

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

In re:	:
	:
TRISTAN SHOCKLEY, M.D.	:
	:
License No.: MD038330	:
	:
Respondent	:

FINAL DECISION AND ORDER

This matter comes before the District of Columbia Board of Medicine (the “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 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, § 3-1205.14; *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

The Respondent was licensed in the District of Columbia to practice medicine in September 14, 2009; his license expired December 31, 2018. The Respondent is also licensed to practice medicine in the State of Maryland. He was initially licensed in Maryland on or about March 24, 2009, and is licensed there through September 30, 2021. The Respondent is reportedly board-certified in Physical Medicine and Rehabilitation. The Respondent practices physical medicine and rehabilitation in a private practice located in Dundalk, Maryland.

On January 12, 2016, Respondent and the Maryland Board of Physicians (“Maryland Board”) entered into a Consent Order (“2016 Consent Order”) in which the Respondent was reprimanded for failing to meet the appropriate standards of care for the delivery of quality medical care. (Md. Code Ann., Health Occ. II § 14-4-4(a) (22) (2014 Repl.). Specifically, Respondent had (1) failed to adequately recognize or take action regarding a patient’s abuse or diversion of prescribed opioids despite several red flags, and had provided that patient with opioids on two occasions despite inconsistent urine toxicology screens; and (2) had prescribed a patient excessive high-dose short-acting narcotics with inadequate pathology or findings on a physical examination, and had continued to prescribe the patient opioids despite inconsistent urine toxicology screens.

Pursuant to the 2016 Consent Order, the Maryland Board in 2016 conducted a subsequent peer review of ten (10) of Respondent’s medical records. As a result of the peer review, the Maryland Board found that Respondent again violated the standard of care including¹:

- (1) Prescribing excessive doses of opioids without adequate clinical evidence to support the indication or necessity;

¹ See 2018 Consent Order, p.4.

- (2) Continuing to prescribe escalating or high doses of opioids for on-going pain without using the “stepladder” approach as indicated in the World Health Organization’s guidelines;
- (3) Continuing to prescribe opioids despite inconsistent urine toxicology screening;
- (4) Concomitant long-term prescribing of benzodiazepines and high doses of opioids;
- (5) Failing to adequately institute interventional procedures for pain management; and
- (6) Failing to adequately decrease opioid dosage of adequately assist patients in weaning off opioids.

The Maryland Board also found that Respondent failed to keep adequate medical records including:

- (1) Failing to document adequate justification for prescribing high-dose opioids;
- (2) Failing to adequately document a plan of care to alleviate symptoms other than with high doses of opioids;
- (3) Inconsistencies between the amount prescribed in the records and the amount recorded in the Prescription Drug Monitoring Program (“PDMP”) records;
- (4) Inadequate documentation of physical exam findings including identical documented histories or exams for two or more dates; and
- (5) Failing to accurately document precisely what dosages of medications were issued.²

As a result of these findings the Maryland Board and the Respondent entered into a new Consent Order (“2018 Consent Order”). The 2018 Consent Order concluded that Respondent had violated Md. Code Ann.. Health Occ. § 14-404(a) (22) and (40) for failure to meet appropriate

² See 2018 Consent Order, p.5.

standards and failure to keep appropriate medical records.³ The 2018 Consent Order reprimanded Respondent and placed him on probation with the following terms and conditions:

- (1) The probation period is a minimum of two (2) years;
- (2) The Respondent's medical practice shall be supervised by a panel-approved peer supervisor who will be available to the Respondent for consultation; shall observe Respondent's practice and have access to Respondent's medical records; shall meet with Respondent at least monthly to discuss with Respondent the care provided to at least ten (10) patient charts chosen by the supervisor; and shall provide quarterly reports to the Maryland Board;
- (3) The Respondent shall not be the supervising physician for any physician assistant or collaborating physicians for any nurse practitioner for patients in which the treatment plan involves the prescribing of opioids for longer than three days;
- (4) The Respondent's PDMP prescribing records will be reviewed on a quarterly basis by the Maryland Board;
- (5) The Respondent will successfully complete Board-approved courses in medical documentation and controlled substance prescribing;
- (6) The Respondent may not request early termination of probation; and
- (7) The probationary period is tolled for any period of Respondent's license being inactive or expired.⁴

³ Md. Code Ann., Health Occ. § 14-404(a)

(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 keep adequate medical records as determined by appropriate peer review[.]

⁴ See 2018 Consent Order pp. 6 - 7

The D.C. Board voted to take reciprocal discipline against Respondent's medical license in the District of Columbia. A Notice of Intent to take Disciplinary Action was mailed, certified mail⁵, to Respondent at his last known address: 9814 Greenbelt Road, Suite 208, Lanham, Maryland 20706. According to the United States Post Office, the NOI was delivered on November 5, 2019 which constitutes service⁶. Respondent had twenty (20) days after service of the notice⁷ but did not do so. As a result, the Board may proceed to final action⁸.

Findings of Fact

The Board incorporates the findings of fact found by the Maryland Board in its 2018 Consent Order which found that Respondent had failed to meet appropriate standards of care and failed to keep appropriate medical records. A physician licensed in the District must also conform to standards of acceptable conduct and prevailing practice within a health profession (D.C. Official Code § 3-1205.14(a)(26)) and must keep adequate medical, dental, health or client records, as determined by review of a board (D.C. Official Code § 3-1205.14(a)(37)), or be subject to disciplinary action.

Conclusions of Law

The Board is authorized to sanction Respondent under the HORA for his actions, which are related to the practice of medicine. The HORA provides, in pertinent part:

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:

⁵ USPS Tracking No. 7017066000097986909

⁶ 17 DCMR § 4105.5 If service is by certified mail, it shall be deemed to have been made on the date shown on the return receipt showing delivery of the notice to the party or refusal of the party to accept delivery.

⁷ See 17 DCMR § 4102.4(c)(1).

⁸ See 17 DCMR § 4103.1.

* * *

(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's conduct in Maryland demonstrated a violation of D.C. Official Code §3-1205.14(a)(26) and (37), had that conduct occurred in the District of Columbia. Moreover, there is nothing that "precludes the Board from having jurisdiction to discipline former licensees for misconduct occurring while licensed . . ." *Davidson*, 562 A.2d at 114. Accordingly, Respondent's conduct has provided the D.C. Board with a basis in law and fact to take reciprocal action against Respondent under the authority of D.C. Official Code § 3-1205.14(a)(3).

ORDER

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

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

ORDERED that Respondent is placed on **PROBATION** for a minimum period of two (2) years. The conditions of probation include the following:

(1) Respondent shall comply with all of the requirements of probation imposed by the 2018

Consent Order to include the following:

- a. The Respondent's medical practice shall be supervised by a panel-approved peer supervisor who will be available to the Respondent for consultation; shall observe Respondent's practice and have access to Respondent's medical records; shall meet with Respondent at least monthly to discuss with Respondent the care provided to at least ten (10) patient charts chosen by the supervisor; and shall provide quarterly reports to the Maryland Board;

- b. The Respondent shall not be the supervising physician for any physician assistant or collaborating physicians for any nurse practitioner for patients in which the treatment plan involves the prescribing of opioids for longer than three days;
- c. The Respondent's PDMP prescribing records will be reviewed on a quarterly basis by the Maryland Board; and
- d. The Respondent will successfully complete Maryland Board-approved courses in medical documentation and controlled substance prescribing.

(2) The period of probation is tolled during any time that the Respondent does not have an active license to practice medicine in the District of Columbia. As the Respondent's license is currently expired, the period of probation shall commence when and if the Respondent's license in the District of Columbia is reinstated.

(3) Respondent shall only apply to have the probation terminated after his probation in Maryland pursuant to the 2018 Consent Order has been terminated; and it is further

ORDERED that Respondent shall comply with all laws, rules, and regulations of the District of Columbia, while within its jurisdiction;


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 formal disciplinary action against Respondent's license; and it is further

ORDERED, that this is a public document.

DISTRICT OF COLUMBIA BOARD OF MEDICINE

1/29/2020

Date


By: Andrea Anderson, M.D., FAAFP
Chair

Copies to:

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Review of a Final Decision

District of Columbia Municipal Regulations, § 17-4122.1 provides:

A party aggrieved by a decision of a board issued after a hearing may seek review of the decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Act, D.C. Code §§ [2-501 *et seq.*].

NOTE: Any appeal noted to the Court of Appeals must be filed within 30 days of the final decision of the Board.

D.C. Official Code, §2-510 provides:

(a) Any person suffering a legal wrong, or adversely affected or aggrieved, by an order or decision of the Mayor or an agency in a contested case, is entitled to a judicial review thereof in accordance with this subchapter upon filing in the District of Columbia Court of Appeals a written petition for review. If the jurisdiction of the Mayor or an agency is challenged at any time in any proceeding and the Mayor or the agency, as the case may be, takes jurisdiction, the person challenging jurisdiction shall be entitled to an immediate judicial review of that action, unless the Court shall otherwise hold. The reviewing Court may by rule prescribe the forms and contents of the petition and, subject to this subchapter, regulate generally all matters relating to proceedings on such appeals. A petition for review shall be filed in such Court within such time as such Court may by rule prescribe and a copy of such petition shall forthwith be served by mail by the clerk of the Court upon the Mayor or upon the agency, as the case may be. Within such time as may be fixed by rule of the Court, the Mayor or such agency shall certify and file in the Court the exclusive record for decision and any supplementary proceedings, and the clerk of the Court shall immediately notify the petitioner of the filing thereof. Upon the filing of a petition for review, the Court shall have jurisdiction of the proceeding, and shall have power to affirm, modify, or set aside the order or decision complained of, in whole or in part, and, if need be, to remand the case for further proceedings, as justice may require. Filing of a petition for review shall not in itself stay enforcement of the order or decision of the Mayor or the agency, as the case may be. The Mayor or the agency may grant, or the reviewing Court may order, a stay upon appropriate terms. The Court shall hear and determine all appeals upon the exclusive record for decision before the Mayor or the agency. The review of all administrative orders and decisions by the Court shall be limited to such issues of law or fact as are subject to review on appeal under applicable statutory law, other than this subchapter. In all other cases the review by the Court of administrative orders and decisions shall be in accordance with the rules of law which define the scope and limitations of review of administrative proceedings. Such rules shall include, but not be limited to, the power of the Court:

- (1) So far as necessary to decision and where presented, to decide all relevant questions of law, to interpret constitutional and statutory provisions, and to determine the meaning or applicability of the terms of any action;
- (2) To compel agency action unlawfully withheld or unreasonably delayed; and
- (3) To hold unlawful and set aside any action or findings and conclusions found to be:
 - (A) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
 - (B) Contrary to constitutional right, power, privilege, or immunity;

- (C) In excess of statutory jurisdiction, authority, or limitations or short of statutory jurisdiction, authority, or limitations or short of statutory rights;
- (D) Without observance of procedure required by law, including any applicable procedure provided by this subchapter; or
- (E) Unsupported by substantial evidence in the record of the proceedings before the Court.