

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

IN RE:

ERNEST M. MYERS, MD

License No.: MD11784

Respondent

:
:
:
:
:
:
:
:
:

CONSENT ORDER

This matter comes before the District of Columbia Board of Medicine (the “Board” or “D.C. Board”) pursuant to the Health Occupations Revision Act (HORA). D.C. Official Code § 3-1201.01, *et seq.* (2016 Repl.). The HORA authorizes the Board to regulate the practice of medicine in the District of Columbia. The Board has broad jurisdiction 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 (D.C. 1989). The Council of the District of Columbia, in amending the HORA, “intended to strengthen enforcement of its licensing laws.” *Davidson v. District of Columbia Board of Medicine*, 562 A.2d 109, 113 (D.C. 1989). And 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).

Background

Dr. Ernest Myers (Respondent) has been licensed to practice as a physician in the District of Columbia since August 8, 1979; his license currently expires December 31, 2022.

Respondent is also licensed in Maryland; and his primary practice is in Maryland. On January 12, 2021, the Maryland State Board of Physicians (Maryland Board) summarily suspended Respondent's medical license in the state of Maryland for concerns over the quality of medical care he was providing. In a reciprocal action, Respondent's D.C. medical license was summarily suspended on February 8, 2021. Respondent subsequently entered into a Consent Order with the Maryland Board (Maryland Consent Order) on February 26, 2021.

The Maryland Board found that Respondent had violated the Maryland Medical Practice Act, Md. Code Ann., Health Occ. § 14-404(a)(4) in that after investigation, they found him to be "professionally, physically or mentally incompetent." The D.C. Board of Medicine, after reviewing the information subpoenaed from the Maryland Board, agreed with the findings of the Maryland Board and found that Respondent's actions would be grounds for disciplinary action in the District.

Conclusions of Law

The Maryland Board concluded that "as a matter of law, . . . the Respondent violated Health Occ. § 14-404(a)(4) by exhibiting professional, physical or mental incompetence," and placed him on probation with a number of conditions. Therefore the Board is authorized to sanction Respondent under the HORA.

Each board, subject to the right of a hearing as provided by this subchapter, on an affirmative vote of a quorum of its appointed members may take one or more of the disciplinary actions provided in subsection (c) of this section against any applicant for a license, registration, or certification, an applicant to establish or operate a school of nursing or nursing program, or a person permitted by this subchapter to practice a health occupation regulated by the board in the District who:

* * *

(3) Is disciplined by a licensing or disciplinary authority or peer review body or convicted or disciplined by a court of any jurisdiction for conduct that would be grounds for disciplinary action under this section; D.C. Official Code § 3-1205.14(a) (3).

Respondent has had disciplinary action taken against him by the proper licensing authority of another state. The parties agree that an evidentiary hearing is not necessary. Respondent's conduct, as determined by the Maryland Board, is a violation of D.C. Official Code § 3-1205.14(a)(5). By virtue of the findings by the Maryland Board, the D.C. Board has the authority to take reciprocal action against Respondent under the authority of D.C. Official Code § 3-1205.14(a)(3). Respondent and the Board now agree to enter into this Consent Order, which essentially follows the Maryland Board's Order.

ORDER

ACCORDINGLY, based on the foregoing, it is by the District of Columbia Board of Medicine hereby,

ORDERED that the Respondent shall permanently cease from performing any surgery or procedure, including those in an office-based setting, while the patient is under any form of sedation; and it is further

ORDERED that Respondent shall cease performing the following procedures unless and until the Maryland Board has approved resumption of any of these procedures at which point Respondent may ask the Board to reconsider:

1. Any surgery or procedure, including those in an office-based setting, that in any way obstructs the upper airway;

2. Any surgery or procedure, including those in an office-based setting, done on or through the tympanic membrane, in the middle ear, or in the inner ear;
3. Any type of sinus surgery or procedure, including those in an office-based setting; and
4. Any surgery or procedure, including those in an office-based setting, that have an anticipated blood loss greater than 10 cc; and it is further

ORDERED that on every January 31 hereafter, if Respondent holds a medical license in the District of Columbia, he shall provide the Board with an affidavit verifying that he has not performed any of the prohibited procedures in the past year; and it is further

ORDERED that Respondent is placed on **PROBATION** for a minimum period of five (5) years. During probation, the Respondent shall comply with all the terms of probation in the Maryland Order and shall:

1. Provide a copy of this Consent Order to the Maryland Professional Rehabilitation Program (MPRP) and ensure that he signs and updates all necessary release of information/consent forms requested by the Board and by MPRP to ensure that the Board can receive relevant information and reports;
2. Ensure that the MPRP provides quarterly reports to the Board regarding Respondent's compliance with the MPRP program and recommendations made by MPRP. These reports shall be mailed to: DC Board of Medicine, Health Regulation and Licensing Administration, DC Health, 2d Floor, 899 North Capital NE, Washington D.C. 20002. The reports are also to be e-mailed to Health Licensing Specialist Lisa Robinson at Lisaa.Robinson@dc.gov. The quarterly reports are to start within three (3) months after the effective date of this Consent Order (i.e. the date that Consent

Order is signed by the Board Chair) and continue until respondent has been released due to satisfactory completion from the MPRP, or his probation with the DC Board has terminated; and

3. Respondent may not request termination of this probation until the Maryland Board has terminated his probation due to satisfactory completion of all terms; and it is further

ORDERED that if Respondent is unable to comply with the terms of this Consent Order he shall contact the Board immediately; and it is further

ORDERED, that Respondent is responsible for all costs incurred with compliance with the Consent Order; 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 if Respondent fails to satisfactorily fulfill the terms of this Consent Order the D.C. Board may issue a notice of intent to take additional disciplinary action against Respondent's license; and it is further

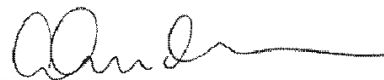
ORDERED that the Notice of Summary Action to Suspend License dated February 8, 2021 is terminated; and it is further

ORDERED, that this is a public document.

DISTRICT OF COLUMBIA BOARD OF MEDICINE

12.27.2021

Date



By: Andrea Anderson, MD, FAAFP
Chairperson

AGREEMENT OF RESPONDENT

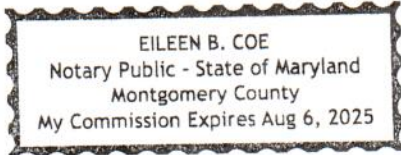
By signing this public consent order, I agree to accept and abide by its terms. I acknowledge its validity and acknowledge that I have agreed to the terms set forth in this agreement. I fully acknowledge that by signing this consent order, I am waiving my right to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other substantive and procedural protections provided by law. I also recognize that I am waiving my right to appeal any adverse ruling by the Board that might have followed any such hearing. By signing this settlement agreement, I waive all such rights.

I have had the opportunity to review this document and to seek the advice of my own legal counsel. I choose to sign this consent order willingly and without reservation and am fully aware of its meaning and effect.

22 December 21
Date

Ernest M. Myers
Ernest M. Myers, MD
License No.: MD11784

Sworn to and subscribed before me this 22 day of DECEMBER, 2021.



Eileen B. Coe
Notary Public

This Consent Order shall be deemed a public document and shall be distributed as appropriate.