

IN THE MATTER OF	*	BEFORE THE
THOMAS M. HORIAGON, JR., M.D.	*	MARYLAND STATE
Applicant	*	BOARD OF PHYSICIANS
	*	Case Number: 2222-0119A
* * * * *		

FINAL ORDER

On October 11, 2022, Disciplinary Panel A (“Disciplinary Panel A”) of the Maryland State Board of Physicians (the “Board”) issued a Notice of Intent to Deny Application for Reinstatement of Medical License to **THOMAS M. HORIAGON, JR., M.D.** (the “Applicant”) under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-101 *et seq.* (2021 Repl. Vol.).

The pertinent provisions of the Act provide:

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 . . . for:

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

Health Occ. § 14-307. License Qualifications.

(b) The applicant shall be of good moral character.

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

- (a) 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:

...

- (21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or 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;

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

- (3) Is guilty of: (ii) Unprofessional conduct in the practice of medicine;
- (4) Is professionally, physically, or mentally incompetent; [and/or]
- (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[.]

In its Notice, Disciplinary Panel A informed the Applicant that he had the opportunity to request a hearing by submitting a request in writing to the Board's Executive Director within thirty days of the date of the mailing of the Notice. More than thirty days have elapsed since the date of the mailing of the Notice to the Applicant, and the Applicant has not requested a hearing.

FINDINGS OF FACT

Disciplinary Panel A makes the following Findings of Fact:

Colorado Medical Board Disciplinary History

1. On or around February 20, 2009, the Colorado State Board of Medical Examiners (“Colorado Board”) issued a letter to the Applicant admonishing him for his failure to accurately answer his 2007 license renewal questionnaire. The Applicant had also failed to update his address within thirty (30) days of his change of address.

2. On or around July 23, 2012, the Applicant entered into an Interim Cessation of Practice Agreement with the Colorado Board in lieu of summary suspension. The Colorado Board found that the Applicant had provided substandard care to three (3) patients and did not effectively work within a team environment to provide patient care that adequately met appropriate standards of care. Per the Interim Cessation of Practice Agreement, the Applicant was prohibited from performing any act that required a medical license.

3. On or around September 17, 2012, the Applicant entered into a Second Cessation of Practice Agreement with the Colorado Board. This agreement allowed the Applicant to work as a physician advisor but limited his practice to retrospective analysis of Medicare compliance at his place of employment. The Second Cessation of Practice Agreement superseded the Interim Cessation of Practice Agreement.

4. On or around September 4, 2015, the Colorado Board issued an Order of Suspension of the Applicant’s license. The Applicant was found to have violated a Stipulation and Final Agency Order dated February 21, 2014 which required him to receive

and comply with medical treatment as determined appropriate by the Colorado Physician Health Program (“CPHP”). The Applicant prohibited CPHP from monitoring his treatment. As a result, the Applicant’s license was suspended.

5. On or around March 10, 2016, the Colorado Board issued a Final Order following a hearing on November 23, 2015. The Colorado Board adopted the hearing examiner’s finding that the Applicant had engaged in unprofessional conduct for: 1) providing substandard care to three patients, and 2) failing to notify the board of a physical or mental illness that impacted his ability to render medical services with reasonable skill and safety to patients. The Applicant’s license was revoked as a result of the Final Order.

6. On or around December 7, 2017, the Applicant was found guilty of Physician-Unauthorized Practice after a jury trial in the Arapahoe County Justice Center in Colorado. The Applicant was given credit for three days time served in jail and fined \$1,000.

Reciprocal Discipline In Other States

7. Following action taken by the Colorado Board, the Applicant sustained reciprocal discipline from 2010 through 2015 on his medical licenses in the following States: Pennsylvania, Indiana, and Wyoming. The Respondent voluntarily surrendered his license in California in 2015.

The Application

8. On or about February 17, 2022, the Board received the Applicant's Application.¹

9. The Application contained a series of questions to which the Applicant was required to respond "YES" or "NO". The Application requested a written explanation for any "YES" responses.

10. The Applicant responded "YES" to several questions on the Character and Fitness section of the Application:

Question 13b. Has a state licensing or disciplinary board (including Maryland), a comparable body in the armed services, or the Veterans Administration, 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.

Question 13c. Has any licensing or disciplinary board in any jurisdiction (including Maryland), a comparable body in the armed services, or the Veterans Administration, filed any complaints or charges against you or investigated you for any reason?

Question 13f. Has a hospital, related health care institution, HMO, alternative health care institution, or employer 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?

Question 13g. 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 against you or investigated you for any reason?

¹ The Applicant was originally issued a license to practice medicine in the State of Maryland on February 26, 1993. His license expired on September 30, 2000.

Question 13p. Have you pleaded guilty or *nolo contendere* to any criminal charge, been convicted of a crime, or received probation before judgment because of a criminal charge?

11. The Applicant provided written explanations for his affirmative responses.

Specifically, the Applicant stated:

- a. The Applicant was investigated in or around 1995 or 1996 by the Maryland State Board of Physicians following a complaint from a hazardous materials remediation contractor. The investigation resulted in a confidential letter of concern.
- b. In 2004, the Applicant received a public letter of reprimand from the Colorado Board due to the Respondent's late response to a patient complaint. The letter went to the Applicant's address of record in Wyoming while the Applicant was working a locum assignment² in Colorado.
- c. In or around 2011, the Applicant was removed from a hospital in Colorado where he had been working as a locum hospitalist and de facto intensivist for some years. "The removal was reported to the Colorado Board and a long series of proposed sanctions and discipline arose from the medical board." Shortly after his removal from the hospital, the Applicant contacted the CPHP for assistance.

² A "locum" or locum tenens assignment consists of a physician working temporarily in another practice, not his or her own. That practice may be in the physician's hometown or even in another state.

- d. After his removal from the hospital, the Applicant was treated for “decompensation by a psychologist and a psychiatrist with therapy sessions and medication.” The Applicant was ultimately “discontinued from medical therapy” and opened a clinical practice in Colorado. CPHP later reported the Applicant as non-compliant and the Applicant’s Colorado license was summarily suspended and ultimately revoked.
- e. Wyoming, Indiana, Pennsylvania, Massachusetts, and Iowa imposed mirror discipline after the Colorado action. The Applicant also surrendered his California license.
- f. The Applicant was charged with unlicensed practice of medicine in Arapahoe County Court in Colorado and later found guilty. The Applicant “currently [has] no representations in this matter and it is under direct appeal.”

Board Investigation

12. On or about March 24, 2022, the Board informed the Applicant that it had initiated an investigation with respect to his responses to the character and fitness questions 13b, c, f, g, and p on his Application.

13. As part of its investigation, the Board obtained various documents pertaining to the aforementioned disciplinary actions taken against the Respondent’s medical licenses in Colorado, Pennsylvania, Indiana, California, and Wyoming. The Board also obtained a signed release from the Applicant and corresponding records from the Colorado Physician

Health Program. These documents confirmed the disciplinary action in the respective states as reported by the Applicant. The CPHP documents also included information about the Applicant's mental health history and diagnoses.³

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel A concludes as a matter of law that the Applicant's actions constitute grounds to deny his Application under the following provisions of Health Occ. § 14-404(a): (21) (is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country). 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; (4) (is professionally, physically, or mentally incompetent); and/or and/or (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).

The Board may deny an applicant who does not meet the requirements of Health Occ. § 14-307. The Applicant's actions, as described above, demonstrates, in whole or in part, that the Applicant does not possess the requisite good moral character as required by Health Occ. § 14-307(b).

³ For confidentiality reasons, the diagnoses and information pertaining to them will not be disclosed in this document.

ORDER

It is, on the affirmative vote of a majority of the quorum of Disciplinary Panel A, hereby:

ORDERED that the Application for Reinstatement of Medical License of **THOMAS M. HORIAGON, JR., M.D.**, received February 17, 2022, is **DENIED**; and it is further

ORDERED that this Final Order is a public document. *See* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

11/21/2022
Date

Signature On File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Md. Code Ann., Health Occ. § 14-408, the Applicant has the right to seek judicial review of this Final Order. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Final Order. The cover letter accompanying this Final Order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Applicant files a petition for judicial review, the Board is a party and should be served with the court's process at the following address:

Christine A. Farrelly, Executive Director
Maryland State Board of Physicians
4th Floor
4201 Patterson Avenue
Baltimore, Maryland 21215

Notice of any petition should also be sent to the Board's counsel at the following address:

Noreen Rubin
Assistant Attorney General
Maryland Department of Health
300 West Preston Street, Suite 302
Baltimore, Maryland 21201