

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2024-0560

In the Matter of

MICHAEL W. MARCUS, M.D.

CONSENT ORDER

Pursuant to G.L. c. 30A, § 10, Michael W. Marcus, M.D. (Respondent) and the Board of Registration in Medicine (Board) (hereinafter referred to jointly as the "Parties") agree that the Board may issue this Consent Order to resolve the above-captioned adjudicatory proceeding. The Parties further agree that this Consent Order will have all the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact specified below and agrees that the Board may make the conclusions of law and impose the sanction set forth below in resolution of investigative Docket No. 20-049.

Findings of Fact

1. The Respondent graduated from the Albert Einstein School of Medicine at Yeshiva University in 1968. He is certified by the American Board of Psychiatry. He has been licensed to practice medicine in Massachusetts under certificate number 31948 since 1969. He has privileges at Lahey Hospital and Medical Center.
2. The Department of Public Health (DPH) maintains the prescription monitoring program database (PMP).

3. The PMP provides users, including physicians, with a 1-2 year lookback of prescription records.
4. PMP lists all Schedule II to V prescriptions, as well as gabapentin prescriptions, filled by patients at retail and Veterans Administration pharmacies in Massachusetts.
5. The purpose of the PMP is, in part, to provide a tool for physicians and others to monitor the prescribing and dispensing of all Schedule II to V, inclusive, controlled substances and certain additional drugs.
6. Physicians are required under Massachusetts law to access PMP information prior to prescribing benzodiazepines to patients.
7. From January 1, 2020 to April 13, 2021, the Respondent failed to check the PMP when he issued eleven separate benzodiazepine prescriptions to Patient A.

Conclusion of Law

A. The Respondent violated G.L. c. 112, §5, eighth par. (b), and 243 C.M.R. 1.03(5)(a)11, by committing an offense against any provisions of the laws of the Commonwealth relating to the practice of medicine, or any rule or regulation adopted thereunder, to wit 105 C.M.R. 700.00 as it pertains to mandatory review of the PMP system for the issuance of benzodiazepine prescriptions.

Sanction and Order

The Respondent's license is hereby Reprimanded.

Execution of this Consent Order

Complaint Counsel and the Respondent agree that the approval of this Consent Order is left to the discretion of the Board. The signature of Complaint Counsel, the Respondent, and the Respondent's counsel are expressly conditioned on the Board accepting this Consent Order. If

the Board rejects this Consent Order in whole or in part, then the entire document shall be null and void; thereafter, neither of the parties nor anyone else may rely on these stipulations in this proceeding.

As to any matter in this Consent Order left to the discretion of the Board, neither the Respondent, nor anyone acting on his behalf, has received any promises or representations regarding the same.

The Respondent waives any right of appeal that he may have resulting from the Board's acceptance of this Consent Order.

The Respondent shall provide a complete copy of this Consent Order with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which the Respondent practices medicine; any in- or out-of-state health maintenance organization with whom the Respondent has privileges or any other kind of association; any state agency, in- or out-of-state, with which the Respondent has a provider contract; any in- or out-of-state medical employer, whether or not the Respondent practices medicine there; the state licensing boards of all states in which the Respondent has any kind of license to practice medicine; the Drug Enforcement Administration Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which the Respondent becomes associated in the year following the date of imposition of this reprimand. The Respondent is further directed to certify to the Board within ten (10) days that the Respondent has complied with this directive.

The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.

Michael W. Marcus, M.D.
Michael W. Marcus, M.D.
Licensee

7/24/24
Date

David Gould, Esq.
David Gould, Esq.
Attorney for the Licensee

7/24/24
Date

James Paikos
James Paikos
Complaint Counsel

8/6/2024
Date

So ORDERED by the Board of Registration in Medicine this 24th day of October, 2024.

Booker T. Bush, M.D.
Booker T. Bush, M.D.
Board Chair