

IN THE MATTER OF
JOHN W. BROOKS, D.D.S.
Respondent
License Number: 14841

* BEFORE THE MARYLAND
*
* STATE BOARD OF
*
* DENTAL EXAMINERS
*
* Case Number: 2019-100
*

CONSENT ORDER

On or about September 4, 2019, the Maryland State Board of Dental Examiners (the “Board”) charged **John W. Brooks, D.D.S.** (the “Respondent”), License Number 14841, under the Maryland Dentistry Act (the “Act”), codified at Md. Code Ann., Health Occ. §§ 4-101 *et seq.* (2014 Repl. Vol. & 2018 Supp.). Specifically, the Board charged the Respondent with violating the following provisions of the Act:

§ 4-315. Denials, reprimands, probations, suspensions, and revocations – Grounds.

(a) *License to practice dentistry.* – Subject to the hearing provisions of § 4-318 of this subtitle, the Board may . . . reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the . . . licensee:

...

(16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;

(17) Is mentally or physically incompetent to practice dentistry; and

...

(20) Violates any rule or regulation adopted by the Board[.]

The relevant provisions of the Board’s rules and regulations in Md. Code Regs. (COMAR) are:

10.44.23.03 Unprofessional or dishonorable conduct.

D. Dentists.

...

- (2) It shall constitute unprofessional and dishonorable conduct for a dentist to:
- (a) Self-prescribe prescription medications except that a dentist may self-prescribe when necessary to order prescription medications for dental office inventory for patient use only;
 - (b) Prescribe prescription medications for individuals who are not legitimate patients;
 - (c) Prescribe prescription medications to legitimate patients other than for therapeutic purposes; [and]
 - (d) Sell, prescribe, trade, give away, or administer a prescription drug for any illegal or illegitimate purpose[.]

The relevant provisions of the American Dental Association's *Principles of Ethics and Code of Professional Conduct*, incorporated in COMAR 10.44.23.02A, are:

2.D.1. ABILITY TO PRACTICE.

A dentist who contracts any disease or becomes impaired in any way that might endanger patients or dental staff shall, with consultation and advice from a qualified physician or other authority, limit the activities of practice to those areas that do not endanger patients or dental staff. A dentist who has been advised to limit the activities of his or her practice should monitor the aforementioned disease or impairment and make additional limitations to the activities of the dentist's practice, as indicated.

...

5.E. PROFESSIONAL ANNOUNCEMENT.

In order to properly serve the public, dentists should represent themselves in a manner that contributes to the esteem of the profession. Dentists should not misrepresent their training and competence in any way that would be false or misleading in any material respect.

On or about November 6, 2019, following a case resolution conference, the Board and the Respondent agreed to enter into this Consent Order to resolve the Charges.

FINDINGS OF FACT

The Board finds the following facts.

1. On or about May 20, 1985, the Board issued the Respondent his initial license to practice dentistry in the State of Maryland, under License Number 9013. The Board issued the Respondent's initial Maryland dental license under the name "John W. Brooks, Jr." The Respondent's initial dental license expired on or about June 30, 1991.

2. On or about March 16, 2011, the Board issued the Respondent a license to practice dentistry in the State of Maryland, under License Number 14841. The Board issued this dental license under the name "John W. Brooks." The Respondent's license is active and scheduled to expire on June 30, 2021.

3. The Respondent has held dental licenses in at least eight other states. None of these licenses are currently active.

4. On or about September 1, 2015, the Virginia Board of Dentistry issued the Respondent a permit to practice dentistry with deep sedation and anesthesia. The Respondent's deep sedation and anesthesia permit expired on or about March 31, 2018.

5. The Respondent has not been specially authorized by any other dental board to practice dentistry with deep sedation or anesthesia.

6. On or about March 5, 2019, the Board received a referral from the Maryland Office of Provider Engagement & CDS Regulation (“OPER”),¹ which had investigated the Respondent’s prescribing practices. OPER included a copy of its investigative report.

7. The OPER investigative report described, in relevant part, the following investigative findings and conclusions:

- a. A pharmacist (“Pharmacist A”)² reported to OPER that the Respondent prescribed oxycodone and methadone to a patient using a prescription pad from a chronic pain management clinic (the “Pain Clinic”).
- b. Pharmacist A noticed that the Respondent’s name was not pre-printed on the prescription and called the Pain Clinic to verify the prescription. After receiving confirmation that the Respondent was employed at the Pain Clinic, Pharmacist A filled the prescription.
- c. The patient’s insurance company called and notified Pharmacist A that the Respondent was a dentist, not a physician, and, in addition to prescribing two opioids, he had also submitted a claim for “an invasive spinal procedure” performed on the patient, which was deemed “not legitimate.”
- d. OPER obtained a report of the Respondent’s controlled dangerous substances (CDS) prescriptions through the Prescription Drug Monitoring Program (PDMP) for June 19, 2017 through June 9, 2018. The PDMP report showed that the Respondent prescribed CDS at least 22 times, including four that the Respondent prescribed to himself.
- e. The four prescriptions that the Respondent wrote for himself were all for controlled substances containing an opioid pain reliever.
- f. The remaining 18 prescriptions listed on the PDMP report were written using the Pain Clinic’s prescription pad and done on one of two days: May 17, 2018 or May 21, 2018.

¹ OPER, previously known as the Office of Controlled Substances Administration, enforces the Controlled Dangerous Substance (CDS) Act and issues CDS permits to health care practitioners.

² To maintain confidentiality, the names of all witnesses, facilities, employees, and patients will not be used in this document but will be provided to the Respondent on request.

- g. OPER reviewed copies of the prescriptions listed on the PDMP report and found that the Respondent had prescribed oxycodone up to 90mg/day for 30 days to at least one patient, and methadone up to 30mg/day for 30 days to at least one patient.
- h. OPER reviewed copies of the prescriptions and found that the diagnostic codes that the Respondent wrote for the prescriptions were for non-dental medical conditions, including knee pain, shoulder pain, and back pain.
- i. OPER concluded that the Respondent prescribed outside the scope of the practice of dentistry, in violation of COMAR 10.19.03.07C(1).

8. The Board initiated an investigation into the Respondent after receiving OPER's referral and investigative report.

9. On or about March 15, 2019, the Board obtained a PDMP report of the Respondent's CDS prescriptions beginning in May 2018.

10. The PDMP report showed that the Respondent wrote 22 prescriptions during the 10-month reported timeframe. Consistent with OPER's findings, nearly all of the listed prescriptions were written on one of two days: May 17, 2018 or May 21, 2018. Of these prescriptions, most were for CDS listed as either Schedule II or Schedule IV under the federal Controlled Substances Act.

11. The PDMP report showed that on or about July 10, 2018, the Respondent prescribed a controlled substance for himself.

12. The PDMP report showed that on or about March 12, 2019, the Respondent prescribed a controlled substance for an individual that the Board later identified as a family member of the Respondent.

13. On or about April 8, 2019, Board staff searched for and found social media accounts linked to the Respondent. The Board confirmed that the accounts were those of

the Respondent based on matching information such as his address and college attended. One social media account described the Respondent as an “attending anesthesiologist.” Another account described the Respondent as an “Anesthesiologist/DDS.”

14. On or about June 27, 2019, the Board received a complaint from a physician (“Physician A”) who had recently treated the Respondent at a health care facility (the “Facility”). Physician A believed that the Respondent was an anesthesiologist and had initially filed her complaint with the Maryland State Board of Physicians. In her complaint, Physician A expressed her concern regarding the “fitness of Dr. Brooks to continue medical practice.”

15. The results of neuropsychological testing performed on the Respondent on or about May 20, 2019, and May 27, 2019, were included with Physician A’s complaint. The testing practitioner diagnosed the Respondent with a specific condition³ and concluded that the Respondent’s condition was “incompatible with the safe and competent practice of anesthesiology[.]”

16. The Board, through a subpoena, obtained medical records pertaining to the Respondent’s treatment at the Facility. The medical records obtained by the Board were dated from May 12, 2019 through May 17, 2019. The records showed, in relevant part, the following information:

- a. Immediately before starting treatment at the Facility on May 12, 2019, the Respondent presented to a local emergency room with a blood alcohol concentration level of .217 and tested positive for opiates.
- b. The Respondent initially acknowledged to a staff member that he used benzodiazepines but denied taking pain medication. He then stated that

³ For confidentiality reasons, more specific details about the neuropsychological testing will not be disclosed in this document, but this information will be provided to the Respondent upon request.

he took an opioid that he prescribed to himself, about one month prior to treatment at the Facility. The following day, however, the Respondent denied any opioid use to Physician A.

- c. The Respondent told multiple members of the Facility's medical staff that he worked as an anesthesiologist and planned to continue doing so. A staff member noted the Respondent's intent to return to work was "probably not a good idea," due to his condition.
- d. On or about May 16, 2019, an occupational therapist assessed the Respondent and recommended that he "not return to work" due to his condition and to "avoid malpractice suits."
- e. Upon concluding his treatment at the Facility, a social worker noted "significant concern" for the Respondent's "continued practice of medicine."

CONCLUSIONS OF LAW

The Board concludes as a matter of law that the Respondent's conduct, as described above, including but not limited to his prescribing opioids in high dosages for diagnoses that were not related to the practice of dentistry, prescribing controlled substances to himself at least four times and to a family member at least once, publicly identifying himself as an anesthesiologist, and undergoing medical assessments that show a current health condition that would be incompatible with the safe and competent practice of dentistry in the State of Maryland, constitutes: behaving dishonorably or unprofessionally, or violating a professional code of ethics pertaining to the dentistry profession, in violation of Health Occ. § 4-315(a)(16); being mentally or physically incompetent to practice dentistry, in violation of Health Occ. § 4-315(a)(17); and violating any rule or regulation of the Board, in violation of Health Occ. § 4-315(a)(28), to wit: COMAR 10.44.23.03D.

ORDER

Based on the foregoing findings, it is, by a majority of a quorum of the Board, hereby:

ORDERED that the Order for Summary Suspension, issued to the Respondent on or about September 4, 2019, is **TERMINATED**; and it is further

ORDERED that the Respondent's license to practice as a dentist in Maryland is **SUSPENDED**, for a minimum period of **SIX (6) MONTHS**, effective September 4, 2019, and continuing until the Respondent satisfactorily completes following terms and conditions:

- i. Within one (1) week of the effective date of the Consent Order, the Respondent shall enroll in or, if he is already enrolled, continue to participate in the Dental Well-Being Program administered by the Dentist Well-Being Committee ("WBC") of the Maryland State Dental Association. The Respondent shall enter into a new five-year term Board-monitored monitoring agreement (the "Monitoring Agreement") with WBC. The Respondent shall fully, timely and satisfactorily cooperate and comply with all WBC recommendations and requirements, including but not limited to, the terms and conditions of any Monitoring Agreement, complete abstinence, random monitored toxicology screens as required by WBC, ignition interlock system, self-help fellowship meetings and in-patient substance abuse treatment, if recommended by WBC;
- ii. Within four (4) months of the effective date of the consent order, the Respondent shall, at his own expense, successfully complete an in-person continuing education course, approved by the Board in advance, equivalent to at least two (2) continuing education (C.E.) credits, focusing on professional ethics; and the Respondent shall submit written verification that satisfies the Board of the successful completion of the course within 30(thirty) days of completion of the course;
- iii. Within four (4) months of the effective date of the consent order, the Respondent shall, at his own expense, successfully complete an in-

person continuing education course, approved by the Board in advance, equivalent to at least two (2) continuing education (C.E.) credits, focusing on proper prescribing practices; and the Respondent shall submit written verification that satisfies the Board of the successful completion of the course within 30 (thirty) days of completion of the course:

- iv. Unless the Respondent has done so already, he shall sign any written release/consent forms, and update them, as required by the Board or WBC. Specifically, the Respondent shall sign any written release/consent form as required by the Board to authorize WBC to make verbal and written disclosures to the Board, including disclosure of any and WBC records and files and confidential drug and alcohol abuse information about the Respondent. The Respondent shall also sign any written release/consent forms required by WBC to authorize WBC to exchange with (*i.e.* disclose to and receive from) outside entities' (including all of the Respondent's current therapists and treatment providers) verbal and written information about him, including confidential drug and alcohol abuse information; and
- v. Within four (4) months of the effective date of the Consent Order, or on the recommended time frame of the WBC, the Respondent shall undergo addiction and psychiatric evaluation(s) by a Board-designated specialist to assess any addiction and psychiatric issues he may have, and to determine whether the Respondent has the ability to safely practice dentistry. And it is further

ORDERED that at the conclusion of the six (6) month minimum suspension period, the Respondent may submit a written petition the Board for a termination of his suspension. The Board may grant the termination of the Respondent's suspension if: the Respondent has fulfilled all of the terms and conditions of his suspension, the Board has received the addiction and psychiatric evaluation(s) stating that the Respondent has the ability to safely practice dentistry, and the Board has received an affirmative endorsement from WBC stating that the Respondent has the ability to safely practice dentistry; and it is further

ORDERED that upon the termination of the suspension of the Respondent's license, he shall be immediately placed on PROBATION for a minimum period of FIVE (5) YEARS subject to the following terms and conditions:

- i. The Respondent shall continue to participate in the Dental Well-Being Program administered by WBC for the entire duration of his probation. The Respondent shall enter into a new five-year term Monitoring Agreement with WBC. For the entire duration of the probationary period, the Respondent shall fully, timely and satisfactorily cooperate and comply with all WBC recommendations and requirements, including but not limited to, the terms and conditions of the Monitoring Agreement, complete abstinence, random monitored toxicology screens as required by WBC, ignition interlock system, self-help fellowship meetings and in-patient substance abuse treatment, if recommended by WBC;
- ii. From time to time, as determined by WBC, the Respondent shall sign any written release/consent forms, and update them, as required by the Board or WBC. Specifically, the Respondent shall sign any written release/consent form as required by the Board to authorize WBC to make verbal and written disclosures to the Board, including disclosure of any and WBC records and files and confidential drug and alcohol abuse information about the Respondent. The Respondent shall also sign any written release/consent forms required by WBC to authorize WBC to exchange with (*i.e.* disclose to and receive from) outside entities' (including all of the Respondent's current therapists and treatment providers) verbal and written information about him, including confidential drug and alcohol abuse information;
- iii. For the entire duration of the probationary period, the Respondent shall completely abstain from use of alcohol, unprescribed Controlled Dangerous Substances ("CDS"), narcotics, illegal drugs and other mood-altering substances. The Respondent may take CDS, but only if prescribed by a licensed health care provider for a legitimate medical purpose and only as prescribed. Prior to accepting any CDS prescription from a licensed health care provider, the Respondent shall provide the prescribing licensed health care provider with a copy of this Consent Order. The Respondent shall immediately notify WBC and the Board of any CDS prescription he obtains and the justification for the prescription;

- iv. The Respondent is prohibited from prescribing any Schedule II or Schedule III CDS under the Controlled Substances Act;
- v. The Respondent's dental practice may be subject to review by the Board, *i.e.* random review of patient records; and
- vi. The Respondent shall comply with the Maryland Dentistry Act and all laws, statutes and regulations pertaining thereto. And it is further

ORDERED that no part of the training or education that the Respondent receives in order to comply with this Consent Order may be applied to his required continuing education credits, and it is further

ORDERED that the Respondent shall at all times cooperate with the Board, any of its agents or employees, and with the Board-assigned inspector, in the monitoring, supervision and investigation of the Respondent's compliance with the terms and conditions of this Consent Order, and it is further

ORDERED that the Respondent shall be responsible for all costs incurred under this Consent Order; and it is further

ORDERED that after a minimum of five (5) years from the effective date of the Consent Order, the Respondent may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated through an order of the Board. In addition, the Respondent shall have the right to petition the Board for termination of probation upon the sale of his ownership interest in the Office. The Board shall grant termination if the Respondent has fully and satisfactorily complied with all probationary terms and conditions and there are no pending


investigations or outstanding complaints related to the findings of fact in this Consent Order; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition of probation or 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 an evidentiary hearing before the Board. If there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board; and it is further

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

ORDERED that this Consent Order is a public document pursuant to Md. Code Ann., Md. Code Ann., Gen. Prov. §§ 4-101 et seq. (2014).

November 6, 2019
Date


Francis X. McLaughlin, Jr.
Executive Director
Maryland State Board of Dental Examiners

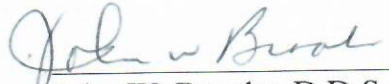
CONSENT

By this Consent, I, John W. Brooks, D.D.S., agree and accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into 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 own behalf, and to all other substantive and procedural protections as provided by law. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having been apprised of my right to consult with counsel, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order and understand its effect.

11/6/2019
Date



John W. Brooks, D.D.S.
The Respondent

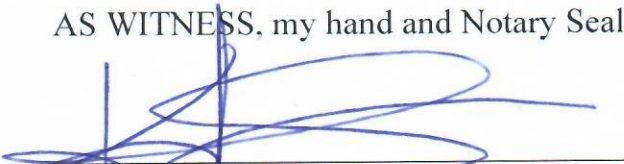
NOTARY

STATE OF MARYLAND

CITY/COUNTY OF: BALTIMORE COUNTY

I HEREBY CERTIFY that on this 6TH day of NOVEMBER 2019,
before me, a Notary Public of the State and County aforesaid, personally appeared John
W. Brooks, D.D.S., and gave oath in due form of law that the foregoing Consent Order was
his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.



Notary Public

My commission expires: 10/10/2023

