

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)
)
Jenny Elizabeth Franczak, M.D.,) CONSENT ORDER
)
Respondent.)

This matter is before the North Carolina Medical Board ("Board") regarding information provided to the Board concerning Jenny Elizabeth Franczak, M.D. ("Dr. Franczak"). Dr. Franczak makes the following admissions and the Board makes the following findings and conclusions:

STATUTORY AUTHORITY

The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted to it in Article 1 of Chapter 90 of the North Carolina General Statutes and the rules and regulations promulgated thereto.

FINDINGS OF FACT

Dr. Franczak was first issued a license to practice medicine by the Board on or about December 1, 1990, license number 39803.

At all times relevant hereto, Dr. Franczak practiced family medicine in Chapel Hill, North Carolina.

On February 28, 2018, the Board executed a Public Letter of Concern regarding Dr. Franczak's care of a patient. In the letter,

Dr. Franczak agreed to take ten hours of continuing medical education ("CME") on record keeping and controlled substances prescribing. The Board gave Dr. Franczak six months to complete the CME. Dr. Franczak completed nine hours but did not complete the final hour.

The Board imposed a fine and ordered Dr. Franczak to the North Carolina Professionals Health Program ("NCPHP") to determine whether she was suffering from a disorder which may explain her noncompliance.

Assessments of Fitness to Practice

Dr. Franczak reported to NCPHP in December 2018. Dr. Franczak provided a urine sample which showed a high level of EtG (17,136 ng/ml), a metabolite of ethyl alcohol. This high level was inconsistent with Dr. Franczak's report of having 1-2 glasses of wine, three or four times a week. To further evaluate Dr. Franczak, the Board ordered her to participate in a four-day evaluation.

The week of January 19, 2019, Dr. Franczak presented for her comprehensive assessment.

At the conclusion of the assessment, Dr. Franczak signed a private, non-practice agreement with the Board agreeing not to practice medicine until she was cleared by the Board.

Dr. Franczak disputed the results of the first assessment and in September 2019, the Board ordered Dr. Franczak to obtain a

second opinion as to whether she suffered from a condition which could impair her ability to practice safely.

The second assessment center opined Dr. Franczak is "only" safe to practice medicine when implementing a treatment regimen which includes: professional monitoring with the NCPHP; individual psychotherapy; participation in support groups, including a Caduceus support group; and regular follow-up with her primary care physician.

Patient A

During the course of its investigation into Dr. Franczak's fitness to practice medicine, the Board received a complaint with regard to Dr. Franczak's care of Patient A.

Patient A is a 35-year-old female who presented to Dr. Franczak with a diagnosis of progressive end stage neuroborreliosis. Patient A also had a known history of heroin addiction. Over the course of her care of Patient A, Dr. Franczak treated Patient A with multiple antibiotics as well as narcotics and benzodiazepines. Specifically, Dr. Franczak prescribed fentanyl patches for pain; clonazepam for anxiety, spasticity, tremors, and to reduce the number of seizures; and dronabinol to reduce anxiety and nausea.

In early 2019, Patient A was admitted into a psychiatric crisis center for "delirium." During her stay, Patient A's medications, prescribed to her by Dr. Franczak, were markedly

reduced. After Patient A's discharge, Dr. Franczak restarted Patient A on her medications to be dispensed by Patient A's mother.

Dr. Franczak's use of multiple antibiotics for the treatment of Lyme disease departed from the standards of acceptable and prevailing medical practice and exposed Patient A to an increased risk of medication side effects and antibiotic resistance.

Dr. Franczak's chart for Patient A failed to conform to the standard of care for documentation. Dr. Franczak documented she only consulted the North Carolina Controlled Substance Reporting System four times during the two-and-a half year period she treated Patient A. Progress notes lacked details about pain levels, functioning level, and efficacy of medications. The medication list was not kept up to date. Documented physical exams were often missing or, according to the documentation that was present, minimally performed. In addition, Dr. Franczak failed to conform to standards of acceptable and prevailing medical practice by prescribing opioids and benzodiazepines concomitantly to a patient with a known opioid use disorder.

CONCLUSIONS OF LAW

Dr. Franczak acknowledges that the Board possesses evidence from which it can conclude that she suffers from a medical condition, that when left untreated, renders her unable to practice medicine with reasonable skill and safety, within the meaning of N.C. Gen. Stat. § 90-14(a)(5) and grounds exist under this section

of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition, or limit Dr. Franczak's license to practice medicine or to deny any application she might make in the future.

Dr. Franczak acknowledges that the Board possesses evidence from which it could conclude that her care of Patient A, as described above, constitutes unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and grounds exist under this section of the North Carolina General Statutes for the Board to annul, suspend, revoke, condition, or limit Dr. Franczak's license to practice medicine or to deny any application she might make in the future.

PROCEDURAL STIPULATIONS

Dr. Franczak acknowledges and agrees that the Board has jurisdiction over her and over the subject matter of this case.

Dr. Franczak knowingly waives her right to any hearing and to any judicial review or appeal in this case.

Dr. Franczak, with the advice of legal counsel, acknowledges that she has read and understands this Consent Order and enters into it voluntarily.

Dr. Franczak desires to resolve this matter without the need for more formal proceedings.

The Board has determined that it is in the public interest to resolve this case as set forth below.

ORDER

NOW, THEREFORE, with Dr. Franczak's consent, it is ORDERED that:

1. Dr. Franczak is deemed to have served an active suspension from February 26, 2019, through the date of the execution of this Consent Order.

2. Dr. Franczak's North Carolina medical license is hereby SUSPENDED INDEFINITELY. The suspension is immediately STAYED upon the following terms and conditions:

- a. Dr. Franczak shall only practice under the supervision of a practice mentor/monitor approved by the Board's Office of Medical Director by contacting the Board's Compliance Coordinator at North Carolina Medical Board, P.O. Box 20007, Raleigh, NC 27619-0007 or compliance@ncmedboard.org. The practice mentor/monitor shall review a minimum of ten (10) charts per month and provide quarterly reports to the Board for a minimum period of one year. The practice mentor/monitor shall describe in the reports Dr. Franczak's clinical performance and whether she is adhering to acceptable and

prevailing standards of medical practice. The practice monitor shall submit all reports to the Board's Compliance Coordinator.

b. Dr. Franczak shall obtain Board President approval prior to resuming practice by contacting the Board's Compliance Coordinator. Dr. Franczak must also notify the Board, and obtain Board President approval, of any changes in her practice location and setting by contacting the Board's Compliance Coordinator.

c. Dr. Franczak shall fully implement the treatment plan recommended by the second assessment center with the following changes: Dr. Franczak may engage the NCPHP or a separate entity, approved by the Board by contacting the Board's Compliance Coordinator, to monitor her compliance with her treatment regimen. Dr. Franczak shall comply with her NCPHP contract or her Board approved monitor's protocols, including the timely payment of any fees. Dr. Franczak must be monitored, at a minimum, for a period of two-years. After two years, Dr. Franczak may petition the Board for relief of this consent order condition. All psychotherapists engaged to provide ongoing therapy

must be approved by the Board's Office of Medical Director by contacting the Board's Compliance Coordinator.

- d. Unless lawfully prescribed for her by someone other than herself, Dr. Franczak shall refrain from the use or possession of alcohol and all other mind- or mood-altering substances and all controlled substances including but not limited to, sedatives, stimulants, and pain medication.
- e. Upon request by the Board, Dr. Franczak shall supply urine, blood, hair, or any other bodily fluid or tissue sample the Board might reasonably require for the purposes of analysis to determine if she has consumed any of the substances mentioned above after entry of this Consent Order. All fees and costs associated with such analysis shall be borne by the Board.

3. Upon an *ex parte* determination of probable cause by the Board that Dr. Franczak has failed to comply with any of the terms and conditions of paragraph 2, that determination, without further showing, shall constitute grounds for the Board to summarily suspend Dr. Franczak's North Carolina medical license pursuant to N.C. Gen. Stat. § 150B-3(c).

4. Dr. Franczak shall obey all laws. Likewise, she shall obey all rules and regulations involving the practice of medicine. Dr. Franczak shall meet with the Board or members of the Board for an investigative interview at such times as requested by the Board.

5. Upon request, Dr. Franczak shall provide the Board with any information the Board deems necessary to verify compliance with the terms and conditions of this Consent Order.

6. If Dr. Franczak fails to comply with any of the terms and conditions of this Consent Order, that failure shall constitute unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and shall be grounds, after any required notice and hearing, for the Board to annul, suspend, or revoke her license to practice medicine and to deny any application she might make in the future or then have pending for a license.

7. This Consent Order shall take effect immediately upon its execution by both Dr. Franczak and the Board, and it shall continue in effect until specifically ordered otherwise by the Board.

8. Dr. Franczak hereby waives any requirement under any law or rule that this Consent Order be served on her.

9. Upon execution by Dr. Franczak and the Board, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the

provisions thereof. Additionally, it will be reported to persons, entities, agencies, and clearinghouses as required and permitted by law including, but not limited to, the Federation of State Medical Boards and the National Practitioner Data Bank.

By Order of the North Carolina Medical Board this the 23rd day of November, 2020.

NORTH CAROLINA MEDICAL BOARD

By: 

Venkata Jonnalagadda, M.D.
President

Consented to this the _____ day of _____, 2020.

DocuSigned by:

Jenny Franczak

Jenny Elizabeth Franczak, M.D.

DocuSigned by:

Robert Crawford

Robert O. Crawford, III
Counsel for Jenny Elizabeth Franczak, M.D.

11/3/2020