

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE STATE BOARD OF MEDICAL EXAMINERS FOR SOUTH CAROLINA**

IN THE MATTER OF:

Barnwell Rhett Myers III, M.D.,

License No. MMD.8748,

Respondent.

OIE # 2016-177

FINAL ORDER

This matter came before the State Board of Medical Examiners for South Carolina (“Board”) on August 4, 2020 for a Final Order hearing to consider the Certified Report of the Medical Disciplinary Panel (“Panel Report”) regarding the above-named respondent (“Respondent”) filed with the Board on September 26, 2019. Tina L. Brown, Esquire, Assistant Disciplinary Counsel, represented the State. Respondent appeared and was represented by Ashby W. Davis, Esquire.

The Panel hearing and the Final Order hearing were held pursuant to S.C. Code Ann. § 40-47-117 and the applicable provisions of the Administrative Procedures Act, as set forth in S.C. Code Ann. § 1-23-310, *et seq.*

The case was heard by the Panel on June 27, 2019. Tina L. Brown, Esquire, Assistant Disciplinary Counsel, represented the State before the Panel. Respondent appeared and was represented by Ashby W. Davis, Esquire. The Panel was tasked to hear the charges alleged in the Formal Complaint dated September 4, 2018; to determine if the charges are supported by the evidence or if they do not merit taking disciplinary action; to make findings of fact and conclusions of law accordingly; and, if the charges are supported by the evidence, to identify mitigating and aggravating circumstances for consideration by the Board. Arthur E. Jordan, M.D., Angela D. Harper, M.D., and Michael Powelson comprised the Hearing Panel. Dr. Jordan chaired the proceeding.

At the August 4, 2020 Final Order hearing, the Board considered the Panel Report, as well as a transcript of the proceeding before the Panel, including copies of all documents entered into evidence at the Panel hearing. After considering the evidence, the Board voted to adopt the Panel Report and impose the sanctions set forth below.

FINDINGS OF FACT

The facts in this case are set forth in detail in the Panel Report, and the Panel’s findings are adopted in full and incorporated by reference herein. The State alleges, and the Panel found, that Respondent, a psychiatrist, prescribed a significant number of controlled substances to a partner in his medical practice (“Partner”). For example, in March of 2016, Partner presented a prescription for 60 tablets of Norco (hydrocodone) signed by Respondent to a local pharmacist.

Upon further investigation, the State discovered that from 2009 through February, 2016, Respondent prescribed medications to Partner over 50 times. These medications included: Lorazepam, Topamax, Trazadone HCl, Zolpidem Tartrate, Clonazepam, Dexilant, Escitalopram, Oxalate, Benazepril Hydrochlorothiazide, and Pravastatin Sodium.

Further, the Panel found that Respondent failed to keep sufficient records for the medications prescribed to Partner—a point which Respondent more or less conceded before the Panel. Additionally, Respondent admitted that the prescription for hydrocodone was “ill-advised” and that he never checked SCRIPTS prior to writing prescriptions for controlled substances to Partner. Finally, the Panel found that the dosages of benzodiazepines Respondent wrote for Partner were in excess of the FDA guidelines—especially for an older patient, such as Partner. Indeed, the Panel found that Respondent’s prescribing dosages in excess of the guidelines was an exacerbating circumstance in the case when coupled with the fact that Respondent did not have an appropriate physician-patient relationship with Partner.

CONCLUSIONS OF LAW

As set forth above, this matter is before the Board to consider the Panel Report and to render a final decision as contemplated by S.C. Code Ann. § 40-47-11. The Board has jurisdiction in this matter and, upon finding that a licensee has violated any of the provisions of S.C. Code Ann. §§ 40-47-110 and/or 40-1-110, has the authority to cancel, fine, suspend, revoke, issue a public reprimand or private reprimand, or restrict, including probation or other reasonable action, such as requiring additional education or training or limitation on practice, the authorization to practice of a person who has engaged in misconduct. Additionally, the Board may require the licensee to pay a fine of up to twenty-five thousand dollars. S.C. Code Ann. § 40-47-120. It may also require the licensee to pay the costs of the disciplinary action. S.C. Code Ann. §§ 40-1-170 and 40-47-170.

The State alleges, and the Panel concluded, that Respondent’s conduct as outlined above demonstrates violations of S.C. Code Ann. § 40-47-110(B)(17) in that Respondent failed to prepare or maintain an adequate patient record of care provided and S.C. Code Ann. § 40-47-113(A) in that Respondent failed to establish a physician-patient relationship prior to prescribing medications to Partner. S.C. Code Ann. § 40-47-113(A) sets forth the following elements required to establish an appropriate physician-patient relationship: personally performing and documenting an appropriate history and physical examination; making a diagnosis and formulating a therapeutic plan; discussing benefits and risks of treatment provided; and ensuring availability for follow-up care.

After careful consideration of the record before the Panel, as well as the arguments and testimony presented at this hearing, the Board concludes that Respondent’s conduct did violate S.C. Code Ann. § 40-47-110(B)(17) and S.C. Code Ann. § 40-47-113(A). To this end, it adopts the Panel’s conclusions of law in full. Having determined that Respondent violated the Medical Practice Act, the Board must consider an appropriate sanction.

Physicians must avoid the temptation to prescribe medications to colleagues in a manner in which Respondent prescribed to Partner. It is difficult, if not impossible, for a physician to

maintain the level of objectivity necessary to properly treat a patient when attempting to treat a medical partner. Further, the lack of record-keeping can result in problems should a future treating physician need them. While Respondent may have thought he was performing a favor for Partner, he was ultimately performing a significant disservice.

Given the length of time the prescribing occurred, as well as the fact that multiple controlled substances were prescribed (including very high doses of benzodiazepines), the Board concludes that Respondent should be publicly reprimanded for his conduct. Additionally, he should be required to complete a Board-approved narcotic prescribing course, as well as a record keeping course, within six months of the date of this Order. These sanctions are consistent with the purpose of these proceedings and are designed not to punish Respondent, but to protect the life, health, and welfare of the people at large.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that the Panel Report is adopted in full. Respondent is hereby publicly reprimanded for his conduct and must complete a Board-approved narcotic prescribing course, as well as a record keeping course, within six months of the date of this Order.

AND IT IS SO ORDERED.

**STATE BOARD OF MEDICAL EXAMINERS
FOR SOUTH CAROLINA**



**ANNE G. COOK, M.D., FACP
President of the Board**

April 1, 2021