IN THE MATTER OF:

JONAS JOHN VARALY, D.O.
License No. MDO.1623
OIE # 2015-338

Respondent.

This matter came before the State Board of Medical Examiners for South Carolina (“Board”) for a closed hearing on May 1, 2017, to consider the Memorandum of Agreement and Stipulations signed by the above named respondent (“Respondent”) on April 27, 2017 (“MOA”).

In the MOA, Respondent acknowledged the State was prepared to file a Formal Complaint, and Respondent waived the authorization and filing of a Formal Complaint as well as formal hearing procedures and elected to dispose of the matter pursuant to S.C. Code Ann. § 1-23-320(f) (1976, as amended) in lieu of, inter alia, a Panel Report of the Medical Disciplinary Commission. Additionally, in the MOA Respondent waived the right to thirty days' notice of the hearing.

A quorum of the Board was present. Patrick D. Hanks, Esquire, Chief Disciplinary Counsel, represented the State. Respondent appeared and was represented by Sherri Lydon, Esquire. The hearing was held pursuant to S.C. Code Ann. §§40-1-90, 40-47-116 and the provisions of the Administrative Procedures Act, S.C. Code Ann. §1-23-10, et seq. (1976 as amended) to determine what sanctions, if any, were appropriate. After due consideration, the Board decided to impose the sanctions stated in this Order.

The Board considered the facts stipulated in MOA and the exhibits thereto, the admissions of violations in the MOA, the testimony of Respondent, and the Affidavit of an Investigator with the Office of Investigations and Enforcement, South Carolina Department of Labor, Licensing and Regulation, which set forth a good faith estimate of investigative costs of Six Hundred and 00/100 ($600.00) Dollars incurred in the investigation of this matter.

EVIDENCE

State’s Exhibit #1 – Affidavit of Costs
State’s Exhibit #2 – MOA and all Exhibits thereto
FINDINGS OF FACT

1. Respondent stipulated in the MOA to the following, which the Board adopts:
   a) Respondent graduated from the Lake Erie College of Osteopathic Medicine in 1996 and is Board Certified in Emergency Medicine. Respondent was issued a South Carolina medical license on September 20, 2012. At all times relevant to this matter, he was employed at Piedmont Medical Center (“PMC”), Rock Hill, South Carolina via Locum Tenens (Appollo MD). Respondent was married at all times relevant to this matter and continues to be married. Respondent has no blemishes on his record prior to the current incidents which are the subject of this complaint.
   b) During Respondent’s employment at PMC, he admits that he prescribed One Hundred and Fifty (150) tablets of Clonazepam (1mg) to a co-worker. Respondent also prescribed sixty (60) tablets of Clonazepam (1mg) and six (6) tablets of Hydrocodone (5-325mg) to an additional co-worker.
   c) Respondent prescribed both co-workers benzodiazepines and antidepressants for a period of approximately three (3) months. He conducted a brief history on these co-workers and it supported findings of depression and anxiety.
   d) Respondent admits to prescribing Phentermine, including one (1) refill to a friend’s spouse without performing any physical examination and proper documentation. Respondent also admits he wrote himself a prescription for Sulfasalazine. Respondent wrote a total of thirty-one (31) non-controlled prescriptions for his personal use.
   e) In Fall 2013, Respondent developed a romantic relationship with an individual that extended over a one (1) year period. Documentation showed Respondent prescribed the individual pain medications and benzodiazepines, including Ambien, Zoloft, Clonazepam, Percocet, and Xanax between May 30, 2014 and March 17, 2015.
   f) In July 2015, at least eight months after the relationship ended, Respondent admits the individual was hospitalized at PMC for depression, anxiety and taking significant amounts of medications, including Benadryl and Xanax. During the individual’s hospitalization, she disclosed her prior relationship with Respondent in answers to the admitting psychiatrist’s questions about her history of medications. Consequently, Respondent states he voluntarily resigned from PMC.
   g) Respondent admits that, because of an earlier prescription which allowed for refills,
he prescribed the individual two (2) benzodiazepines after her hospitalization. Respondent admits he approved early refills and the prescriptions probably overlapped.

h) In an effort to take corrective action, Respondent completed a Continuing Medical Education on Medical Ethics and Professionalism at Case Western Reserve University.

2. At the hearing, Respondent testified that he fully owns what he did and that he exercised poor judgment and poor behavior. He further indicated that he wants to continue to show the Board, the State, his coworkers, and his colleagues that he can practice medicine in an appropriate manner and that he will not make any mistakes like this again.

3. The Board also heard the testimony from Respondent’s colleague/proposed supervising physician, who testified that Respondent is a wonderful physician and that he has no doubts about his competency and character.

CONCLUSIONS OF LAW

1. Respondent admitted in the MOA that his conduct in this matter constitutes sufficient grounds for disciplinary or corrective action under South Carolina Code of Laws Ann. § 40-1-110, et seq. and South Carolina Code of Laws Ann. § 40-47-110 et seq. in the following particulars:

   a) Respondent violated S.C. Code Ann. § 40-47-110(B)(9) in that Respondent engaged in dishonorable, unethical, or unprofessional conduct that is likely to either deceive, defraud, or harm the public; and

   b) Respondent violated S.C. Code Ann. § 40-47-113(A) in that it is unprofessional conduct for a licensee to initially prescribe drugs to an individual without first establishing a proper physician-patient relationship.

2. The Board has jurisdiction in this matter and, upon finding that a licensee has violated any of the provisions of S.C. Code Ann. § 40-47-110 and 40-1-110 (2011), has the authority to cancel, fine, suspend, revoke, issue a public reprimand or private reprimand, or restrict, including probation or other reasonable action, such as requiring additional education or training or limitation on practice, the authorization to practice of a person who has engaged in misconduct. Additionally, the Board may require the licensee to pay a fine of up to twenty-five thousand dollars. S.C. Code Ann. §40-47-120 (2011).

3. Additionally, the Board may require the licensee to pay the costs of the disciplinary action. S.C. Code Ann. §§ 40-1-170 and 40-47-170 (2011).
4. The Board takes prescribing matters very seriously and is concerned with Respondent’s prescribing habits in this matter. The Board concludes that Respondent’s actions warrant a suspension of two years, with said suspension immediately stayed upon Respondent’s compliance with certain probationary conditions. In determining the appropriate probationary conditions, the Board concludes that it would be appropriate to impose the following conditions: that Respondent not prescribe to himself, friends, or family members; that Respondent maintain a written prescribing log, which may be in the form of reports generated from the Prescription Monitoring Program; that Respondent practice under the guidance of a supervising physician, with quarterly reports from the supervising physician to be submitted to the Board; and that Respondent engage in additional medical education by completing ten (10) hours of CME courses, including courses on ethics and prescribing (such courses shall not count towards Respondent’s statutorily-required CME requirements for renewal) for each year of Respondent’s two year probation, as well as an additional record-keeping course. Further, the Board concludes that Respondent should be publicly reprimanded and that he should pay the costs of Six Hundred and 00/100 ($600.00) incurred in the investigation of this matter.

5. The sanction imposed is consistent with the purpose of these proceedings and has been made after weighing the public interest and the need for the continuing services of qualified medical doctors against the countervailing concern that society be protected from professional ineptitude and misconduct.

6. The sanction imposed is designed not to punish the physician, but to protect the life, health, and welfare of the people at large.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that:

1. The MOA is accepted.
2. Respondent has violated the Medical Practice Act.
3. Respondent is hereby publicly reprimanded.
4. Respondent is suspended from the practice of medicine for a period of two years; however, such suspension is immediately stayed upon Respondent’s compliance with the following probationary conditions:
   a. Respondent must maintain a written prescribing log, which may be in the form of reports generated from the Prescription Monitoring Program;
   b. Respondent must practice under a Board-approved supervising physician, who must provide quarterly reports to the Board;
c. Respondent may not prescribe to himself, friends, or family members;
d. Respondent must work at a site approved by the Board and must notify the Board upon any change in his work site;
e. Respondent must complete ten (10) hours of CME courses, including courses on ethics and prescribing (such courses shall not count towards Respondent’s statutorily-required CME requirements for renewal) for each year of Respondent’s two year probation;
f. Respondent must complete a Board-approved record keeping course;
g. Respondent shall pay the costs incurred in the investigation of this matter of Six Hundred and 00/100 ($600.00) Dollars;

5. Upon Respondent’s successful completion of the conditions of probation and the expiration of the two year probationary period, Respondent’s suspension will automatically terminate without the need for him to reappear before the Board.

AND IT IS SO ORDERED.

STATE BOARD OF MEDICAL EXAMINERS
FOR SOUTH CAROLINA

BY: ____________________________
Stephen R. Gardner, M.D.
President of the Board

May 18, 2017