

IN THE MATTER OF
MARK V. SIVIERI, M.D.

Respondent

License Number: D61704

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2222-0068A

* * * * *

CONSENT ORDER

On November 9, 2022, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged MARK V. SIVIERI, M.D. (the "Respondent"), License Number D61704, with violating the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2021 Repl. Vol.). Panel A charged the Respondent with violating the following provisions of Health Occ. § 14-404:

(a) *In general.* -- Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

(3) Is guilty of: (ii) Unprofessional conduct in the practice of medicine; [and/or]

...

(11) Willfully makes or files a false report or record in the practice of medicine[.]

On March 8, 2023, Panel A was convened as a Disciplinary Committee for Case Resolution ("DCCR") in this matter. Based on the negotiations occurring as a result of this

DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

Panel A finds the following:

Background/Licensing Information

1. At all relevant times, the Respondent was and is a physician licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on May 12, 2004, under License Number D61704, and has retained continuous licensure since that time. The Respondent's Maryland medical license expires on September 30, 2023, subject to renewal.

2. The Respondent is board-certified in family medicine.

Prior Disciplinary History

3. On March 8, 2013, the Board issued disciplinary charges against the Respondent under Case Number 2011-0164 after its investigation determined that he inappropriately prescribed controlled dangerous substances (including opioids, benzodiazepines and/or sedative/hypnotics) to patients and failed to keep appropriate medical records with respect to those patients.

4. The Respondent resolved the above charges by entering into a Consent Order with the Board, dated June 10, 2013. Under the Consent Order, the Board reprimanded the Respondent and found as a matter of law that he violated the following provisions of the Act under 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; and (40) Fails to keep adequate medical records as determined by appropriate peer review.

The Complaint

5. The Board initiated an investigation of the Respondent after reviewing a complaint (the “Complaint”) dated October 12, 2021, from a family member (the “Complainant”)¹ of a patient (“Family Member 1”) of the Respondent. The Complainant expressed concerns about the Respondent’s prescribing of a prescription-only medication (the “Medication”) for Family Member 1, which was also meant for use by the Complainant and her other family members (“Family Members 2, 3 and 4”).

6. The Complainant stated that in or around February 2021, the Respondent prescribed 16 capsules of the Medication for Family Member 1. At the time, Family Member 1 had not tested positive for the condition nor had any symptoms of the condition for which the Respondent prescribed.

7. The Complainant stated that on or about October 10, 2021, Family Member 1 informed her that the Respondent wrote a second prescription for the Medication, again in Family Member 1’s name. This time, the prescription was for 192 capsules, with three refills. The Complainant stated that Family Member 1 told her that the Respondent had agreed to prescribe the Medication for Family Member 1’s entire family, which also included the Complainant and Family Members 1, 2, 3 and 4. The Complainant stated

¹ For confidentiality reasons, the Complainant, any family members of the Complainant, and any medications referenced in this Consent Order will not be identified by name.

that although Family Members 1, 2 and 3 were patients of the Respondent, neither she nor Family Member 4 had ever been patients of the Respondent.

8. The Complainant stated that Family Member 1 stated to her that she had provided the Respondent with her family members' "approximate weights" and that the Respondent provided a dosage amount for each family member.

9. The Complainant also stated her belief that the Respondent's actions were inappropriate.

Board Investigation

10. As part of its investigation, the Board obtained: the Respondent's prescription records for the Medication he prescribed in Family Member 1's name; Family Member 1's medical records, which contained extensive email communications between the Respondent and Family Member 1; and the Respondent's written response to the Complaint. The Board also interviewed the Complainant and the Respondent.

11. The Board's investigation confirmed that the Respondent wrote two prescriptions for the Medication in Family Member 1's name. The first prescription was filled on February 4, 2021, for 16 capsules, with a dosing schedule of two capsules, twice per day. The second prescription was dated October 5, 2021. That prescription was for 192 capsules, with three refills, with a dosing schedule of two capsules, twice per day.

12. In statements to the Board, the Respondent acknowledged writing a prescription for the Medication in Family Member 1's name in February 2021, even though he did not perform a physical examination of Family Member 1; Family Member 1 did not have symptoms of the condition; and Family Member 1 had not been diagnosed with the

condition. The Respondent characterized his prescribing of the Medication as “anticipatory.”

13. The Respondent further acknowledged that in October 2021, he again prescribed the Medication in Family Member 1’s name, this time for 192 capsules, with three refills. The Respondent stated that he wrote the prescription in this quantity not only for Family Member 1, but also for Family Member 1’s other family members, should they require it. The Respondent stated that he “saw the error” in not writing “personalizing separate prescriptions for [Family Members 1, 2 or 3], and not conducting a telehealth visit with each of them.” He also admitted that he “should have been more explicit with [Family Member 1] that the [Medication he] prescribed was not intended for non-patients and instructions about contacting [him] in the event of positive tests or symptoms in any of [Family Member 1’s] family.” The Respondent also expressed “regret” about writing a prescription for three refills of the Medication.

14. The Board’s investigation determined that in or around February 2021, the Respondent provided a prescription for the Medication for Family Member 1, a patient who had never been diagnosed with the condition or had symptoms of the condition for which the Respondent was prescribing. The Respondent prescribed the Medication to Family Member 1 without performing an examination of her at or around that time. The Respondent then wrote a second prescription of the Medication for Family Member 1 in or around October 2021, in a quantity that was far in excess of his dosage instructions, with multiple refills. The Respondent prescribed the Medication in Family Member 1’s name, even though the prescription was written in a quantity that allowed for it to be available for

other family members, and despite being placed on notice by Family Member 1 that she intended to give or make the Medication available to her other family members. Despite this, the Respondent prescribed the Medication, even though: (a) he had no physician-patient relationship with some of the family members who had access to the Medication; (b) he had not diagnosed any of the family members with the condition; (c) none of the family members reported symptoms of the condition; (d) he had not examined any of the family members at or around the time he prescribed the Medication; and (e) he did not give instructions to all of the family members for usage of the Medication. The Respondent made a material misrepresentation when prescribing the Medication in Family Member 1's name, which was actually meant to be available for her other family members.

CONCLUSIONS OF LAW

Based on the Findings of Fact, Disciplinary Panel A of the Board concludes as a matter of law that the Respondent: is guilty of unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(ii); and willfully making or filing a false report or record in the practice of medicine, in violation of Health Occ. § 14-404(a)(11).

ORDER

It is, on the affirmative vote of a majority of the quorum of Disciplinary Panel A of the Board, hereby:

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

ORDERED that the Respondent is placed on **PROBATION** for a minimum period of **SIX (6) MONTHS²** from the effective date of this Consent Order. During probation, the Respondent shall comply with the following terms and conditions of probation:

- (1) Within **six (6) months** from the effective date of this Consent Order, the Respondent is required to take and successfully complete a course in professional ethics.
 - (a) it is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the course before the course is begun;
 - (b) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;
 - (c) the course may not be used to fulfill the continuing medical education credits required for license renewal;
 - (d) the Respondent is responsible for the cost of the course.

(2) Within **SIX (6) MONTHS** from the effective date of this Consent Order, the Respondent shall pay a civil fine of **TEN THOUSAND DOLLARS (\$10,000.00)**. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297. The Board will not renew or reinstate the Respondent's license if the Respondent fails to timely pay the fine to the Board; and it is further

ORDERED that a violation of probation constitutes a violation of the Consent Order; and it is further

ORDERED that the Respondent shall not apply for early termination of probation; and it is further

ORDERED that after the Respondent has complied with all terms and conditions of probation and the minimum period of probation imposed by the Consent Order has passed, the Respondent may submit to the Board a written petition for termination of probation. After consideration of the petition, the Respondent's probation may be administratively terminated through an order of the disciplinary panel. The Respondent may be required to appear before the disciplinary panel to discuss his petition for termination. The disciplinary panel may grant the petition to terminate the probation, through an order of the disciplinary panel, if the Respondent has complied with all

² If the Respondent's license expires while the Respondent is on probation, the probationary period, and any probationary conditions, will be tolled.

probationary terms and conditions and there are no pending complaints relating to the charges; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings followed by an exceptions process before a disciplinary panel; and if there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice medicine in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent, and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order, and it is further

ORDERED that this Consent Order is a public document. *See* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

04/04/2023
Date

Signature On File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Mark Vincent Sivieri, M.D. acknowledge that I have consulted with counsel before signing this document.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* concerning the pending charges. I waive this right and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order. I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

I sign this Consent Order, without reservation, and fully understand the language and meaning of its terms.

3/24/2023
Date

Signature On File

Mark Vincent Sivieri, M.D.
Respondent

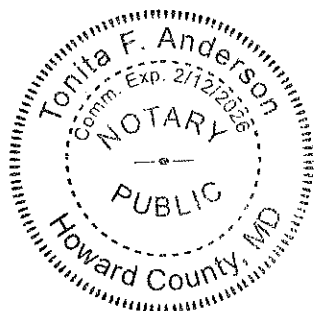
NOTARY

STATE OF MARYLAND

CITY/COUNTY OF HOWARD

I HEREBY CERTIFY that on this 24th day of MARCH 2023, before me, a Notary Public of the foregoing State and City/County, Mark Vincent Sivieri, M.D., personally appeared and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSTH my hand and notarial seal.



Tonita F. Anderson
Notary Public

My commission expires: 2/12/2026