

IN THE MATTER OF  
JAMES S. KEHLER, M.D.

Respondent

License Number: D08616

\* BEFORE THE  
\* MARYLAND STATE  
\* BOARD OF PHYSICIANS  
\* Case Number: 2017-0158B

\* \* \* \* \*

**CHARGES UNDER THE MARYLAND MEDICAL PRACTICE ACT**

Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") hereby charges **JAMES S. KEHLER, M.D.** (the "Respondent"), License Number D08616, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 14-101 *et seq.* The Respondent is charged under the following provisions of Health Occ. II § 14-404(a):

(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 is:

(3) Is guilty of:

...  
(ii) Unprofessional conduct in the practice of medicine;

(4) Is professionally, physically, or mentally incompetent;

(33) Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel[.]

The pertinent provisions of Health Occ. II § 14-402 provide as follows:

(c) *Failure to submit to an examination.* - The unreasonable failure or refusal of the licensed, certified, or registered individual to submit to an examination is prima facie evidence of the licensed, certified, or registered individual's inability to practice medicine or the respective discipline competently, unless the Board finds that the failure or refusal was beyond the control of the licensed, certified, or registered individual.

## **ALLEGATIONS OF FACT<sup>1</sup>**

Panel B bases its charges on the following facts it has cause to believe are true:

### **I. BACKGROUND**

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 in Maryland on September 18, 1970. His Maryland license is active through September 30, 2018.
2. The Respondent is board-certified in psychiatry and neurology.
3. The Respondent practices medicine at a private practice in Annapolis, Maryland.
4. On September 8, 2016, the Board received a complaint from a former patient ("Patient A")<sup>2</sup> of the Respondent alleging that the Respondent routinely fell asleep and slurred his words during her appointments. Patient A also alleged concerns regarding the Respondent's care and billing practices.
5. On September 16, 2016, the Board notified the Respondent of the complaint and its preliminary investigation and requested a written response within 10 business days. The Board also issued a subpoena to the Respondent for Patient A's complete medical and billing records.
6. On or about October 6, 2016, the Board received the Respondent's written responses to the complaint and Patient A's medical and billing records.
7. On or about October 11, 2016, the Board received supplemental information from the Respondent.

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<sup>1</sup> The allegations set forth in this document are intended to provide the Respondent with notice of the Panel's action. 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 these charges.

<sup>2</sup> For confidentiality purposes, names will not appear in these Charges.

8. The Respondent denied sleeping or slurring his speech during Patient A's appointments.

9. By letter dated January 10, 2017, the Board notified the Respondent that it had opened a full investigation into Patient A's complaint. The letter also directed the Respondent to contact the Maryland Professional Rehabilitation Program ("MPRP") on or before January 25, 2017 for purposes of scheduling an examination pursuant to Health Occ. II § 14-402(a).

10. The letter further notified the Respondent that "the unreasonable failure or refusal to submit to examination is prima facie evidence of a licensed medical practitioner's inability to practice medicine, unless the Board finds that the failure or refusal was beyond the control of the individual."

11. The Board received information that the Respondent contacted MPRP and met with MPRP on January 30, February 10, February 13, and February 20, 2017.

12. MPRP recommended a comprehensive evaluation to include a neuropsychological examination by evaluators who are familiar with physicians and the Respondent's specialty.

13. During sessions with the Respondent, as well as via email correspondence and telephone interactions, MPRP provided the Respondent with two programs from which to choose to obtain the recommended comprehensive evaluation.

14. MPRP gave the Respondent until February 24, 2017 to inform MPRP of the Respondent's decision regarding his choice of the two programs referenced in ¶ 13.



15. MPRP also notified the Respondent that if he failed to provide his decision by February 24, 2017, MPRP would close the Respondent's case and forward its recommendations to the Board.

16. The Respondent failed to provide his decision to MPRP and failed to obtain the recommended comprehensive evaluation.

17. MPRP closed the Respondent's case effective February 24, 2017, and forwarded its clinical recommendations to the Board.

#### **IV. Charges**

18. The Respondent's conduct, as outlined in pertinent part in ¶¶ 4 through 17 above, constitutes evidence of unprofessional conduct in the practice of medicine, in violation of Health Occ. II § 14-404(a)(3)(ii); and/or evidence of mental incompetence in violation of Health Occ. II § 14-404(a)(4); and/or evidence of failure to cooperate with a lawful investigation conducted by the Board in violation of Health Occ. II § 14-404(a)(33).

#### **NOTICE OF POSSIBLE SANCTIONS**

If, after a hearing, the Disciplinary Panel B finds that there are grounds for action under Health Occ. II § 14-404(a)(3)(ii) and/or Health Occ. II § 14-404(a)(4) and/or Health Occ. § 14-404(a)(33), the Panel may impose disciplinary sanctions against the Respondent's license in accordance with the Board's regulations under COMAR 10.32.02.09 and 10.32.02.10, including revocation, suspension, reprimand, and/or probation, and may impose a fine.

### **NOTICE OF CASE RESOLUTION CONFERENCE**


A conference before Disciplinary Panel A, sitting as the Disciplinary Committee for Case Resolution ("DCCR") in this matter, is scheduled for **Wednesday, September 27, 2017 at 9:00 a.m.** the Board's office, 4201 Patterson Avenue, Baltimore, Maryland 21215. The Respondent must confirm in writing her intention to attend the DCCR. The Respondent should send written confirmation of her intention to participate in the DCCR to: Christine A. Farrelly, Executive Director, Maryland State Board of Physicians, 4201 Patterson Avenue, 4<sup>th</sup> Floor, Baltimore, Maryland 21215. The nature and purpose of the DCCR is described in the attached letter to the Respondent.

If the case cannot be resolved at the DCCR, a pre-hearing conference and a hearing in this matter will be scheduled at the Office of Administrative Hearings, 11101 Gilroy Road, Hunt Valley, Maryland 21031. The hearing will be conducted in accordance with Md. Code Ann., Health Occ. II § 14-405 and Md. Code Ann., State Gov't II §§ 10-201 *et seq.* (2014 Repl. Vol. and 2016 Supp.).

Respectfully submitted,

**BRIAN E. FROSH**  
Attorney General

5/2/17  
Date

  
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