



State Medical Board of

**Ohio**

STATE MEDICAL BOARD OF OHIO  
100 EAST WASHINGTON AVENUE  
COLUMBUS, OHIO 43260-1215  
614.467.1234  
www.smb.state.oh.us

January 10, 2018

Case number: 18-CRF- 0001

Marvin Mercado Baula, M.D.  
220 Fryer Ct.  
Fairborn, OH 45324

Dear Doctor Baula:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio [Board] intends to determine whether or not to limit, revoke, permanently revoke, suspend, refuse to grant or register or renew or reinstate your license or certificate to practice medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) In the routine course of your medical practice, you undertook the care of Patients 1 through 10, as identified on the attached Patient Key. The Patient Key is confidential and not subject to public disclosure.
- (2) During the time period of in or around September 2012 to in or around December 2016, you failed to adequately assess, examine and/or treat Patients 1 through 10 related to a constellation of medical conditions and/or failed to document the same, including but not limited to failing to obtain adequate patient histories; failing to conduct appropriate diagnostic testing; failing to assess prescribed medication for risk/benefits; failing to perform appropriate diagnostic assessments; failing to appropriately consider alternative forms of treatment to the prescribing of controlled substances; inappropriately engaging in polypharmacy; failing to obtain adequate patient consent for treatment; failing to adequately respond to "red flags" indicating potential chemical abuse/misuse by the patients; failing to adequately monitor patient compliance with prescribed medication; and/or failing to check the Ohio Automated Rx Reporting System as required by law; and failing to conform to the administrative rules for prescribing controlled substances.

Your acts, conduct, and/or omissions as alleged in paragraphs (1) through (2) above, individually and/or collectively, constitute "[f]ailure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease," as that clause is used in Section 4731.22(B)(2), Ohio Revised Code.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (2) above, individually and/or collectively, constitute a "departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in Section 4731.22(B)(6), Ohio Revised Code.

*Mailed 1-11-18*

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (2) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: General Provisions, Rule 4731-11-02, Ohio Administrative Code, as in effect from September 30, 2008 through December 30, 2015, and as in effect from December 31, 2015 through August 30, 2017.

Further, your acts, conduct, and/or omissions as alleged in paragraphs (1) through (2) above, individually and/or collectively, constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, to wit: Standards and Procedures for Reviews of "Ohio Automated Rx Reporting System" (OARRS), Rule 4731-11-11, Ohio Administrative Code, as in effect from November 30, 2011 through December 30, 2015, and as currently effective commencing on December 31, 2015.

Furthermore, for any violations that occurred on or after September 29, 2015, the board may impose a civil penalty in an amount that shall not exceed twenty thousand dollars, pursuant to Section 4731.225, Ohio Revised Code. The civil penalty may be in addition to any other action the board may take under section 4731.22, Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently revoke, suspend, refuse to grant or register or renew or reinstate your certificate or license to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that "[w]hen the board refuses to grant or issue a license or certificate to practice to an applicant, revokes an individual's license or certificate to practice, refuses to renew an individual's license or certificate to practice, or refuses to reinstate an individual's license or certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license or certificate to practice and the board shall not accept an application for reinstatement of the license or certificate or for issuance of a new license or certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in cursive script that reads "Kim G. Rothermel MD".

Kim G. Rothermel, M.D.  
Secretary

KGR/JBR/bjr  
Enclosures

CERTIFIED MAIL #91 7199 9991 7036 6911 4971  
RETURN RECEIPT REQUESTED

**IN THE MATTER OF  
MARVIN MERCADO BAULA, M.D.**

**18-CRF-0001**

**JANUARY 10, 2018, NOTICE OF  
OPPORTUNITY FOR HEARING -  
PATIENT KEY**

**SEALED TO  
PROTECT PATIENT  
CONFIDENTIALITY AND  
MAINTAINED IN CASE  
RECORD FILE.**