the entire duration of the probationary period, the Respondent shall fully, timely and satisfactorily cooperate and comply with all PRP recommendations and requirements, including but not limited to the terms and conditions of any amended Rehabilitation Agreement and Plan;

2. A violation of any term or condition of the PRP Rehabilitation Agreement and Plan constitutes a violation of probation;

Treatment

3. Shall participate in individual psychotherapy with a Board approved psychotherapist, as frequently as required by the treating psychotherapist, but at least weekly;
4. Shall take psychoactive medication as required by a Board approved prescribing psychiatrist and shall meet with the prescribing psychiatrist as frequently as required by the prescribing psychiatrist, but at least monthly;
5. Shall not self-prescribe any psychoactive medications;
6. Shall abstain from mood altering and controlled dangerous substances, unless prescribed for legitimate medical purposes, and alcohol, unless permitted by his treating psychiatrists;
7. Shall comply with any recommendation for obtaining either blood levels or urine surveillance to assure compliance with psychoactive medication; and shall comply with any recommendation for toxicology/urine/blood screens to determine use of unprescribed or illicit substances;
8. Understands that Respondent must petition the Board for any change in the frequency of the appointments with the psychotherapist or prescribing psychiatrist;
9. May be seen by the same Board approved psychiatrist for psychotherapy and medication monitoring as circumstances require;

Reports and Records

10. Shall sign a release to allow the Board to receive any and all treatment records from any of his treating mental health professionals;
11. Shall provide releases to all of his mental health treating professionals to ensure that his mental health treatment team remains in contact and communicates with regard to his treatment plan;
12. Shall ensure that the individual psychotherapist submits quarterly reports to the Board which include a report of attendance, participation in psychotherapy, and progress in dealing with the specific vulnerabilities that lead to the events as described in this Consent Order; the first

quarterly report is due within one (1) month of the effective date of this Order;

13. Shall ensure that the prescribing psychiatrist submits quarterly reports to the Board which include a report of attendance and compliance with prescribed medications; the first quarterly report is due within one (1) month of the effective date of this Order;
14. Shall agree that the psychotherapist and the prescribing psychiatrist will immediately report to the Board any significant change in mental status, lack of compliance with prescribed medication, self-prescribing, use of unprescribed or illicit substances, and any missed appointments;
15. Shall ensure that the Board receives any and all laboratory reports for any and all toxicology/urine/blood screens or blood levels;
16. Shall authorize the Board to provide any of his current or future mental health treating professionals any of the documents in the Boards investigative file, as requested;

Employment/Supervision

17. For the entire duration of the Consent Order, the Respondent shall not practice medicine unless and until he obtains prior Board approval of every proposed medical practice setting/position(s) and obtains prior Board approval of a Board-approved supervisor/worksite monitor(s) for every proposed practice setting/position(s) as follows:
 - a. Prior Approval of Work Setting: To obtain prior Board approval of a practice setting/position, the Respondent shall submit written documentation to the Board describing each proposed practice setting which shall include, but not be limited to, the name and addresses of the proposed work setting/position and a detailed description of job duties and responsibilities. The Board reserves the right to request additional information and documentation regarding any proposed practice position/setting and the right to reject the proposed practice setting.
 - b. Prior Approval of Supervisor/Worksite Monitor: To obtain prior approval of a proposed supervisor/worksite monitor, the Respondent shall submit written documentation to the Board, which shall include but not be limited to the name(s) and curriculum vitae of the proposed supervisor/worksite monitor, type and extent of supervision, proposed frequency of in-person meetings and /monitoring sessions, which shall at least be monthly. The Board

reserves the right to request additional information and documentation regarding any proposed supervisor/workplace monitor and the right to reject the proposed supervisor/workplace monitor.

The Respondent shall be responsible for ensuring that the proposed supervisor/worksite monitor submits a curriculum vitae and a letter of commitment written by the proposed supervisor/worksite monitor to the Board. The Respondent shall also be responsible for providing a copy of this Consent Order to the proposed supervisor/worksite monitor and for assuring that the proposed supervisor/worksite monitor's letter of commitment acknowledges receipt of this Consent Order and agrees to meet with the Respondent at least monthly.

After receiving Board approval of a supervisor/worksite monitor, the Respondent shall be responsible for assuring that the supervisor submits quarterly written reports to the Board for the entire duration of the Consent Order, with the first report due within one (1) month of the date of the Respondent returns to the practice of medicine.

18. Understands that Respondent must petition the Board for any change in the frequency of the supervisory monitoring;
19. Shall agree that the supervisor/worksite monitor will immediately report to the Board any unexplained absences from employment;

General Provisions

20. Shall be responsible for all costs associated with fulfilling the terms and conditions of this Consent Order;
21. There shall be no early termination of probation;
22. Respondent may submit a written petition to the Board for termination of probation no earlier than five (5) years from the date of this Consent Order and only if he has fully and satisfactorily complied with all the requirements of the Consent Order and if there are no pending complaints against the Respondent.

Before the Respondent's probation can be terminated, the Respondent shall personally appear before a panel of the Board for the purpose of the panel determining, in its discretion, whether the Respondent is fit to practice medicine with an unrestricted medical license. If the panel determines that the Respondent is not fit to practice medicine with an

unrestricted medical license, the panel may recommend to the full Board issuance of a Board order imposing further probation subject to terms and conditions; and be it further

ORDERED that any violation of the terms and/or conditions of this Order shall be deemed a violation of this Consent Order; and be it further

ORDERED that 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

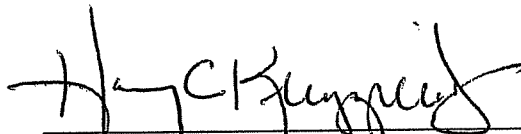
ORDERED that if Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before an Administrative Law Judge at the Office of Administrative Hearings if there is a genuine dispute as to the underlying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

ORDERED that Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; 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.)

9/27/06

Date



Harry C. Knipp, M.D., Chair
Maryland Board of Physicians

CONSENT

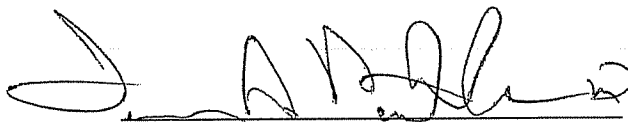
I, JEREMY A. HERSCHLER, M.D, License No. D52458, by affixing my signature hereto, acknowledge that:

1. I am represented by counsel and have reviewed this Consent Order with my attorney, Kevin M. Dunne, Esquire.
2. I am aware that I am entitled to a formal evidentiary hearing before the Board, 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 maybe 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.

9/1/06
Date



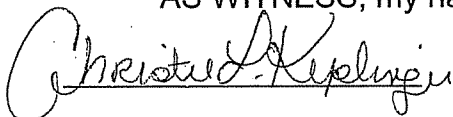
Jeremy A. Herschler, M.D.
Respondent

STATE OF MARYLAND

CITY/COUNTY OF _____ :

I HEREBY CERTIFY that on this 1st day of September, 2006 before me, a Notary Public of the State and County aforesaid, personally appeared Jeremy A. Herschler, M.D., 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.



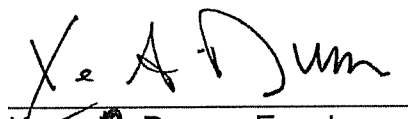
Christine A. Kepling

Notary Public

My commission expires: 8/31/2008

Reviewed by:

8 Sept. 2006
Date



Kevin A. Dunne, Esquire
Attorney for Respondent