

IN THE MATTER OF

*

BEFORE THE

HAROLD ALEXANDER, M.D.

*

MARYLAND STATE

Respondent

*

BOARD OF PHYSICIANS

License Number: D22219

*

Case Number: 7713-0016

* * * * *

CEASE AND DESIST ORDER

Pursuant to the authority granted to the Maryland State Board of Physicians (the "Board") under Md. Code Ann., Health Occ. ("Health Occ.") § 14-206(e)(2)(2013), the Board hereby orders Harold Alexander, M.D. (the "Respondent"), License Number D22219, to immediately **CEASE AND DESIST** from performing any surgical abortions and from administering any Controlled Dangerous Substances ("CDS"), including but not limited to sedation.

INVESTIGATIVE FINDINGS¹

Based on investigatory information received by, made known to, and available to the Board, the Board has reason to believe that the following facts are true:

1. At all times relevant hereto, the Respondent is and was licensed to practice medicine in the State of Maryland. The Respondent was initially licensed in Maryland on or about June 21, 1978, and his license is presently active through September 30, 2014.

¹ The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the basis of the Cease and Desist Order. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

2. At all times relevant, the Respondent practiced at Facility A² in Forestville, Maryland conducting surgical abortions. The Respondent is the Medical Director and General Manager of Facility A.

3. Facility A is not a licensed facility for the performance of surgical abortions as required by Md. Code Regs. 10.12.01.02.

4. As of June 30, 2013, the Respondent was not licensed to prescribe and/or administer CDS. He does not hold a current Drug Enforcement Administration ("DEA") certificate of registration.³

PRIOR DISCIPLINARY HISTORY

5. On or about August 22, 2012, the Respondent entered into a Consent Order with the Board, resolving charges that the Respondent had engaged in unprofessional conduct in the practice of medicine. The Consent Order imposed a minimum of a three month suspension of the Respondent's medical license, and a minimum of two years of probation with terms and conditions, conditioned upon an evaluation finding him safe to practice medicine.

6. On April 4, 2013, the Board issued a Final Order terminating the Respondent's suspension and placing him on a minimum of two years of probation with terms and conditions.

7. At all times relevant, the Respondent was under the probationary terms and conditions imposed by the Consent Order.

² In order to maintain confidentiality, facility names will not be used in this document.

³ The Respondent's Maryland CDS registration is active through February 28, 2014; however, without an active DEA certificate of registration he does not have the authority to prescribe CDS.

CURRENT COMPLAINT AND OHCQ INSPECTION

8. On or about October 21, 2013, the Office of Health Care Quality (“OHCQ”) conducted a licensure inspection of Facility A (“inspection”) and based on the results of the inspection as set forth below, OHCQ filed a complaint with the Board.

9. The inspection included an on-site visit by OHCQ surveyors (“surveyors”), an interview of the Respondent and a review of Facility A’s policy and procedure manual, personnel files, quality assurance and infection control program and professional credentialing.

10. During the inspection, the surveyors reviewed the medical records of ten of the Respondent’s patients who had received surgical abortions conducted by him when Facility A was not licensed as a surgical abortion facility. The Respondent reported that he performed surgical abortion procedures at Facility A on a routine basis.

11. The inspection revealed and the Respondent acknowledged that during all times relevant there was no registered nurse (“R.N.”) on site when the Respondent performed surgical abortion procedures. Md. Code Regs. 10.12.01.09B(1) requires that an R.N. be available on site for emergency treatment whenever there is a post-operative surgical abortion patient in the facility.

12. The inspection revealed that the Respondent’s employees at Facility A included Medical Assistant A and a Clinical Administrator, neither of whom were licensed by the Board or the Maryland Board of Nursing in any capacity.

13. The Respondent documented that he “trained” Medical Assistant A and the “Clinical Administrator” on or about August 15, 2012 to administer moderate sedation to patients upon order from the physician.⁴ Md. Code Regs. 10.12.01.08 requires that anesthetics shall be administered by health practitioners who are licensed, certified, or otherwise authorized to do so under the Health Occupations statute which include a physician qualified to administer anesthesia, or a certified registered nurse anesthetist.

14. According to the Respondent’s handwritten notes, conscious sedation includes CDS such as IV diazepam,⁵ IV fentanyl citrate,⁶ IV midazolam⁷ and IV Demerol.⁸

15. During the inspection, the Respondent stated that he is not the individual who administers the conscious sedation to patients during the procedures. According to the Respondent, he “tells” the medical assistants when to push the medications through the IV ports.

CONCLUSION OF LAW

Based on the foregoing Investigative Findings, the Board concludes as a matter of law that there is a preponderance of evidence that the Respondent’s actions constitute grounds for discipline under Health Occ. § 14-404(a)(3)(ii) (unprofessional conduct in the practice of medicine) and/or (18) (practices medicine with an unauthorized person or aids an unauthorized person in the

⁴ The Respondent is the only physician performing surgical abortions at Facility A.

⁵ Schedule IV benzodiazepine.

⁶ Schedule II CDS.

⁷ Schedule IV benzodiazepine.

⁸ Schedule II CDS.

practice of medicine) and his actions pose a serious risk to the health, safety and welfare of patients.

ORDER

Based on the investigative findings and the Board's conclusion of law that the Respondent has taken action for which the Board has determined there is a preponderance of evidence for grounds for discipline under Health Occ. § 14-404(a) and that poses a serious risk to the health, safety and welfare of patients, and pursuant to the Board's authority under Health Occ. § 14-206(e)(2), it is hereby:

ORDERED that, pursuant to the authority vested by the Maryland Medical Practice Act, Health Occ. § 14-206(e)(2), the Respondent shall **IMMEDIATELY CEASE AND DESIST** from performing any surgical abortions and from administering or prescribing any Controlled Dangerous Substances, including but not limited to sedation; and it is further

ORDERED that this order is **EFFECTIVE IMMEDIATELY** pursuant to Md. Code Regs. 10.32.02.13A(2), and it is further

ORDERED that this is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., State Gov't § 10-611 *et seq.*

10/25/2013
Date


Christine A. Farrelly
Acting Executive Director
Maryland State Board of Physicians

NOTICE OF OPPORTUNITY FOR A HEARING

The Respondent may challenge the factual or legal basis of this Order by filing a written opposition within 30 days of its issuance. The written opposition should be made to: Christine A. Farrelly, Acting Executive Director, Maryland State Board of Physicians, 4201 Patterson Avenue, Baltimore, Maryland 21215, with a copy mailed to Dawn L. Rubin, Assistant Attorney General, Health Occupations Prosecution and Litigation Division, Office of the Attorney General, 300 West Preston Street, Suite 201, Baltimore, Maryland 21201. If the Respondent files a written opposition, the Board shall consider that opposition and shall provide a hearing, if requested. If the Respondent does not file a written opposition, the Respondent will lose the right to challenge this Initial Order to Cease and Desist.