

IN THE MATTER OF * BEFORE THE MARYLAND
ROLAND F. CHALIFOUX, Jr., D.O. * STATE BOARD OF
Applicant for Initial Medical Licensure * PHYSICIANS
* Case Number: 2224-0038A

* * * * *

**NOTICE OF INTENT TO DENY APPLICATION FOR INITIAL MEDICAL
LICENSURE UNDER THE MARYLAND MEDICAL PRACTICE ACT**

Disciplinary Panel A (“Disciplinary Panel A”) of the Maryland State Board of Physicians (the “Board”) hereby notifies **ROLAND F. CHALIFOUX, Jr., D.O.** (the “Applicant”) of its intent to deny his *Application for Initial Medical Licensure*, dated June 25, 2023 (the “Application”), pursuant to the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-101 *et seq.* (2021 Repl. Vol. and 2023 Supp.).

Disciplinary Panel A takes such action pursuant to the following grounds under the Act:

Health Occ. § 14-205. Miscellaneous powers and duties.

(b) Additional powers. –

...

(3) Subject to the Administrative Procedure Act and the hearing provisions of § 14-405 of this title, a disciplinary panel may deny a license to an applicant or, if an applicant has failed to renew the applicant’s license, refuse to renew or reinstate an applicant’s license for:

(i) Any of the reasons that are grounds for action under § 14-404 . . . [.]

Health Occ. § 14-404. Denials, reprimands, probation, suspensions, and revocations – Grounds.

- (a) *In general.* – Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

...

- (3) Is guilty of:

...

- (ii) Unprofessional conduct in the practice of medicine;

...

- (11) Willfully make or files a false report or record in the practice of medicine;

...

- (21) Is disciplined by a licensing, certifying, or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans Administration for an act that would be grounds for disciplinary action under this section;

- (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;

...

- (36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine; [and]

...

- (40) Fails to keep adequate medical records as determined by appropriate peer review[.]

With respect to Health Occ. § 14-404(a)(21), acts that would be grounds for disciplinary action under Health Occ. § 14-404(a) include the following:

- (3) Is guilty of:
 - (ii) Unprofessional conduct in the practice of medicine;
- (11) Willfully makes or files a false report or record in the practice of medicine;
- (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; [and]
- (40) Fails to keep adequate medical records as determined by appropriate peer review.

Health Occ. § 14-307. Qualifications of applicants.

- (b) *Moral character.* – The applicant shall be of good moral character[.]

ALLEGATIONS OF FACT¹

Disciplinary Panel A intends to deny the Applicant's Application based on the following facts that it has reasonable cause to believe are true:

¹ The allegations set forth in this document are intended to provide the Applicant with reasonable notice of Disciplinary Panel A's action. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Applicant in connection with this action.

2023 Application for Licensure

1. On or about June 25, 2023, the Applicant submitted his Application to the Board. The Application contained a section titled CHARACTER AND FITNESS, which required the Applicant to answer “YES” or “NO” to a series of questions that addressed topics including his qualifications for licensure, professional disciplinary history, and fitness and character. The Application required the Applicant to provide an explanation for all affirmative responses to those questions.

2. The Applicant answered “NO” to the following questions:

Has a state licensing or disciplinary board (including Maryland), a comparable body in the armed services, or the Veterans Administration, ever denied your application for licensure, reinstatement, or renewal?

Has a state licensing or disciplinary board (including Maryland), a comparable body in the armed services, or the Veterans' Administration, ever taken action against your license? Such actions include, but are not limited to, limitations of practice, required education admonishment or reprimand, suspension, probation or revocation?

Has a hospital, related health care facility, HMO, or alternative health care system ever denied your application; failed to renew your privileges, including your privileges as a resident; or limited, restricted, suspended, or revoked your privileges in any way?

3. The Applicant answered “YES” to the following question:

Has any licensing or disciplinary board in any jurisdiction (including Maryland), a comparable body in the armed services, or the Veterans Administration, ever filed any complaints or charges against you or investigated you for any reason?

4. The Applicant stated that the West Virginia Board of Osteopathic Medicine (the “West Virginia Board”) “temporarily suspended” his license but then dismissed the complaint against him. The Applicant stated that this occurred in 2014-2015.

5. The Applicant answered “YES” to the following question:

Has a hospital, related health care institution, HMO, or alternative health care system ever investigated you or ever brought charges against you?

6. The Applicant stated that a West Virginia-area hospital (“Hospital-1”)² suspended his hospital privileges but that the West Virginia Board reviewed the conduct underlying the suspension and dismissed the matter against him.

7. In a section of the Application titled LICENSING HISTORY, the Applicant answered “YES” to the following question:

Has any disciplinary action ever been taken against your license?

8. In response, the Applicant stated that on July 19, 2002, the Texas State Board of Medical Examiners (the “Texas Board”) suspended his medical license and that on July 19, 2004, it revoked his medical license.

9. In sections of the Application titled ACTIVITIES (which addressed activities occurring after the Applicant completed medical school in May 1987) and POSTGRADUATE TRAINING, the Applicant did not disclose activities or postgraduate training occurring from 1990 to 1995.

² For confidentiality reasons, the identity of any hospital cited herein will not be named in this document. The Applicant may obtain this information upon request.

10. At the conclusion of the Application, the Applicant acknowledged that during the period in which the Application was being processed, he was obligated to inform the Board within 30 days of any change to any answer he originally gave in the Application, or any action that occurs based on accusations that would be grounds for disciplinary action under Health Occ. § 14-404.

11. The Applicant further attested that under penalties of perjury he personally reviewed all responses to the items in the application and that the information he gave was true and correct to the best of his knowledge, information, and belief. He acknowledged that if he provided any false, misleading, or incomplete information, it may result in disciplinary action or the Board's denial of the Application.

12. By letter to the Applicant dated September 18, 2023, the Board informed the Applicant that it had information that in 2017, a federal grand jury indicted him for health care fraud. The Board requested that the Applicant address this information in a written response.

13. By letter to the Board dated September 21, 2023, the Applicant stated that his federal indictment was dismissed and that he paid restitution in the amount of \$28,606.75.

Board Investigative Findings

14. The Board initiated an investigation of the Applicant's licensing and disciplinary history after reviewing the disclosures he made in his Application.

15. The Board's investigation revealed that over the course of the Applicant's professional career, the licensing/disciplinary boards of several states either revoked or suspended his medical license, restricted his medical license, or denied his application for professional licensure. The Applicant also failed to disclose activities/postgraduate training occurring from 1990 to 1995.

16. When applying for licensure, the Applicant failed to disclose some of the disciplinary actions those licensing/disciplinary bodies took against him and failed to disclose that certain hospitals denied his reappointment or terminated him from their medical staffs, despite attesting under the penalties of perjury that the information he provided in the Application was true and correct to the best of his knowledge, information, and belief.

17. In addition, the Applicant, as he was required to do under the express terms of the Application, failed to supplement his Application in a timely manner after the State Medical Board of Ohio (the "Ohio Board") issued a disciplinary order against him, to which he is currently subject.

18. The Board's investigative findings are set forth *infra*.

Hospital terminations

19. Four Texas-area hospitals terminated or suspended the Applicant's medical staff privileges or denied his medical staff reappointment during the period 1997-2000. The hospitals terminated the Applicant's medical staff privileges for reasons including but not limited to: providing care that fell below the accepted standard of care; lack of proper

supervision of allied health professionals; concerns about his technical ability and clinical judgment; patient abandonment; lack of documentation; and/or unprofessional behavior. The Applicant failed to disclose these actions in his Application.

Texas Board actions, 2002-2004

20. On July 19, 2002, the Texas Board issued a Temporary Suspension Order against the Applicant in which it suspended his license to practice osteopathic medicine in that state. The Texas Board's Order found that the Applicant had "had his privileges suspended, otherwise terminated, or not extended at four Fort Worth [area] hospitals after peer review findings . . . [t]he basis for the loss of privileges at each facility concerned the issue threat to public safety due to inadequate pre and/or post-operative care, poor surgical judgment and decision-making skills and undertaking high-risk, ill-advised surgeries." The Texas Board concluded that the Applicant's "continuation in the practice of medicine would constitute a continuing threat to the public welfare."

21. On June 4, 2004, the Texas Board, after a 10-day hearing, issued a Final Order in which it revoked the Applicant's license to practice osteopathic medicine in that state. The Texas Board found that the Applicant violated accepted medical standards of care, in violation of Tex. Occ. Code § 164.051(a)(6), and committed unprofessional conduct that was likely to injure the public, in violation of Tex. Occ. Code § 164.052(a)(5), with respect to his treatment of three patients.

Michigan Board actions, 2004-2005

22. On July 21, 2004, the Michigan Board of Osteopathic Medicine and Surgery (the "Michigan Board") issued an Order for Summary Suspension through which it immediately suspended the Applicant's license to practice osteopathic medicine in that state. The Michigan Board took such action pursuant to the Texas Board's 2002 Temporary Suspension Order and the Applicant's failure to notify the Michigan Board of the Texas Board's disciplinary action against him. The Michigan Board found that its action was warranted in that the public health, safety and welfare required emergency action. The Applicant failed to disclose this action in his Application.

23. On July 21, 2004, the Michigan Board issued an administrative complaint against the Applicant, which the Applicant resolved through his entry into a Consent Order with the Michigan Board. Under the Consent Order, the Michigan Board dissolved its summary suspension of the Applicant's license and suspended his Michigan license for an additional period of not less than six months and one day, effective on February 3, 2005. The Applicant failed to disclose this action in his Application.

24. On October 28, 2005, the Michigan Board issued a Final Order Granting Reinstatement in which it reinstated the Applicant's license in that state. Pursuant to this reinstatement order, the Michigan Board placed the Applicant on probation for one year, subject to terms and conditions including submission of performance reports and professional monitoring. On December 10, 2007, the Michigan Board denied the

Applicant's request to reconsider its 2005 Order. The Applicant failed to disclose this action in his Application.

DEA action, 2004

25. In or around 2004, the United States Drug Enforcement Administration ("DEA"), after consideration of the Texas Board's disciplinary action against the Applicant, suspended and then later terminated the Applicant's Texas DEA registration. The Applicant failed to disclose this action in his Application.

West Virginia action, 2004

26. On September 1, 2004, the West Virginia Board issued a Consent Agreement and Order, stating that it was authorized under law to enter into consent decrees and probation orders where any person "has been found to have engaged in acts constituting professional negligence or willful departure from accepted standards of professional conduct."

27. Under the Consent Agreement and Order, the West Virginia Board granted the Applicant a restricted license to practice osteopathic medicine and surgery, subject to certain terms and conditions, which included practice supervision and restrictions on his practice location. In or around June 2005, the West Virginia Board granted the Applicant an unrestricted license to practice in that state. The Applicant failed to disclose this action in his Application.

Ohio Board denial of licensure, 2014

28. On May 12, 2014, the Applicant submitted an application to the Ohio Board to practice osteopathic medicine and surgery in that state. During the application process, the Applicant disclosed the proceedings that occurred in Texas and Michigan, as cited above.

29. On August 13, 2014, the Ohio Board issued the Applicant a notice that informed him that it was considering denying his application due to the actions occurring in Texas and Michigan.

30. The Applicant did not make a timely request for a hearing in the matter. Consequently, on December 10, 2014, the Ohio Board issued an Order in which it denied the Applicant a certificate to practice osteopathic medicine in that state. The Applicant failed to disclose this action in his Application.

Federal indictment, 2017

31. On or about June 6, 2017, a federal grand jury in the United States District Court for the Northern District of West Virginia issued an indictment (the "Indictment") charging the Applicant on 26 criminal counts relating to his medical practice. The Indictment alleged that the Applicant "devised and intend[ed] to devise a scheme and artifice to defraud, and for obtaining money by means of materially false and fraudulent pretenses, representations, and promises." The Indictment charged the Applicant with health care fraud, mail fraud and wire fraud.

32. On October 30, 2018, the Applicant entered into an Agreement for Pretrial Diversion in which the Indictment was dismissed, subject to conditions including probation

for 12 months, submission of quarterly reports to his Pretrial Diversion Supervisor and his payment of restitution in the amount of \$28,606.75. The Applicant did not disclose this action in his Application until contacted by the Board.

Ohio Department of Medicaid suspension, 2018

33. By letter dated May 4, 2018, the Ohio Department of Medicaid (“ODM”) notified the Applicant of the following:

[T]he Medicaid provider agreement and all Medicaid reimbursements for Roland Chalifoux and Valley Pain Management, Medicaid Provider numbers [numbers redacted], are suspended effective May 4, 2018. [ODM] has determined that a credible allegation of fraud exists based on evidence you were indicted by a federal grand jury on charges related to Medicaid fraud. An investigation is pending under the Medicaid program against you.

34. By letter dated January 31, 2019, ODM notified the Applicant that it had lifted the suspension of his Medicaid provider agreement due to the dismissal of his federal criminal charges but elevated his risk level from “limited” to “high” for the next ten years. The Applicant did not disclose this action in his Application.

West Virginia action, 2022

35. On September 27, 2022, the West Virginia Board issued a complaint against the Applicant, alleging that he engaged in unprofessional conduct or failed to practice osteopathic medicine in an acceptable manner, which resulted in his termination from Hospital-1.

36. On February 6, 2023, the West Virginia Board issued an Order of Dismissal in which it dismissed its complaint.

Ohio Board action, 2023

37. In or around March 2021, the Applicant applied to the Ohio Board for a license to practice osteopathic medicine and surgery in that state.

38. On August 9, 2023, the Ohio Board issued an Entry of Order in which it granted the Applicant's application for licensure. Pursuant to the terms of the Order, the Ohio Board immediately suspended the Applicant's license for an indefinite time period; placed conditions on his reinstatement; and placed him on probation for at least three years, subject to terms and conditions including practicing in accordance with his post-licensure assessment program; submitting for approval a practice plan and obtaining a practice monitor.

39. The Applicant failed to update his Application within 30 days, as the Application required, to notify the Board of this action.

40. Through an email dated January 22, 2024, the Applicant sent the Board a letter from the Ohio Board dated January 12, 2024, which notified the Applicant that it approved his reinstatement application subject to terms, conditions and limitations that were outlined in an Ohio Board Order. The letter stated that the terms, conditions, and limitations included: an appearance before the Ohio Board's compliance staff in February 2024; enrollment in the Ohio Board's LifeGuard Program prior to his return to practice; submission of a practice plan; supervision by a monitoring physician; completion of educational materials; adherence to a "learning plan"; documented ongoing

review/evaluation; and an annual health and physical examination, inclusive of cognitive testing.

Material omissions in the Application

41. The Board's investigation determined that the Applicant failed to disclose several disciplinary actions/professional encumbrances in his Application. The Applicant failed to disclose that: (a) at least four Texas-area hospitals terminated or suspended his medical staff privileges, or denied his medical staff reappointment, during the period 1997-2000; (b) the DEA suspended and then later terminated the Applicant's Texas DEA registration in or around 2004; (c) the West Virginia Board placed restrictions on his license in 2004; (d) the Michigan Board suspended his license in 2004; (e) the Ohio Board denied his application for licensure in 2014; (e) a federal grand jury indicted him in 2017, after which the indictment was dismissed after his entry into a Pretrial Diversion Agreement in 2018; and (f) the ODM took action against him in 2018. In addition, the Applicant failed to disclose his post-medical school activities for the period 1990-1995.

Grounds for Denial of the Application

Grounds under Health Occ. § 14-404

42. Pursuant to Health Occ. § 14-205(b)(3)(i), a disciplinary panel of the Board may deny an applicant's application for initial medical licensure for any of the reasons that are grounds for action under Health Occ. § 14-404.

43. The actions taken by the licensing boards of West Virginia, Michigan, and Ohio, which included either the imposition of disciplinary sanctions, restrictions on

licensure/practice, or a denial of licensure, as referenced above, would constitute grounds for action under Health Occ. § 14-404. The actions that four Texas-area hospitals took against him, as referenced above, would constitute grounds for action under Health Occ. § 14-404. The action the DEA and the ODM took against him, as referenced above, would constitute grounds for action under Health Occ. § 14-404.

44. The Applicant's failure to disclose the full extent of his disciplinary and practice history, as he was required to do under the terms of his Application, as referenced above, would constitute grounds for action under Health Occ. § 14-404.

45. Disciplinary Panel A intends to deny the Applicant's Application based on grounds under the following provisions of Health Occ. § 14-404(a): (3) Is guilty of (ii) Unprofessional conduct in the practice of medicine; (11) Willfully makes or files a false report or record in the practice of medicine; (21) Is disciplined a licensing or disciplinary authority . . . for an act that would be grounds for action under this section [Health Occ. § 14-404]; (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; (36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine; and/or (40) Fails to keep adequate medical records as determined by appropriate peer review.

46. With respect to Health Occ. § 14-404(a)(21), acts that would be grounds for action under Health Occ. § 14-404 include: (3) Is guilty of: (ii) Unprofessional conduct in

the practice of medicine; (11) Willfully makes or files a false report or record in the practice of medicine; (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; and/or (40) Fails to keep adequate medical records as determined by appropriate peer review

Grounds under Health Occ. § 14-307

47. A disciplinary panel of the Board may deny an applicant's application for licensure if the applicant does not possess good moral character. Health Occ. § 14-307(b).

48. As referenced above, the professional licensing boards of Texas, Michigan and Ohio either denied the Applicant's applications for licensure or disciplined him for violating their professional disciplinary statutes. These actions included revocation or suspension of licensure or the imposition of significant practice limitations. These professional licensing boards found that the Applicant engaged in professional misconduct that included violating accepted medical standards of care and committing unprofessional conduct that was likely to injure the public. The Applicant was also subject to: action by the DEA in 2004, which revoked his DEA certification; federal indictment, which led to his entrance into a Pretrial Diversion Agreement in 2018; and action by the ODM in 2018.

49. Further, the Applicant made material omissions/misrepresentations in his Application when he failed to disclose the West Virginia, Michigan and Ohio Boards' actions against him; his termination of hospital privileges; and the actions taken by the

DEA and ODM, as referenced above. The Applicant also failed to disclose his post-medical school activities occurring for the period 1990-1995.

50. In addition, the Applicant failed to supplement his Application in a timely manner after the Ohio Board took further disciplinary action against him in 2023, despite the requirement that he supplement the Application according to the terms of the Application.

51. The Applicant's actions, as referenced above, constitute, in whole or in part, a lack of good moral character, which constitutes a basis for a disciplinary panel to deny his Application under Health Occ. § 14-307(b). Disciplinary Panel A intends to deny the Applicant's Application on this basis.

NOTICE OF AN OPPORTUNITY FOR A HEARING

In accordance with the Administrative Procedure Act, Md. Code Ann., State Gov't §§ 10-201 *et seq.* (2021 Repl. Vol. and 2023 Supp.), Disciplinary Panel A hereby notifies the Applicant of his opportunity for a hearing before a Board disciplinary panel makes a final decision in this case. The Applicant must request a hearing **WITHIN THIRTY (30) DAYS** of the date of this notice. The request for a hearing must be made in writing to:

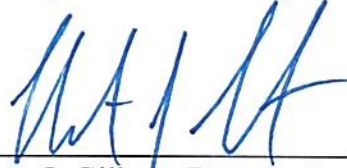
Christine A. Farrelly
Executive Director
Maryland State Board of Physicians
4201 Patterson Avenue, 4th Floor
Baltimore, Maryland 21215-0095
Phone: (410) 764-4771; Fax: (410) 358-2252

If a request for a hearing is made, a conference will be scheduled before Disciplinary Panel A, sitting as a Disciplinary Committee for Case Resolution of the Board. In addition,

a prehearing conference and a hearing before an Administrative Law Judge will be scheduled.

If Disciplinary Panel A does not receive a written request for a hearing within **thirty (30) days** from the date of this notice, it will sign the attached Final Order.

ANTHONY G. BROWN
Attorney General of Maryland



March 5, 2024
Date

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