

Board action started 15 years ago. They combined 3 issues into one action. The main issue was over prescribing opioids. The other 2 issues were related to my opinion on a malpractice case and a patient visit at the hospital. After several years of reviewing my records, appeals, Board meetings and an administrative law judge hearing, I was given a 6-month suspension which was reduced to 5 weeks by accomplishing CME, ethics training and charting training. It was followed by a 3-year probation.

But during the process of this first case, a second case was opened that involved my purported over prescribing opioids. My lawyer asked that these cases be combined but that request was denied. That made me go through the process twice for the same issues. The second hearing ended, and I was given a letter of reprimand.

During my probation, the Board decided I had not changed enough, and I had to go through a third trial for violation of my probation. I was found guilty of a violation of probation. This time I was given another 18 months of probation and was ordered to be monitored by a pain specialist and psychiatrist. I complied with this order. It cost me 50,000 dollars. Both doctors wrote letters stating I was practicing standard of care.

Before the Board could vote to allow me off probation, a complaint was received by the Board about my care. The patient had died 6 months before (unrelated to my care) and the complaint came from a ex-girlfriend who had not been around for 5 years. I don't understand how she had any standing to complain, but the Board used this opportunity to prolong my probation, which is at 6 ½ years and counting. They also asked for 20 more charts. These charts were reviewed by 2 pain specialist and 2 addiction specialists. This has led to the Board taking away my ability to write opioid medication and another hearing that will take place in March.

The Board also sent a complaint to Medicaid in July of 2019. Medicaid sent me a letter stating they had a credible complaint that I had committed Medicaid fraud regarding my pain management patients. They would withhold my reimbursement until the investigation was completed. They are now holding 30,000 dollars. When I asked what I had done, they would not tell me. They would not respond to my lawyer's written request so we could appeal. It is 7 months later, and I still don't know what I did and I see no way to find out or get my money released.

The consequences to all this Board action have been enormous

300,000 thousand in legal fees

100,000 thousand in consultant and monitoring fees

Loss of all insurance contracts except Medicare and Medicaid (MCOs that control most of Medicaid have disenrolled me)

Loss of Medical Mutual

Loss of accreditation as a medical director for nursing homes.

Loss of attending status at 3 nursing homes

Loss of 80% of my outpatient practice which led to shrinking my outpatient office to 2 half days and eliminated jobs for 2 out of my 3 employees.

Hundreds of thousands of dollars of lost revenue.

I have had to exclude myself from a recovery residence that my wife and I have invested a million dollars because of my reputation.

Stress on family, staff and patients and much more

This is despite the CDC writing a letter in 2019 admonishing Boards to not taper pain medication on patients who were stable. This was reiterated by HHS in 2019.

Despite 2 doctors who monitored me for 18 months writing letters I was practicing standard of care.

Despite the 2 pages of changes I have made to my practice to try and comply with the Board.

Despite no evidence that my patients have been harmed by care. In fact, the opposite has been proven. All my patients were doing very well under my care.

Despite the fact I was getting a 90% success rate in treating opioid addiction.

Despite I am in a rural county which has a dearth of physicians already. The Health officer of my county is angry and frustrated with the Board. He has had a very difficult time finding doctors to take care of this rural population and now has been losing doctors to Board actions. I have been practicing in my county for 35 years and now I have to severely limit my practice because of Board actions.

In addition, I believe the Board has put the patients of Maryland in danger.

They have created an environment where doctors are afraid to treat patients and therefore patients with legitimate pain are suffering

They crossed a line when they put 350 patients that were seeing me for pain or addiction out onto the street. I was given no notice that I could not write opioids. I received a cease and desist order on August 17th. Patients the next day could not get their needed prescription. My lawyer called the Board to see what plans they had for these patient's care and they had none. My lawyer asked for me to have 2 months to transition patients to a different provider and that request was denied. Effectively, the Board made me abandon these patients knowing they had no time to adjust. I think this would be malpractice if a physician did this on his own.

Plus, there is an issue with conflict of interest. The Board chairman and at least one Board member are pain specialist. Every doctor who is convicted means more patients for them and more importantly the thousands of doctors who are frightened enough to not do pain management means more patients for them.

I have had time and experience to see if there are possible changes that could allow the Board to fulfill their mandate to keep patients safe without punishing doctors.

- 1. The goal of the Board should be remediation not punishment**
- 2. The legal standard should be changed from preponderance of evidence (51%) to clear and convincing (75%).** It does not need to be beyond a doubt (98%). This makes decisions more than

just their expert vs my expert. The burden is higher to prove harm or substandard care but if there is a real problem this should be easy to accomplish. This will stop borderline cases from ruining doctors and their patients care.

3. **Standard of Care should not be used to judge doctors.** Standard of Care is a poor measuring stick to mete out punishment to doctors. It is constantly changing, it is nebulous and capricious, at any given time there are multiple standards that can be used. It should not be used because it is vague and in the case of doctors treating patients with chronic pain it is being manipulated to harm the doctor. But if it standard of care needs to be the bench mark, then if a doctor breaches the current standard of care it should not invoke a suspension or probation. It should invoke the appointment of a mentor for 6 months to a year.
4. **Suspension should only be for doctors who have negligently harmed their patients, committed criminal acts, committed inappropriate acts with their patients or operated under the influence of a mind altering substance.**
5. Probation has become a horrible punishment. It should follow the completion of their suspension but **probation should not be more than a year.** The consequences of probation are far beyond what the Board intended. Malpractice will no longer write a policy, all insurance companies will no longer let you on their panels, many physician organizations will deactivate your membership, many corporations will terminate your contract, if you are on probation. This is a ridiculous punishment. The Board has many other ways to ensure compliance. There is nothing that happened while I was on probation that they couldn't have ordered at any time to any physician. Probation complicated my professional career for no good reason.
6. **Probation should never be used for supposed breaches of standard of care** (for the reasons stated above). Remediation should be the goal and probation inhibits this because the physician is encumbered with all the consequences of a probationary status.
7. **There should be an arbitration panel within Med Chi that can filter complaints that are malicious, inaccurate or there is a conflict of interest.** These types of complaints should never reach the Board.
8. The Board limit of 15 minutes for arguments is insufficient and should be at least an hour. At Board hearings a limit of 15 minutes is ridiculous. Your entire career is based on that hearing and 15 minutes is insufficient. I would agree a time limit is necessary. **There should be a limit of one hour for Board arguments.**
9. **Consultants for the State should have to disclose their fee and how many times they have testified against other doctors.**
10. Because the legal process of a complaint can be slow, **a consultant cannot use a current standard of care to judge a doctor about past practices.**
11. **The Board notifications should come by registered mail.** The actions should not start until the registered letter is delivered, not when they wrote the letter. There can be significant delay between the time a letter is written and the doctor opens it.
12. **There should be a plan in place for patient care when a doctor's license is limited or taken away by Board action.** When the Board suspends a doctor, thousands of patients can be hurt with their doctor suddenly not able to practice or write prescriptions. There should be a plan, ahead of time, to deal with a doctor not being able to practice. There should be a patient-oriented plan so the patients do not have to scramble to find a new source for medical care.

13. **The Board votes should be written not oral.** In a group, if one person votes guilty there is a tendency for the others in the group to vote along with that person. In a written vote there is no influence from the other members and there will be less group bias.
14. **There needs to be an overseeing organization that monitors the Board.** Currently they wield their power with impunity with no checks or balances. There needs to be some committee or judicial process to appeal the verdict. Currently, a physician can only appeal the process the Board went through. The physician cannot appeal the verdict. This gives all the power to the Board and essentially takes away all the judicial rights of appeal the physician has.

I hope this information is of some use to you. I would love to meet with you and/or testify at your committee hearing about the Board. I believe this topic is of utmost importance for the patients of Maryland. I recognize that any action that is taken will not help me but if it helps future doctors and the patients they take care of that will have its own reward.

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