

IN THE MATTER OF

* BEFORE THE

PAUL V. BEALS, M.D.

* STATE BOARD OF PHYSICIAN

RESPONDENT

* QUALITY ASSURANCE

License Number: D25922

* Case Number: 85-0081

* * * * *

MODIFICATION BY CONSENT TO CONSENT
ORDER OF NOVEMBER 10, 1993

On June 21, 1988, the Commission of Medical Discipline (the "Commission")¹ executed a non-public Disposition Agreement ("the Agreement") in which Paul V. Beals, M.D., (the "Respondent") was required to comply with terms and conditions imposed by a Consent Order attached to the Agreement. The Agreement served to resolve charges against the Respondent for alleged violations of the Maryland Medical Practice Act ("the Act"), Health Occupations Article § 14-504 (4), (11) and (18).²

On October 23, 1991, the State of Maryland Board of Physician Quality Assurance (the "Board"), successor to the Commission, voted to charge the Respondent with a violation of the Agreement/Consent Order. The Board issued a charging document on or about March 1, 1993, and, subsequently, the charges were resolved by a Consent Order (the "Consent Order")

¹ The Commission on Medical Discipline of Maryland was the predecessor agency to the Board of Physician Quality Assurance which was created when the 1988 General Assembly, by Senate Bill No. 508 and House Bill No. 855, merged the functions of the former Commission on Medical Discipline and the former Board of Medical Examiners into the present Board of Physician Quality Assurance.

² Codified in 1987 as H.O. § 14-504 (4), (11) & (18), later amended by Ch. 109, § 1, Acts 1988, effective July 1, 1988, as H.O. § 14-504 (a) (4), (10) & 17), and presently codified as H.O. § 14-404 (a) (4), (10) & (17) with substantive language unchanged from the 1987 codification and the July 1988 amendment.

dated November 10, 1993.³ Under the terms and conditions of the Consent Order, the Board suspended the Respondent's license to practice medicine in the State of Maryland for a period of three (3) years, stayed the suspension, and imposed a probationary period of three (3) years. In addition, the Consent Order prohibited the Respondent from performing certain procedures; further provided that the Respondent shall not perform or order tests which are not medically indicated; and ordered that the Respondent would undergo peer review.

On July 26, 1996, the Board issued a Modified Order⁴ permitting the Respondent to perform a certain treatment which he had previously been prohibited from performing.

In furtherance of the 1993 Consent Order, peer reviews were performed in 1997 and 1998, as described in detail below. Subsequent to the 1998 peer review report which contained findings of breaches in the standard of care, as described below, on or about February 24, 1999, the Board charged the Respondent, Paul V. Beals, M.D. (D.O.B. 4/15/43), License Number D25922, with a violation of probation based upon the 1998 peer review report, and with violations of the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") § 14-404 (1994).

The Board charged that the Respondent violated the terms of probation of the 1993 Consent Order based upon the 1998 peer review report which contained findings of treatment below the standard of care.

³ The November 10, 1993 Consent Order is incorporated herein by reference and available upon request.

⁴ The July 26, 1996 Modified Order is incorporated herein by reference and available upon request.

1993 Consent Order, ¶ 5a, p 12; ¶ 10, pp. 16 - 17.

The Board further charged that the Respondent violated the following pertinent provisions of H.O. § 14-404 which provide:

(a) Subject to the hearing provision of § 14-405 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may reprimand any licensee, place any licensee on probation, or suspend, or revoke a license if the licensee:

- (19) Grossly overutilizes health care services; and
- (22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State.

Prior to the filing of a formal charging document, a Case Resolution Conference (“CRC”) was held on August 11, 1999. As a result of the CRC, and the negotiations entered into between the Office of the Attorney General, by Jean Baron, Assistant Attorney General, Administrative Prosecutor, and the Respondent, represented by Burt M. Kahn, Esquire, the Respondent agreed to enter into the following Modification by Consent to Consent Order of November 10, 1993 (the “Modification by Consent”) according to the terms set forth herein.

FINDINGS OF FACT

1. At all times relevant to this Modification by Consent, the Respondent was and is licensed to practice medicine in the State of Maryland. He was initially licensed in Maryland on December 18, 1980.

2. During the times relevant hereto, and to the present time, the Respondent maintained and does maintain an office for the practice of medicine located at 9101 Cherry Lane, #205, Laurel, Maryland.

3. After an interval and in furtherance of the peer review provision of the 1993 Consent Order, the Board referred the case to the Medical and Chirurgical Faculty of Maryland "Med-Chi") to conduct a practice review.

4. The Med-Chi Peer Review Committee ("PRC") conducted the review and issued a report dated July 31, 1997 in which the peer reviewers found that the overall care rendered by the Respondent met the standard of care, but raised some concerns, one of which was the use of follicle stimulating hormone ("FSH") testing.

5. Because of the FSH concerns, Med-Chi, through the PRC, performed another peer review, focusing upon the FSH testing.

6. The Med-Chi PRC issued a report dated December 21, 1998, in which the reviewers found that the Respondent breached the standard of care in fifteen (15) of the sixteen (16) female patients reviewed, Patients 1 through 9, and 11 through 16,⁵ because the Respondent utilized FSH testing to monitor hormone levels in the 15 patients whom the Respondent had placed on plant-derived hormone replacement therapy. The peer reviewers found that the use of FSH to monitor dosages of hormone replacement therapy is not the standard of care and is not used to determine the course of hormone replacement therapy.

⁵To ensure confidentiality, patient names are not set forth in this document.

7. On or about February 24, 1999, based on the findings contained in the 1998 peer review report as described above, the Board voted to charge the Respondent with a violation of probation of the 1993 Consent Order, and with a violation of H.O. § 14-404 (a) (19) and (22) on overutilization and standard of care issues respectively for the use and frequency of FSH testing.

CONCLUSIONS OF LAW

The Board incorporates by reference those Conclusions of Law set forth in the Consent Order dated November 10, 1993.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 20th day of October, 1999, by the State of Maryland Board of Physician Quality Assurance.

ORDERED that the **Consent Order dated November 10, 1993**, be and it is hereby **MODIFIED BY CONSENT** as set forth below; and it is further

ORDERED that as of the effective date of this Modification by Consent to Consent Order of November 10, 1993, (the "Modification by Consent"), that date being the date on which the Board executes this document, that:

1. Dr. Beals will continue to no longer, and shall not, perform Follicle Stimulating Hormone (“FSH”) testing in his own office laboratory; and
2. Prior to any FSH testing, Dr. Beals shall provide a Board-approved Patient Disclosure Form⁶ to all patients undergoing plant-derived or non-prescription hormone replacement therapy, in which the Respondent shall inform patients, among other things, that:
 - a. it is not standard procedure to utilize FSH testing to determine a response to hormone replacement therapy; and
 - b. the number of FSH tests will be limited to not more than one (1) per year unless dosage or symptomatology changes occur; and
3. The Respondent shall not utilize FSH testing to titrate hormone levels in patients who are receiving prescription or pharmaceutically manufactured hormone replacement therapy except to determine the onset of menopause; and
4. The Respondent shall undergo an additional peer review by an appropriate peer review society, or a chart review by a Board designee to be determined at the Board’s discretion. Any review as to FSH testing will be limited to treatment rendered to patients after the effective date of this Modification by Consent. If a chart review is conducted by a Board designee, then the Board may, in its

⁶ Attached is a copy of the Board-approved Follicle Stimulating Hormone Patient Disclosure Form. Board approval of a patient disclosure form does not constitute an endorsement of any medical treatment, regimen or practitioner.

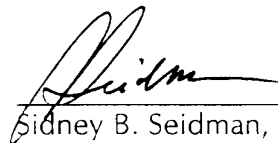
discretion, recommend further peer review by an appropriate peer review society; and

- a. The peer reviewers or the Board designee shall be provided with the November 1993 Consent Order, the 1996 Modified Order, this 1999 Modification by Consent and a copy of all patient disclosure forms prior to conducting any review; and
5. The Respondent's period of probation shall continue accordingly; and
6. Termination of probation shall be contingent on successful completion of either a chart review conducted by the Board or its designee, or a review conducted by an appropriate peer review society.

AND IT IS FURTHER ORDERED that all other conditions of the Consent Order of November 10, 1993, except for those addressed in the Modified Order dated July 26, 1996, and this 1999 Modification by Consent, shall remain unmodified and in full force and effect; and it is further

ORDERED that this Modification by Consent to Consent Order of November 10, 1993 is a **PUBLIC** document pursuant to Maryland Code Ann., State Gov't. § 10-611 et. seq. (1995).

10/20/99
Date


Sidney B. Seidman, M.D., Chair
Board of Physician Quality
Assurance

CONSENT

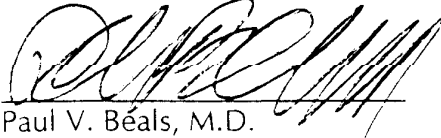
I, Paul V. Beals, M.D., acknowledge that I am represented by legal counsel, and I have had the opportunity to consult with counsel before entering into and signing this document. By this Consent, and in order to resolve this matter, I agree to accept the Findings of Fact and Conclusions of Law contained herein. Accordingly, I accept and submit to the foregoing Modification by Consent to Consent Order of 1993 consisting of nine (9) pages.

I acknowledge the validity of this Modification by Consent to Consent Order of 1993 as if entered 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 provided by the laws of the State of Maryland. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

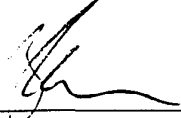
I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Modification by Consent to Consent Order of 1993.

I sign this Modification by Consent without reservation as my voluntary act and deed after consulting with counsel, and I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Modification by Consent to Consent Order of 1993.

9/27/99
Date


Paul V. Beals, M.D.

Read and Approved:
10/4/99
Date


Burt M. Kahn, Esquire
Attorney for Respondent

STATE OF MARYLAND

CITY/COUNTY OF Prince Georges

I HEREBY CERTIFY that on this 27th day of September, 1999, before me, Notary Public of the State and City/County aforesaid, personally appeared Paul V. Beals, M.D., and made oath in due form of law that the foregoing Consent was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Timothy Dudley
Notary Public

My Commission Expires: 5/5/2001