

COPY

PROTHONOTARY

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE
Department of State

Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

vs.

Byung Hwan Ahn, M.D.,
Respondent

File No.: 15-49-14578

Docket No: 0024-49-16

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Professional and Occupational Affairs ("Commonwealth") and Byung Hwan Ahn ("Respondent") stipulate as follows in settlement of the above-captioned case.

APPLICABLE LAW

1. This matter is before the State Board of Medicine ("Board") pursuant to the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, ("Act"), *as amended*, 63 P.S. §§ 422.1-422.53; the Medical Care Availability and Reduction of Error ("Mcare") Act, Act of March 20, 2002, P.L. 154, No. 13, *as amended*, 40 P.S. §§ 1303.101-1303.910; and/or the Act of July 2, 1993, P.L. 345, No. 48 ("ACT 48"), *as amended*, 63 P.S. §§ 2201-2207.

LICENSURE STATUS

2. At all relevant and material times, Respondent held the following license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania: license no. MD040739E, which was originally issued on January 6, 1998, expired on December 31, 2002, and absent further Board action, may be renewed, reactivated or reinstated thereafter upon the filing of the appropriate documentation and payment of the necessary fees.

STIPULATED FACTS

3. The Respondent admits that the following allegations are true:
- a. Absent additional Board action, Respondent's license may be continually reactivated, renewed, or reinstated upon the filing of the appropriate documentation and payment of the necessary fees.
 - b. Respondent's last known office address, as on file with the Board is:
1161 Masters Run, Ellicott City, MD 21042.
 - c. At all relevant and material times, Respondent was authorized to practice medicine in the State of Maryland.
 - d. On or about November 6, 2015, the Maryland State Board of Physicians ("Maryland Board") approved a Consent Order In the Matter of Byung Hwan Ahn, M.D., Respondent at Case Number: 2013-0908.
 - e. A true and correct copy of the Maryland Board's November 6, 2015 Consent Order is attached as **Exhibit A** and is incorporated by reference.
 - f. The Maryland Board reprimanded Respondent and placed Respondent's license to practice medicine in the State of Maryland on probation for a minimum of one (1) year, subject to specific terms and conditions.

ALLEGED VIOLATIONS

4. The Commonwealth alleges that the Board is authorized to suspend or revoke, or otherwise restrict Respondent's license under Sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; or impose a civil penalty under Section 908 of the Mcare Act, 40 P.S. §§ 1303.908, and/or Section 5(b)(4) of ACT 48, 63 P.S. §2205(b)(4) and/or impose the costs of investigation under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at

Section 41(4), 63 P.S. § 422.41(4), in that Respondent had a license or other authorization to practice the profession disciplined by the proper licensing authority of another state.

PROPOSED ORDER

5. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:

a. The Board finds that it is authorized to suspend or revoke, or otherwise restrict Respondent's license under Sections 41 and 42 of the Act, 63 P.S. §§ 422.41 & 422.42; or impose a civil penalty under Section 908 of the Mcare Act, 40 P.S. §§ 1303.908, and/or Section 5(b)(4) of ACT 48, 63 P.S. § 2205(b)(4) and/or impose the costs of investigation under Section 5(b)(5) of ACT 48, 63 P.S. § 2205(b)(5), because Respondent violated the Act at Section 41(4), 63 P.S. § 422.41(4), in that Respondent had a license or other authorization to practice the profession disciplined by the proper licensing authority of another state.

b. Respondent's license no. MD 040739 is **SUSPENDED** for a period of one (1) year, with such suspension to be immediately **STAYED** in favor of **PROBATION** for a period of at least one (1) year retroactive to November 6, 2015 subject to the following terms and conditions:

GENERAL

(1) Respondent shall abide by and obey all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions and all rules and regulations and laws pertaining to the practice of the profession in this Commonwealth or any other state or jurisdiction in which Respondent holds a license to

practice. Provided, however, summary traffic violations shall not constitute a violation of this Order.

(2) Respondent shall at all times cooperate with the Bureau of Professional and Occupational Affairs ("Bureau"), any of its agents or employees and the Bureau of Enforcement and Investigation ("BEI") and its agents and employees, in the monitoring, supervision and investigation of Respondent's compliance with the terms and conditions of this Order, including Respondent causing to be submitted at his own expense written reports, records and verifications of actions that may be required by the Bureau, BEI or any of its agents or employees.

(3) Respondent's failure to fully cooperate with and successfully comply with the terms and conditions of this probation shall be deemed a violation of this Consent Agreement and Order.

(4) Respondent shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Order.

(5) Respondent shall notify BEI, in writing, within twenty (20) days of the filing of any criminal charges, the initiation of any other legal action pertaining to the practice of Respondent's profession, the initiation, action, restriction or limitation relating to Respondent by the professional licensing authority of any state or

jurisdiction, or the Drug Enforcement Agency of the U.S. Department of Justice, or any investigation, action, restriction or limitation relating to Respondent's privilege to practice the profession.

(6) Respondent shall notify BEI by telephone within 72 hours and in writing within ten (10) days of the change of his home address, phone number, place(s) of employment and/or practice.

COSTS

(7) Respondent shall bear the responsibility of all costs incurred by Respondent in complying with the terms of this Consent Agreement and Order.

VIOLATION(S) OF PROBATION

c. Notification of a violation of the terms or conditions of this Consent Agreement and Order shall result in the **IMMEDIATE VACATING** of the stay order, **TERMINATION** of the period of probation, and **ACTIVATION** of the entire period of suspension of Respondent's authorizations to practice the profession in the Commonwealth of Pennsylvania as follows:

(1) The prosecuting attorney for the Commonwealth shall file with the Board a Petition which alleges that Respondent has violated any terms or conditions of this Consent Agreement and Order other than failure to complete the Ordered remedial education in a timely manner;

(2) Upon a probable cause determination that Respondent has violated any of the terms or conditions of this Consent

Agreement and Order, the Board shall, without holding a formal hearing, issue a preliminary order vacating the stay of the suspension in this matter, terminating the period of probation and activating the entire period of suspension of Respondent's authorizations to practice the profession, without credit for any period of suspension stayed in favor of probation;

(3) Notification of the Board's Preliminary Order shall be mailed to Respondent within three (3) days of its issuance by certified mail and first class mail postage prepaid, sent to the last registered address on file with the Board. If service by mail is unsuccessful, the Commonwealth is authorized to attempt service by personal service and/or publication of legal notice in a newspaper of general circulation in the county of Respondent's last known address.

(4) Within twenty (20) days of mailing of the notification of the Board's action, Respondent may answer the Commonwealth's Petition and request that a formal hearing be convened concerning Respondent's alleged violation of probation, in which Respondent may seek relief from the Preliminary Order activating the suspension.

The answer shall be set forth in numbered paragraphs corresponding to the numbered paragraphs of the Petition. Respondent shall admit or deny each of the

allegations set forth in the paragraphs in the Petition.

Respondent shall mail the original answer and request for hearing, and all other pleadings to

Office of Prothonotary Bureau of Professional and Occupational Affairs 2601 N. 3rd Street P.O. Box 2649 Harrisburg, PA 17105-2649

(5) Respondent shall send a copy of the answer, request for hearing, and all subsequent filings in the matter to the prosecuting attorney for the Commonwealth;

(6) If a request for a formal hearing is received from Respondent, the Board shall convene a formal hearing within forty-five (45) days from the date of the Board's receipt of Respondent's request for a formal hearing;

(7) If Respondent files an answer and request for a hearing within the twenty (20) day period, the Preliminary Order activating the suspension shall remain in effect unless and until the Board issues a determination favorable to Respondent after holding the formal hearing;

(8) The facts and averments in paragraphs 3 & 4 of this Consent Agreement and Order shall be deemed admitted and uncontested for purposes of the hearing;

(9) If the Board after such hearing makes a determination adverse to Respondent, the Board will issue a Final Order

activating the suspension of Respondent's license and imposing any additional disciplinary measures it deems appropriate;

(10) If a request for a formal hearing is not received from Respondent within the prescribed twenty (20) day period, the Board's Preliminary Order shall become a Final Order twenty (20) days after the date of its mailing;

(11) If the stay is terminated, Respondent shall still comply with all terms and conditions of probation during the active suspension, other than those terms and conditions pertaining to the active practice of the profession. Continued failure by Respondent to comply with the unaffected terms and conditions of probation shall result in further disciplinary action against Respondent;

COMPLETION OF PROBATION

(12) After successful completion of the minimum period of probation, Respondent may petition the Board to reinstate Respondent's license to unrestricted, non-probationary status upon an affirmative showing that Respondent has complied with all terms and conditions of this Agreement and that Respondent's license to practice medicine in the State of Maryland has been reinstated to unrestricted, non-probationary status.

d. Respondent's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action.

e. This Order constitutes disciplinary action by the Board and shall be reported to other licensing authorities and any applicable national licensing databank as a disciplinary action by the Board.

f. This case shall be deemed settled and discontinued upon the Board issuing an Order adopting this Consent Agreement.

ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS

6. Respondent agrees that if Respondent is charged with a violation of an Act enforced by this Board in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

7. Respondent acknowledges receipt of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and knowingly and voluntarily waives the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

8. Respondent acknowledges that he is aware that he has the right to consult with, and/or be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement. Respondent has retained counsel for representation in reviewing, considering and accepting the terms of this Consent Agreement.

WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS

9. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Board or its counsel, which may

arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement. Respondent specifically agrees that if the Board rejects this agreement, it may assume that the facts and averments as alleged in this Consent Agreement are true and correct for the limited purpose of recommending a sanction, based on those assumed facts, that would be acceptable to the Board before hearing the case. In the event that the Board does assume the facts and averments as alleged in this Consent Agreement are true for purposes of making a recommendation as to an acceptable sanction, such action shall not constitute commingling of prosecutorial and adjudicative functions by the Board or its counsel, and the Respondent expressly waives any constitutional rights and issues related to alleged commingling, bias, or violation of due process rights to have an unbiased and impartial adjudicator in any subsequent hearing. If a hearing is subsequently held, neither this Consent Agreement nor the proposed terms of settlement may be admitted into evidence and any facts, averments, and allegations contained in the Consent Agreement must be proven at hearing unless otherwise separately stipulated. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

NO MODIFICATION OF ORDER

10. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division, which shall not be unreasonably delayed or withheld. In the event that the Prosecution Division fails to notify Respondent of an objection within 30 days, the Respondent may proceed to seek modification without objection from the Prosecution Division.

AGREEMENT NOT BINDING ON OTHER PARTIES

11. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Board issues an Order approving and adopting this Consent Agreement.

EFFECT OF BOARD'S REJECTION OF CONSENT AGREEMENT

12. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members or the Respondent from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

AGREEMENT DOES NOT PREVENT ADDITIONAL DISCIPLINE BASED ON OTHER COMPLAINTS

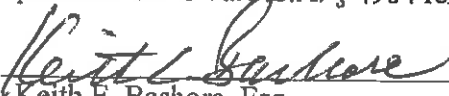
13. Nothing in this Order shall preclude the Prosecution Division for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Consent Agreement; however, the Prosecution Division for the Commonwealth shall not file additional charges or seek to imposed disciplinary or corrective measures if another state imposes reciprocal discipline based on the Maryland Board's November 6, 2015, Consent Order.

ENTIRE AGREEMENT

14. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

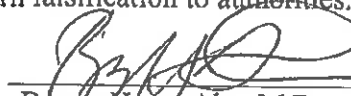
VERIFICATION OF FACTS AND STATEMENTS

15. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.



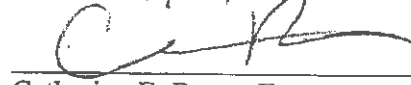
Keith E. Bashore, Esq.
Prosecuting Attorney

DATED: 2/18/16



Byung Hwan Ahn, M.D.
Respondent

DATED: 2/17/16



Catherine E. Rowe, Esq.
Attorney for Respondent

DATED: 2/17/16

IN THE MATTER OF
BYUNG HWAN AHN, M.D.

Respondent

License Number: D16574

* * * * *

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS

* Case Number: 2013-0908
* * * * *

CONSENT ORDER

Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged Byung Hwan Ahn, M.D. (the "Respondent"), License Number D16574, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") §§ 14-101 *et seq.* (2014 Repl. Vol.).

The pertinent provisions of the Act provide as follows:

§ 14-404. Denials, reprimands, probations, suspensions, and revocations – Grounds.

(a) *In general.* Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel of the Board, 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:

...
(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;

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

Prior to the issuance of a charging document, the Respondent agreed to enter into the following Consent Order, consisting of Findings of Fact, Conclusion of Law, Order and Consent.

**EXHIBIT
A**

FINDINGS OF FACT

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in Maryland. The Respondent was initially licensed to practice medicine in Maryland on May 16, 1974. His license is scheduled to expire on September 30, 2016. The Respondent holds inactive licenses in Pennsylvania and Vermont.
2. The Respondent is board-certified in general psychiatry.
3. On or about May 30, 2013, Panel A received a complaint alleging that the Respondent was prescribing Xanax¹ and other Controlled Dangerous Substances ("CDS") in excessive quantities. The complainant further alleged that the Respondent was prescribing Xanax to substance abuse patients.
4. Panel A initiated an investigation of the Respondent's current prescribing practices, including a peer review of six patient records. Pertinent findings of the investigation are set forth below.

Summary of Peer Review Findings

5. The peer reviewers concurred that the Respondent failed to meet the standard of quality care in his treatment of two of the six patients whose records were reviewed and failed to maintain adequate medical records in one patient record.
6. Specifically, the peer reviewers found that the Respondent prescribed Xanax and other benzodiazepines in excess of recommended dosages to the patients, both of whom had a history of substance abuse. In one instance, the Respondent prescribed anti-psychotic medication based on a consultation with a colleague; however, the Respondent failed to titrate the medication to a therapeutic dosage,

¹Xanax, a benzodiazepine is a Schedule IV CDS.

failed to document ongoing psychosis and failed to regularly reassess the patient's psychotic symptoms.

CONCLUSIONS OF LAW

The Respondent's conduct, in whole or in part, constitutes failure to meet the standard of care for delivery of quality medical services, in violation of H.O. § 14-404(a)(22), and failure to maintain adequate medical records, in violation of H.O. § 14-404(a)(40).

ORDER

Based on the foregoing Findings of Fact and Conclusion of Law, it is, by Disciplinary Panel A, hereby

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

ORDERED that the Respondent shall be placed on probation for a minimum of one year from the date of this Consent Order; and it is further

ORDERED that as a condition of probation, the Respondent shall successfully complete a Board-approved course in prescribing CDS. The course will not count towards the Continuing Medical Education credits necessary for continued medical licensure; and it is further

ORDERED that as a condition of probation, the Respondent shall successfully complete a Board-approved course in medical documentation. The course will not count towards the Continuing Medical Education credits necessary for continued medical licensure; and it is further

ORDERED The Respondent shall comply with the Maryland Medical Practice Act and all laws and regulations applicable to the practice of medicine in Maryland; and it is further

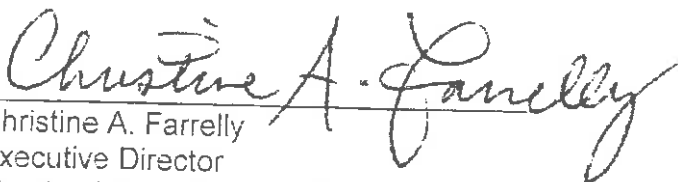
ORDERED that the Respondent's failure to comply with any of the conditions of this Consent Order, shall be considered a violation of probation and a violation of this Consent Order; and it further

ORDERED that if the Respondent violates any of the terms and conditions of this Consent Order, Panel A, 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 a Panel of the Board, may impose any other disciplinary sanction for with the Board may have imposed, including a reprimand, probation, suspension, revocation and/or monetary fine, said violation being proven by a preponderance of the evidence; and it is further

ORDERED that the Respondent is responsible for all costs associated with the Consent Order; and it is further

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

11/06/2015
Date


Christine A. Farrelly
Executive Director
Maryland State Board of Physicians


CONSENT

I, Byung Hwan Ahn, M.D., acknowledge that I am represented by counsel and have consulted with counsel before entering this Consent Order. By this Consent and for the purpose of resolving the issues raised by Disciplinary Panel A, I agree and accept to be bound by the foregoing Consent Order and its conditions.

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 provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of Disciplinary Panel A to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of a disciplinary panel of the Board that I might have filed after any such hearing.

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

11/4/2015
Date

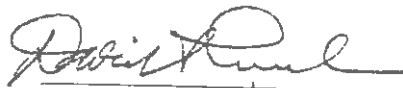

Byung Hwan Ahn, M.D.,
Respondent

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF HOWARD

I HEREBY CERTIFY that on this 4 day of NOV. 2015, before me, a Notary Public of the foregoing State and City/County, personally appeared Byung Hwan Ahn, 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 notarial seal.



Notary Public

My commission expires: DAVID A. MARKS
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires April 15, 2016

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania
Bureau of Professional and
Occupational Affairs

vs.

Byung Hwan Ahn, M.D.,
Respondent

File No.: 15-49-14578

Docket No: 0024-49-16

ORDER

AND NOW, this 15th day of March, 2016, the STATE BOARD OF MEDICINE ("Board") approves and adopts the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

BUREAU OF PROFESSIONAL AND
OCCUPATIONAL AFFAIRS



Ian J. Harlow
Commissioner

For the Commonwealth:

For the Respondent:

Date of mailing:

BY ORDER:
STATE BOARD OF MEDICINE



Marilyn J. Heine, M.D.
Chair

Keith E. Bashore, Prosecuting Attorney
2601 North Third Street
P.O. Box 69521
Harrisburg, PA 17106-9521

Catherine E. Rowe, Esquire
Strokoff & Cowden, P.C.
132 State Street
Harrisburg, PA 17101

March 21, 2016

