

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF MEDICINE**

IN THE MATTER OF

EDWARD MOSLEY, MD

License No.: MD8257

Respondent

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FINAL ORDER

Jurisdiction

This matter comes before the District of Columbia Board of Medicine (Board) pursuant to the Health Occupation Revision Act (HORA), D.C. Official Code § 3-1201.01 *et seq.* (2016 Repl.). The Board has broad jurisdiction to regulate the practice of medicine and to impose a variety of disciplinary sanctions upon a finding of a violation of the HORA. D.C. Official Code § 3-1201.03; *Mannan v. District of Columbia Board of Medicine*, 558 A.2d 329, 333 (DC 1989).

Background

On February 13, 2012, the Florida Department of Health placed an emergency restriction on Edward Mosley, M.D.'s (Respondent's) Florida medical license, preventing him from prescribing schedules II through IV controlled substances, and from practicing medicine in pain management clinics. The Florida emergency restriction stemmed from findings that Respondent had disregarded the safety of his patients by prescribing excessive amounts of controlled substances, including Oxycontin, oxycodone, valium, alprazolam (Xanax), and carisoprodol (Soma), to five patients. The investigation further found that Respondent failed to meet the Florida standard of care in each of these cases by failing to justify the use of drugs prescribed, implement drug monitoring, consider alternative courses of action, or to receive and evaluate

patients' full medical histories. The Florida Department of Health concluded that Respondent's conduct constituted, "a serious danger to the public because he prescribed high dosages and lethal combinations of controlled substances to patients and prescribed controlled substances without any justification." Respondent self-reported the Florida disciplinary action to the Board on February 28, 2012, and subsequent investigation by the Board investigator confirmed the above information. The 2012 Florida emergency restrictions remains in place.

On or about March 29, 2019, the D.C. Board issued a Notice of Intent to Take Disciplinary Action (NOI) against Respondent. The NOI charged the following as bases for disciplinary action:

- I. The Florida Department of Health issued an emergency action against the license of Dr. Mosley restricting him from prescribing controlled substances and practicing medicine in a pain management clinic after finding that Dr. Mosley prescribed excessive amounts of controlled substances to five (5) patients and that his treatment of the patients fell below the minimum standard of care.**

- II. For these reasons the District of Columbia Board of Medicine may take reciprocal disciplinary action pursuant to D.C. Official Code § 3-1205.14(a)(3).**

The NOI was served upon Respondent by certified mail, return receipt requested, in accordance with 17 DCMR § 4105.2(c), at his address of record: 5459 Bent Grass Drive, Unit 301, Sarasota, FL 34235. The NOI was mailed to said address on May 13, 2019, and signed for by Respondent on May 17, 2019. In accordance with 17 DCMR § 4105.5, the date shown on the return receipt indicating delivery of notice to the party is deemed the date of service.

The District of Columbia Municipal Regulations provide that Respondent may request a hearing within twenty (20) days after the service of notice. 17 DCMR § 4102.4(c)(1). To date Respondent has not requested a hearing. He did respond to the NOI but only with a copy of a

letter from the Virginia Board of Medicine. In accordance with 17 DCMR § 4103.1 the Board may, without a hearing, take the action contemplated in the notice.

Findings of Fact

Based upon the preponderance of the evidence in the Board's own record, which includes the investigative as well as other background information, the Board hereby makes the following findings of fact:

- 1) At all relevant times, Respondent was licensed to practice as a physician in the District. He was initially licensed to practice in the District on or about September 8, 1975. His license is due to expire on December 31, 2020.
- 2) On or about February 13, 2012, the Florida Department of Health found that Respondent repeatedly violated the standard of care, and repeatedly exhibited a disregard for the safety of his patients, when he over prescribed controlled substances to five separate patients for an extended period of time.
- 3) On or about February 13, 2012, the Florida Department of Health found that Respondent failed to prescribe controlled substances for medically necessary reasons, failed to institute drug monitoring, failed to assess patients' medical histories, and failed to consider alternative methods of treatment.
- 4) On or about February 13, 2012, the Florida Department of Health placed the following emergency restrictions on Respondent's medical license:
 - (a) Respondent is not allowed to prescribe schedules II through IV controlled substances; and
 - (b) Respondent is not allowed to practice medicine in pain management clinics.

- 5) On May 17, 2019, Respondent received the Board's Notice of Intent to take Disciplinary Action based on the Florida Department of Health's emergency restriction.
- 6) Respondent failed to request a hearing within twenty (20) days after service as required by the District of Columbia Code of Regulations and indicated in the notice. Respondent has still not requested a hearing.

CONCLUSIONS OF LAW

The Board has the statutory authority to take reciprocal action against a licensee when said licensee has been disciplined by another state's licensing board for an action which would have violated District law if it had occurred in the District. D.C. Official Code § 3-1205.14(a)(3). Respondent was disciplined by the Florida licensing board on or about February 13, 2012, for failing to meet the minimum standard of care, and disregarding the safety of his patients.

Accordingly, the Board now finds that Respondent's conduct violates:

- 1) D.C. Official Code § 3-1205.14(a)(3) in that he was disciplined for conduct that would be grounds for discipline under District law; namely
- 2) D.C. Official Code § 3-1205.14(a)(26) in that he failed to conform to the standard of acceptable conduct and prevailing practice within a health profession;
and
- 3) D.C. Official Code § 3-1205.14(a)(28) in that he demonstrated a willful or careless disregard for patient health and safety.

Due to Respondent's failure to request a hearing within twenty (20) days of receiving the NOI, the Board may go forward with the proposed action. 17 DCMR § 4102.2(b)(2).

D.C. Official Code § 3-1205.14(c) provides, in pertinent part:

Upon determination by the board that an applicant, licensee, or person permitted by this subchapter to practice in the District has committed any of the acts described in subsection (a) of this section, the board may:

- (1) Deny a license to any applicant;
- (2) Revoke or suspend the license of any licensee;
- (3) Revoke or suspend the privilege to practice in the District of any person permitted by this subchapter to practice in the District;
- (4) Reprimand any licensee or person permitted by this subchapter to practice in the District;
- (5) Impose a civil fine not to exceed \$5,000 for each violation by any applicant, licensee, or person permitted by this subchapter to practice in the District;
- (6) Require a course of remediation, approved by the board, which may include:
 - (A) Therapy or treatment;
 - (B) Retraining; and
 - (C) Reexamination, in the discretion of and in the manner prescribed by the board, after the completion of the course of remediation;
- (7) Require a period of probation; or
- (8) Issue a cease and desist order pursuant to § 3-1205.16.

In fashioning the sanction, the Board is guided by the established case law in the District. Health licensing boards have discretion concerning an array of statutory sanctions or remedies to apply. *Falkenstein v. District of Columbia Bd. of Med.*, 727 A.2d 302, 308 (D.C. 1999). In determining the appropriate sanction in this case, the Board is conscious that its decision should be supported by the record and is not an abuse of discretion. *See, e.g. Gropp v. District of Columbia Bd. of Dentistry*, 606 A.2d 1010, 1014 (D.C. 1992); *see also Kegley v. District of Columbia*, 440 A.2d 1013, 1020 n. 11 (D.C. 1982). The court reasoned further that a “health professional maintains a position of trust toward not only his patients but to the community.” A

betrayal of that trust which a practitioner is required to maintain “demands appropriate discipline.” *Id.* at 1017. The Board’s ultimate decisions must always be guided by its mandate to protect the public. The HORA “was designed to ‘address modern advances and community needs with the paramount consideration of protecting the public interest.’” *Joseph v. District of Columbia Board of Medicine*, 587 A.2d 1085, 1088 (D.C.1991) (*quoting* Report of the D.C. Council on Consumer and Regulatory Affairs on Bill 6-317, at 7 (November 26, 1985) (emphasis added by court)). With these considerations in mind the Board orders that Respondent’s District of Columbia medical license be subject to the same restrictions imposed by the Florida licensing authority. In order to effectuate those restrictions in accordance with the HORA, Respondent shall be placed on **PROBATION** and restricted in the following manner: (1) he is prohibited from prescribing, administering or dispensing any Schedule II, III and IV controlled substances, and (2) he cannot practice medicine in pain management clinics.

ORDER

Based upon the aforementioned it is hereby

ORDERED that **Respondent** is hereby placed on **PROBATION** until such time as his Florida medical license is free from any practice restrictions, and the terms of his probation include:


- (1) Respondent may not, and is hereinafter prohibited, from prescribing, administering or dispensing any Schedule II, III and IV controlled substances; and
- (2) Respondent cannot practice medicine in pain management clinics; and it is further

ORDERED that Respondent shall comply with all laws, rules and regulations of the District of Columbia; and it is further

ORDERED that Respondent may request termination of his probation only after the restrictions on his medical license in Florida are removed.

DISTRICT OF COLUMBIA BOARD OF MEDICINE

7/31/19
Date



By: Andrea Anderson, MD, FAAFP
Chairperson

Judicial and Administrative Review of Actions of Board

Pursuant to D.C. Official Code § 3-1205.20 (2016 Repl.):

Any person aggrieved by a final decision of a board or the Mayor may appeal the decision to the **District of Columbia Court of Appeals** pursuant to D.C. Official Code § 2-510 (2001).

Pursuant to D.C. Court of Appeals Rule 15(a):

Review of orders and decision of an agency shall be obtained by filing with the clerk of this court a petition for review within thirty (30) days after the notice is given.

This Order is the Final Order of the Board in this disciplinary matter and a public record and, as mandated by federal law, 42 USC § 11101 and 45 CFR § 60, “the National Practitioner Data Bank – Health Integrity and Protection Data Bank,” this disciplinary action shall be reported to the U.S. Department of Health and Human Services.

Copies to:

Dr. Edward Mosley
5459 Bent Grass Drive, Unit 301
Sarasota, FL 34235

Christopher Sousa, Esquire
Assistant Attorney General
Civil Enforcement Section
Civil Division
441 4th Street, NW, Suite 630 South
Washington, DC 20001