

| | |
|---|--|
| <p>IN THE MATTER OF</p> <p>CARMEN ZALDIVAR-ADLER, D.P.M.</p> <p>Respondent</p> <p>License Number: 01453</p> | <p>* BEFORE THE MARYLAND</p> <p>* STATE BOARD OF PODIATRIC</p> <p>* MEDICAL EXAMINERS</p> <p>* Case Number: 2020-012</p> |
|---|--|

* * * * *

FINAL ORDER OF REVOCATION

On or about June 5, 2023 the Maryland State Board of Podiatric Medical Examiners (the “Board”) notified **CARMEN ZALDIVAR-ADLER, D.P.M.** (the “Respondent”), of the Board’s intent to revoke her license to practice podiatric medicine in the State of Maryland. Specifically, the Board bases its action on the Respondent’s violation of provisions of the Consent Order dated January 29, 2021 (the “Consent Order”) which state:

- i. Within 20 days, the Respondent shall undergo a substance abuse evaluation by an independent Board-approved evaluator (“Evaluator 1”). Evaluator 1 shall conduct the evaluation detailing his or her findings and recommendations.
- ii. If Evaluator finds that the Respondent **does** have substance use or abuse problems, the Respondent shall enroll in an appropriate rehabilitation program, Board-approved in advance (the “Program”), as follows:
 - 1. Within 5 business days, the Respondent shall contact the Program to schedule an initial consultation for enrollment;
 - 2. Within 15 business days, the Respondent shall enter into a contract to receive rehabilitation services and comply with Program recommendations;
 - 3. The Respondent shall fully and timely cooperate and comply with all Program referrals, rules, and requirements, including, but not limited to, the terms and conditions of any rehabilitation agreement(s) entered with

the Program, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by the Program;

6. The Respondent's failure to comply with any of the above terms or conditions of any rehabilitation agreement(s) with the Program constitutes a violation of this Consent Order.

On September 14, 2023, a case resolution conference was held with the Respondent. The Respondent did not communicate her position with the State's recommendation. As a result of the Respondent's lack of communication and confirmation of her position, the matter was scheduled for an Evidentiary Hearing on October 12, 2023, at 2:30 pm, via Google Meet. The Respondent was served with a Notice of the Hearing via certified mail and email on September 20, 2023. On October 12, 2023, at approximately 10:45 am, the Respondent sent an email to the Board's Deputy Executive Director and the State, stating that she wished to voluntarily Surrender her license and to cancel the Hearing. The Board rescheduled the Hearing to November 9, 2023, at 2:30 PM, via Google Meet, sent the Respondent a draft of the Letter of Surrender, and requested that the Respondent confirm receipt and sign and notarize the Letter of Surrender by October 23, 2023. The Board's letter also included Notice of the Postponement of the Evidentiary Hearing to November 9, 2023, at 2:30 pm and informed the Respondent that failure to respond to the Board's letter by the deadline provided would be interpreted as a lack of agreement from the Respondent and the matter would proceed to a formal Evidentiary Hearing. The Respondent did not sign the Letter of Surrender and as of November 9, 2023, and has had no further communication with the Board or the State.

On November 9, 2023, a quorum of the Board was present via Google Meet and the evidentiary hearing was held. Anuj Patel, Administrative Prosecutor, was present and presented

the case on behalf of the State of Maryland. The Respondent was not present and was not represented by Counsel.

STATE’S EXHIBITS:

1. Respondent’s License Information
2. Order of Summary Suspension of License to Practice Podiatric Medicine, dated December 3, 2020
3. Consent Order, Case No. 2020-012, dated January 29, 2021
4. Evaluation Letter from Respondent’s Former Treatment Center¹ (“the Center”), dated March 1, 2021
5. Respondent’s Substance Use Records from the Center
 - a. Respondent’s Intake Form, dated March 1, 2021
 - b. Respondent’s Drug Abuse Screening Test Results, dated March 1, 2021
 - c. Respondent’s Michigan Alcoholism Screening Test (MAST) Results, dated March 1, 2021
 - d. Respondent’s Outcome Measurements System Results, dated March 1, 2021
6. Letter from the Respondent’s Case Manager (the “Case Manager”), dated May 4, 2021
7. Respondent’s Urinalysis Results, collected September 1, 2021
8. Transcript of Interview with Respondent’s Case Manager, dated August 17, 2021
9. Notice of Intent to Revoke, served on July 5, 2023, via personal service
10. Affidavit of Service, dated July 5, 2023
11. Respondent’s Request for Evidentiary Hearing, dated June 5, 2023

¹ Identifying information, including the names of treatment facilities, patients, and the Respondent’s medical providers have been redacted for confidentiality purposes.

12. Notice of Charges and Case Resolution Conference, dated March 6, 2023

13. Letter of Procedure Signed by the Respondent, dated March 6, 2023

FINDINGS OF FACT

The Board makes the following Findings of Fact:

I. BACKGROUND

1. The Respondent was originally licensed to practice podiatry in Maryland on May 31, 2007, under License Number 01453. The Respondent's license has been suspended since December 3, 2020.

2. On December 3, 2020, the Board summarily suspended the Respondent's license to practice podiatric medicine in the state of Maryland pursuant to its authority under Md. Code Ann., State Gov't § 10-226(c), concluding that the public health safety or welfare imperatively required emergency action. At the same time, the Board issued a *Notice of Intent to Revoke Licensure*, notifying the Respondent of its intent to revoke her license to practice podiatric medicine in the State of Maryland based on her violation of the Maryland Podiatry Act, Md. Code Ann., Health Occ. ("Health Occ.") §§ 16-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.).

3. The Board's *Order for Summary Suspension of License and Notice of Intent to Revoke Licensure* were based on allegations that the Respondent fraudulently wrote prescriptions for controlled dangerous substances to herself and a friend.

4. On January 29, 2021, the Respondent resolved the Order for Summary Suspension of License and the Notice of Intent to Revoke Licensure by entering into a Consent Order. In the Consent Order, the Board concluded as a matter of law that the

Respondent: personally used a controlled dangerous substance in violation of the law, in violation of Health Occ. § 16-311(a)(7); prescribed or distributed a controlled dangerous substance to any other person in violation of the law, in violation of § 16-311(a)(8); and behaved fraudulently, immorally, or unprofessionally in the practice of podiatry, in violation of § 16-311(a)(17).

5. As sanctions, the Board suspended the Respondent's license to practice podiatry in Maryland for a minimum period of two years subject to her compliance with certain terms and conditions that included, but were not limited to, that the Respondent shall undergo a substance abuse evaluation by an independent Board-approved evaluator. If the evaluator found that the Respondent had a substance abuse problem, she was to enroll in an appropriate rehabilitation program and fully cooperate with all program rules and requirements.

II. TREATMENT PROGRAM

6. On March 1, 2021, the Respondent presented to a drug counseling center (the "Center") for a substance abuse evaluation. The Respondent was diagnosed with opiate substance abuse use disorder, severe in reported early remission, and it was recommended that the Respondent enter a treatment program for 6 months. The treatment program included counseling and urinalysis testing. The Respondent began the treatment program on March 10, 2021.

7. On May 4, 2021, the Center sent the Board a letter to update the attendance and treatment process of the Respondent. The letter was written by the Respondent's case manager (the "Case Manager") at the Center who stated that the Respondent has been

demonstrating commitment to the program by her regular attendance, active participation, and open disclosure. The letter further stated “[h]owever, her first urinalysis taken on intake came back positive for Amphetamines and THC. This was confronted and she acknowledged inappropriate use of Adderall from a friend and Cannabis use for pain. Her plan is to acquire Medical Marijuana for the pain and to realize that any non-prescribed medication violates her contract.”

8. Based upon the letter sent from the Center to the Board, the Board initiated an investigation of the Respondent’s compliance with the treatment program.

III. BOARD INVESTIGATION

9. As part of its investigation, the Board obtained the Respondent’s treatment records from the Center and reviewed the letters sent from the Center to the Board. The treatment records included urinalysis testing of the Respondent.

10. On September 1, 2021, the Respondent underwent a urinalysis. The results showed that the Respondent tested positive for Amphetamine, Fluoxetine, THC, and Nor-Hydrocodone. The Respondent did not have a prescription documented by the Center for any amphetamine including Adderall. The Respondent also did not have authorization for the use of medical cannabis.

11. As part of its investigation, the Board’s investigator interviewed the Case Manager on August 17, 2022. The Case Manager stated the following:

- (a) The Respondent began testing positive on urinalysis for cannabis but did not have a medical cannabis card initially.

(b) The Respondent was initially to participate in a six-month treatment program but was changed to a twelve month program due to testing positive on urinalysis for amphetamine in March 2021. The Respondent admitted that she took medication from her friend, knew it was wrong, and made a mistake.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's conduct as described above constitutes violations of the Consent Order and a basis on which to revoke the Respondent's license. Specifically:

The Respondent's actions, as set forth above, including but not limited to, failing to comply with the terms and conditions of the rehabilitation agreement with the treatment program constitutes a violation of the Consent Order.

ORDER

Based on the foregoing, it is this 9th day of November, 2023, by the Board hereby:

ORDERED that the Respondent's license to practice podiatric medicine is hereby **REVOKED** upon the Order being executed; and it is further

ORDERED that this is a Final Order and as such is a **PUBLIC RECORD** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101-4-601 (2019).

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 17-512(b), the Respondent has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the

date of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222; and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondent files an appeal, the Board is a party and should be served with the court's process at the following address:

Eva Schwartz, Executive Director
Maryland State Board of Podiatric Medical Examiners
4201 Patterson Avenue, Room 310
Baltimore, Maryland 21215-2299
Fax: (410) 358-1610

At that point, the Administrative Prosecutor is no longer a party to this case and need not be served or copied.

12/19/2023

Date



Aparna Duggirala, D.P.M.
Board President
Maryland State Board of
Podiatric Medical Examiners