

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF MEDICINE**

**In re:**

**CYRIL A. ALLEN, M.D.**

**License No.: MD033401**

**Respondent**

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**CONSENT ORDER**

This matter comes before the District of Columbia Board of Medicine (the “Board”) pursuant to the Health Occupations Revision Act (HORA). D.C. Official Code § 3-1201.01,

*et seq.* (2012 Repl.). The HORA authorizes the Board to regulate the practice of Medicine in the District of Columbia. The Board has broad jurisdiction to regulate the practice of medicine and to impose a variety of disciplinary sanctions upon a finding of a violation of the HORA. D.C. Official Code, § 3-1205.14; *Mannan v. District of Columbia Board of Medicine*, 558 A.2d 329, 333 (D.C.1989). The Council of the District of Columbia, in amending the HORA, “intended to strengthen enforcement of its licensing laws.” *Davidson v. District of Columbia Board of Medicine*, 562 A.2d 109, 113 (D.C.1989). And the HORA “was designed to ‘address modern advances and community needs with the paramount consideration of protecting the public interest.’” *Joseph v. District of Columbia Board of Medicine*, 587 A.2d 1085, 1088 (D.C.1991) (*quoting* Report of the D.C. Council on Consumer and Regulatory Affairs on Bill 6-317, at 7 (November 26, 1985)) (emphasis added by court)).

## **Background**

The Respondent has been licensed in the District of Columbia to practice medicine since February 1, 2002. Since then, Respondent has practiced medicine in the District without formal disciplinary action.

On June 10, 2015, the Department of Health's General Counsel received an emailed complaint from the General Counsel of United Medical Center alleging that, in October of 2014, Respondent and a nurse-practitioner ("Nurse-Practitioner N-W") began clinical evaluations of private patients for medical marijuana use at United Medical Center under the name "Metropolitan Wellness Center" ("MWC").

The complaint alleged that at least some of the patients being evaluated by Respondent and Nurse-Practitioner N-W were being referred to their MWC clinic from a District of Columbia medical marijuana dispensary also named "Metropolitan Wellness Center." Further, the complaint alleged that personnel from the MWC dispensary would be physically present in the MWC clinic during its hours of operation in order to collect and retain patient intake information and cash payments from the-patients.

The Boards of Medicine, Nursing, and the Department of Health's Pharmaceutical Control Division conducted a joint investigation into the matter. The investigation indicated the following:

- Dr. Allen conducted a medical marijuana program at his clinic, Metro Health Services. The medical marijuana evaluations at the Metro Health Services clinic were conducted almost exclusively by Nurse-Practitioner N-W. Nurse-Practitioner N-W entered the patient recommendations for medical marijuana into the Medical Marijuana Program ("MMP") database by using Respondent's name and his assigned Recommendation Number. Respondent admitted to knowing of and authorizing Nurse-Practitioner N-W to submit medical marijuana recommendations for patients to the MMP under his credentials.

- As of September 2, 2015, approximately 677 patients had been recommended for medical marijuana by Nurse-Practitioner N-W under Respondent's credentials. Respondent did not evaluate the vast majority of those patients, nor did he review and co-sign the patient evaluations conducted by Nurse-Practitioner N-W. Rather nearly all of the physical examinations, assessments and recommendations for the MMP were made by Nurse-Practitioner N-W. Nonetheless, Respondent authorized the use of his credentials to recommend 677 District citizens for medical marijuana.
- The recommendation form for MMP requires the *recommending physician* to attest that he has a *bona fide* physician-patient relationship with the qualifying patient being recommended, that he has completed a full assessment of the patient's medical history and current medical condition (including a personal physical examination), and that he recommends the qualifying patient for medical marijuana based on his assessment of the patient's medical history, current medical condition, and a review of other approved medications and treatments that might provide the patient with relief from the condition or the side effects of its treatment. Respondent had not personally examined the patients who were recommended to MMP by Nurse-Practitioner N-W under his credentials. Instead, Respondent improperly relied on his understanding of the general Standards of Practice for nurse-practitioners in the District of Columbia, and failed to adhere to the stricter standards that are applicable for the MMP.
- Respondent acknowledged that Nurse-Practitioner N-W did not consult with him prior to submitting every recommendation to the MMP. Respondent did not co-sign the patient evaluations made by or discussed with Nurse-Practitioner N-W. Furthermore, in permitting the use of his name and credentials to recommend the patients, Respondent attested that he 1) had a *bona fide* physician-patient relationship with the qualifying patient being recommended, 2) completed a full assessment of the patient's medical history and current medical condition (including a personal physical examination), and 3) recommended the qualifying patient for medical marijuana based on his assessment of the patient's medical history, current medical condition, and a review of other approved medications and treatments that might provide the patient with relief from the condition or the side effects of its treatment. The aforementioned requirements, as they specifically relate to the MMP, are not subject to delegation by physicians to nurse practitioners under District of Columbia law. Respondent, therefore, improperly attested to fulfilling these requirements.
- Of the forty-nine (49) patient files copied by the Board's investigator during the investigation, forty-six (46) of them contained a treatment plan that indicated simply "Rec." or "Recommend" [for MMP]. The remaining three (3) files did not have any treatment plan at all. Additionally, only seven (7) included any

documentation to support the patient's chief complaint or assessment, none of which were tests or labs requested by Metro Health Service.

- Patients who arrived at the Metro Health Services clinic without an appointment for a medical marijuana evaluation were directed to contact the MWC dispensary to arrange for their appointment at the clinic.
- MWC dispensary employees were physically present in Respondent's Metro Health Services clinic and actively facilitated through the evaluation process. The dispensary employees guided their clients by booking the clients' appointments, performing client intake, copying the clients' identification and insurance cards, instructing clients to bring their medical records to the appointment, and collecting cash from the clients for the evaluation payments.
- MWC dispensary employees would collect cash from the clients and, at the end of the shift, disburse the recommendation fees to Nurse-Practitioner N-W, who made the recommendations. Nurse-Practitioner N-W charged \$50 for each medical marijuana evaluation of an insured patient and \$100 for each uninsured patient. Payments for the evaluations were received only if the evaluation resulted in recommending the patient for medical marijuana.

### **Conclusions of Law**

The Board is authorized to sanction Respondent under the HORA for his actions, which are related to the practice of medicine. The HORA provides, in pertinent part:

Each board, subject to the right of a hearing as provided by this subchapter, on an affirmative vote of a quorum of its appointed members may take one or more of the disciplinary actions provided in subsection (c) of this section against any applicant for a license, registration, or certification, an applicant to establish or operate a school of nursing or nursing program, or a person permitted by this subchapter to practice a health occupation regulated by the board in the District who:

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(24) violates any provision of this chapter or rules and regulations issued pursuant to this chapter;  
D.C. Official Code § 3-1205.14(a) (24); and

(25) violates any District of Columbia or federal law, regulation, or rule relate to the practice of a health care profession or drugs, . . . [.]

D.C. Official Code-§ 3-1205.14(a) (25)

Respondent has violated D.C. Official Code § 7-1671.04 (2012 Repl.) and 22-C DCMR §§ 800 – 801 which establish the requirements of a recommending physician for the MMP. Between September 25, 2014 and September 2, 2015, Respondent recommended at least 667 individuals for medical marijuana. Respondent, however, delegated key responsibilities to Nurse-Practitioner N-W, which District law does not permit within the MMP. Accordingly, for purposes of the MMP, Respondent did not have a bona fide physician-patient relationship with the individuals for whom a recommendation was made; did not perform a complete assessment of the individual's medical history, current medical condition, or perform physicals for the vast majority of the individuals for whom a recommendation for medical marijuana was made. Respondent's mistaken belief that his actions were consistent with the Standards of Practice for nurse practitioners in the District of Columbia is no defense. Accordingly, Respondent's conduct described above provides the Board with a basis in fact and law to warrant disciplinary action.

In addition, Respondent has violated D.C. Official Code § 3-1210.04 (2012 Repl.) in that he allowed Nurse-Practitioner N-W to use his name and credentials when recommending patients for the MMP. Respondent's actions, thus, created the impression that he had personally made the MMP recommendation. In doing so, these MMP recommendations did not comply with 22-C DCMR § 800.1. In these instances, the Respondent could not attest, consistent with the regulations of the MMP, that he: had a

bona-fide physician-patient relationship with the patients; had completed a full assessment of the patient's medical history and current medical examination, including a personal physical examination; or was responsible for the ongoing care and treatment of the patient, not limited to the provision of medical marijuana.

**ORDER**

ACCORDINGLY, based upon the foregoing, it is by the District of Columbia Board of Medicine hereby,

**ORDERED**, that the Respondent is placed on PROBATION for a period of not less than one (1) year; and

**ORDERED** that the Respondent shall pay a fine of \$1,000.00 (one thousand dollars); and it is further

**ORDERED**, that the fine imposed herein shall be made by check payable to: D.C. Treasurer , c/o Lisa Robinson, Health Licensing Specialist, D.C. Board of Medicine, 899 North Capitol Street, NE, 2<sup>nd</sup> Floor, Washington, D.C. 20002; and it is further

**ORDERED**, that the fine imposed herein shall be paid within 30 days of the effective date of this Consent Order; and it is further

**ORDERED** that the Respondent is RESTRICTED from participation in the Medical Marijuana Program for one (1) year from the effective date of this Consent Order; and it is further

**ORDERED** that Respondent is RESTRICTED from supervising any advance practice clinician ("APC") to include Physician Assistants, Advance Practice Registered Nurses, or others, for a period of one (1) year; and it is further

**ORDERED** that before Respondent can resume any supervision of an APC he must have completed thirty (30) Continuing Medical Education (CME) credits that specifically address ethics, delegated authority and practice management, and these thirty CME are in addition to the fifty (50) CME required of every physician pursuant to ongoing licensing; and it is further

**ORDERED**, that upon resumption of supervision of APCs the Board may order an audit of Respondent's records and practice of supervision after six months of resuming supervision; and it is further

**ORDERED** that upon completion of the terms of this Order and after a minimum of one year has passed that Respondent may petition the Board to lift the probation; and it is further

**ORDERED** that any violation of this Order may constitute grounds for suspension or revocation of Respondent's license, after due notice and hearing. In the event Respondent violates this Order, an administrative proceeding may be convened to determine whether such action is warranted; and it is further

**ORDERED**, that Respondent shall maintain a course of conduct in his practice of medicine commensurate with the requirements of all laws and regulations of the District of Columbia regarding the practice of medicine.

**ORDERED**, that this is a public document.

DISTRICT OF COLUMBIA BOARD OF MEDICINE



*MD Denson*

Date

By: Janis M. Orlowski, M.D., M.A.C.P.  
Chairperson

*for Dr. Orlowski*

## CONSENT OF RESPONDENT

- My signature on the foregoing Consent Order signifies my acceptance of the terms and conditions of the Consent Order and my agreement to be bound by its provisions.

CA (initial)

- I acknowledge the validity of this Consent Order, as if made after a hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other substantive and procedural due process protections provided by the laws of the District of Columbia and the United States of

America. CA (initial)

- I also recognize that I am waiving my right to appeal any adverse ruling of the Board had this matter gone to a hearing. CA (initial)

- I expressly acknowledge that by signing this Consent Order, I am voluntarily waiving my right to require the Board to charge me through a notice of intent to take disciplinary action with a violation of this agreement and to require the government to prove such violation by a preponderance of the evidence before suspending my license based upon the failure to satisfactorily fulfill the terms of the Consent Order. CA

(initial)

- I also expressly acknowledge by signing this Consent Order, I am waiving my right to confront witnesses, give testimony, to call witnesses on my behalf, and to other substantive and procedural due process protections provided by the laws of the District of Columbia and the United States of America. CA (initial)



- I further expressly acknowledge that by signing this Consent Order, I am waiving my right to appeal this Consent Order, as well as waiving any and all rights, whatsoever, I would have to challenge or appeal that Board's decision to suspend my license based on the failure to satisfactorily fulfill the terms of the Consent Order. CA (initial)
- I acknowledge that in the event that the Board suspends my license based on the failure to satisfactorily fulfill the terms of the Consent Order, my sole remedy and recourse will be to respond within the time period set forth in this Consent Order with proof of my compliance and that if I fail to do so, my sole remedy and recourse will be to comply with the terms of this Consent Order to the satisfaction of the Board. CA (initial)
- I have had an opportunity to review this document and to consult with my own legal counsel. I choose willingly to sign this Consent Order, and I understand its meaning and effect. CA (initial)

Cyril Allen  
 Cyril A. Allen, M.D.  
 License No.: MD033401

Dated: 3/6/2019

Sworn to and subscribed before me this 6 day of March, 2017.

Jean Jackson  
 Notary Public

My Commission Expires May 31, 2019



**This Consent Order shall be deemed a public document and shall be distributed as appropriate.**