

IN THE MATTER OF
SHAWNA MICHELLE GUNTER
Respondent
UNLICENSED INDIVIDUAL

*** BEFORE THE**
*** MARYLAND STATE**
*** BOARD OF PHYSICIANS**
*** Case Number: 2014-0776**

* * * * *

FINAL DEFAULT ORDER

INTRODUCTION AND PROCEDURAL HISTORY

Shawna Michelle Gunter (“Ms. Gunter”) is not a physician assistant and has never been licensed to practice as a physician assistant in Maryland or in any other state. Ms. Gunter is not, and never has been licensed or certified to practice any health occupation in Maryland or in any other state.

In April, 2014, the Maryland State Board of Physicians (“Board”) received information that Ms. Gunter had been arrested and criminally indicted in a federal court on four counts of posing as a physician assistant at two clinics on the Eastern shore of Maryland, seeing 200 patients, and writing 400 prescriptions without training or authority to do so. Following an investigation, on March 3, 2015, the Board charged Ms. Gunter with practicing as a physician assistant without a license and representing to the public that she licensed to practice as a physician assistant in Maryland, in violation of the Maryland Physician Assistants’ Act, Md. Code Ann., Health Occ. §§ 15-401 and 15-402, respectively. In June, 2015, the Board forwarded the case to the Office of Administrative Hearings (“OAH”).

Ms. Gunter did not respond to the Board’s charges nor did she ever respond to prehearing notices mailed by the OAH during the administrative proceedings. Ms. Gunter did not appear in person or through counsel at the OAH. Following the State’s

Motion for a Default Order, on September 22, 2015, the Administrative Law Judge (“ALJ”) granted the motion and issued a Proposed Default Order. Neither Ms. Gunter nor the State filed exceptions and the case came before the Board for final disposition. After considering the entire record, the Board issues this Final Default Order as the Board’s final decision in this case.

FINDINGS OF FACT

1. Ms. Gunter is not and never has been licensed to practice as a physician assistant in Maryland or in any other state.

2. Ms. Gunter has not attended and has never graduated from a physician assistant training program and has not taken a national certifying examination.

3. Ms. Gunter does not hold any licensure or certification by any health occupations board in Maryland or in any other state.

4. Physician A, a pediatrician who has medical offices in two towns on the Eastern shore of Maryland, employed Ms. Gunter as a physician assistant from July 5, 2013 through August 29, 2013, to work in one of his medical offices.

5. As part of the employment process, Ms. Gunter provided Physician A with a diploma from Howard University which stated that she had graduated *cum laude* with a Bachelor of Science degree in biology. Ms. Gunter altered the diploma and forged her name on the diploma.

6. Ms. Gunter also provided a license from the Board which she had altered and forged with her name and a DEA registration certificate which she had altered and forged with her name.

7. Ms. Gunter saw patients in the medical office daily on Monday through

Friday. Ms. Gunter shared evening and weekend call with Physician A after office hours.

8. Ms. Gunter diagnosed and treated more than 200 children in Physician A's practice between approximately July 5, 2013 and August 29, 2013. Ms. Gunter saw the children for "well child checks" and "sick visit checks." Ms. Gunter prescribed antibiotics for some of the children.

9. Ms. Gunter also saw children who Physician A had diagnosed as having attention deficient hyperactivity disorder (ADHD) and who were on medication, for follow-up visits. Some of the children were stable and did not need any changes in the medication they were taking, but for others, Ms. Gunter prescribed controlled substances, such as stimulants, for their ADHD disorder.

10. On August 29, 2013, Physician A terminated Ms. Gunter when he learned that she had presented fraudulent credentials.

11. Ms. Gunter engaged in the unauthorized practice as a physician assistant and practiced as a physician assistant when Ms. Gunter:

- a. Examined and diagnosed approximately 200 children; and
- b. Issued prescriptions for antibiotics and controlled substances, such as stimulants, for ADHD disorder.

12. Ms. Gunter represented to the public that she is licensed to practice as a physician assistant in the State when Ms. Gunter:

- a. Told Physician A that she was licensed as a physician assistant;
- b. Presented to Physician A a copy of a license to practice as a physician assistant which she had forged with her name; and
- c. Presented to Physician A a copy of a DEA registration certificate which she had forged with her name.

13. Health Occ. § 15-401(a) states:

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a physician assistant in the State unless the person has a license issued by the Board.

14. Health Occ. § 15-402(a) states:

Except as otherwise provided under this title, a person may not represent or imply to the public by use of the title "licensed physician assistant", by other title, or by description of services, methods, or procedures that the person is licensed to practice as a physician assistant in the State.

15. Seeing children for well child visits, sick child visits, making medical diagnoses, recommending treatment and prescribing medication is evidence of performance of medical acts, which constitute unauthorized practice as a physician assistant, in violation of Health Occ. § 15-401.

16. Making false representations to Physician A about her academic training, her licensure status as a physician assistant, and her authorization from DEA to be able to prescribe controlled substances, constitute misrepresentation as a physician assistant, in violation of Health Occ. § 15-402.

17. On or about April 10, 2014, the Maryland State Board of Physicians (the "Board") became aware through a media publication that Ms. Gunter had been indicted in United States District Court on April 4, 2014 on four counts which claim that Ms. Gunter posed as a physician assistant at two clinics on the Eastern shore of Maryland. It was reported that federal prosecutors claim that Ms. Gunter "saw as many as 200 patients, many of them children, and wrote as many as 400 prescriptions, even though she didn't have the training or authority to do so." Ms. Gunter had been arrested and was being held in detention.

18. The Board received a certified copy of the criminal docket and the indictment that had been filed against Ms. Gunter in the United States District Court for the District of Maryland.

19. On April 4, 2014, Ms. Gunter was criminally indicted on:

- a. Count One – Wire Fraud. Alleging that Ms. Gunter devised a scheme to defraud by means of materially false and fraudulent pretense and caused to be transmitted by means of facsimile a counterfeit, altered and forged Howard University Diploma, a counterfeit, altered and forged Drug Enforcement Administration (“DEA”) controlled substance (“CDS”) Registration certificate to a medical office, in order to obtain employment for which she was not qualified;
- b. Count Two – Aggravated Identity Theft. Alleging that Ms. Gunter knowingly used a Maryland Physician Assistant License, DEA CDS certificate, and DEA number of another person without her consent;
- c. Count Three – Health Care Fraud – Alleging that from August 19, 2013 through August 29, 2013, Ms. Gunter executed a scheme to defraud Medicaid by seeking payment for medical services purportedly provided by a licensed physician assistant with a valid DEA certificate, when in fact she was providing the medical services and writing the prescriptions without being licensed or having a DEA certificate; and
- d. Count Four - Identity Theft – Alleging that Ms. Gunter used identifying information of approximately 200 patients to submit false claims to the Medicaid Program for payments.

20. On August 27, 2014, the Board sent correspondence to Ms. Gunter, by regular mail, informing her of the Board’s investigation and providing Ms. Gunter the opportunity to respond.

21. The regular mail was not returned to the Board, indicating that the mail was delivered to Ms. Gunter. Ms. Gunter did not submit a response.

22. Ms. Gunter remained in custody from the date of indictment until sentencing.

23. On October 21, 2014, Ms. Gunter entered into a plea agreement with U.S. Attorney's Office for the District of Maryland.

24. On October 29, 2014, the Court accepted Ms. Gunter's plea of guilty to Count One and Count Two.

25. On February 27, 2015, Ms. Gunter was sentenced to three years in prison, required to undergo six months of home detention thereafter, and to pay \$53,530.39 in restitution, without interest, payable in monthly installments of \$100 to commence once she is placed on supervised release.

26. On March 3, 2015, the Board charged Ms. Gunter with violating the Maryland Physician Assistants Act, Md. Code Ann., Health Occ. §§ 15-401 and 15-402.

27. On March 3, 2015, the Board hand delivered the Charges to Ms. Gunter via private process server at the Chesapeake Detention Facility, 401 E. Madison Street, Baltimore, Maryland, where Ms. Gunter resided.

28. On June 10, 2015, the Board forwarded the case to OAH.

29. On June 11, 2015, a Scheduling Conference was scheduled for July 9, 2015 and notice was sent to Ms. Gunter and the State.

30. The Notice of Scheduling Conference sent to Ms. Gunter was returned to OAH by the U.S. Postal Service as not deliverable as addressed.

31. On July 9, 2015, at the scheduling conference, the administrative prosecutor appeared for the State. Ms. Gunter failed to appear either in person or through counsel.

32. The Administrative Law Judge and the administrative prosecutor scheduled a Telephone Prehearing Conference for August 18, 2015.

33. The ALJ issued a scheduling order with this information on July 10, 2015.

34. On July 15, 2015, OAH sent a Notice of the Telephone Prehearing Conference to Ms. Gunter at FMC Carswell, Federal Medical Center, P.O. Box 27137, Fort Worth, Texas 76127, the federal prison where she was incarcerated. The U.S. Postal Service did not return the letter as undeliverable.

35. On August 17, 2015, the administrative prosecutor notified OAH that OAH had failed to include Ms. Gunter's register number as part of her mailing address and requested a rescheduling of the Prehearing Conference to ensure inclusion of the register number.

36. The ALJ convened the August 18, 2015 scheduling conference as scheduled. An administrative prosecutor represented the State. Ms. Gunter did not appear in person or through counsel.

37. The ALJ set a new date for the Scheduling Conference on September 21, 2015.

38. On August 18, 2015 the ALJ issued a scheduling order with that information to Ms. Gunter at the same address and included the Ms. Gunter's register number. The notice was not returned to Ms. Gunter as undeliverable.

39. On September 9, 2015, the administrative prosecutor filed a Motion for Proposed Order of Default. Ms. Gunter did not file a response. Ms. Gunter failed to provide OAH with a telephone number where she could be reached.

40. On September 21, 2015, the ALJ convened the Telephone Prehearing Conference.

41. The administrative prosecutor was present. Ms. Gunter did not appear in person or through counsel.

42. The administrative prosecutor argued in support of her Motion for Proposed Order of Default.

43. The ALJ found that there was uncontroverted evidence showing that Ms. Gunter was properly notified of the Telephone Prehearing Conference.

44. On September 22, 2015, the ALJ issued a Proposed Default Order proposing that: (1) Ms. Gunter be found in default; (2) the Board adopt the allegations of fact set forth in the charges as its findings of fact; (3) the Board conclude that as a matter of law that Ms. Gunter practiced as a physician assistant without a license, in violation of section 15-401 and 15-402; (4) the Board sanction Ms. Gunter by imposing a civil penalty of \$5,000.00 pursuant to section 15-403 of the Maryland Physician Assistants Act; and (5) all further proceedings in the matter be terminated. The Proposed Default Order is incorporated by reference into the body of this document as if set forth in full. See attached ALJ Proposed Default Order, Exhibit A.

45. Ms. Gunter did not file exceptions with the Board.

46. In the absence of any evidence to the contrary, the Board adopts the charging allegations as factual findings (reflected in the Findings of Fact ¶¶ 1-25) and concludes that all of the Findings of Fact are supported by the preponderance of the evidence. The Board further adopts the ALJ's proposed sanction of a civil monetary fine in the amount of \$5,000.00.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that Ms. Gunter practiced as a physician assistant without a license and represented to the public that she was licensed to practice as a physician assistant in Maryland, in violation of Md. Code Ann., Health Occ. §§ 15-401(a) and 15-402(a). The Board further concludes that Ms. Gunter was in default with respect to answering the notices, thus, she has lost the right to contest them.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby **ORDERED** that, within 30 days, Shawna Michelle Gunter shall pay a \$5,000.00 civil monetary fine by certified check or money order made payable to The Maryland Board of Physicians, P.O. Box 37217, Baltimore, Maryland 21297; and it is further **ORDERED** that this is a public document.

01/06/2016
Date


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(a), Ms. Gunter has the right to seek judicial review of this Final Decision and Order. Any petition for judicial review shall be filed within 30 days from the date of mailing of this Final Decision and Order. The cover letter accompanying this final decision and 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 Ms. Gunter files a petition for judicial review, the Board is a party and should be served with the court's process at the following address:

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

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

**David S. Finkler
Assistant Attorney General
Department of Health and Mental Hygiene
300 West Preston Street, Suite 302
Baltimore, Maryland 21201**

**ALJ Proposed Default
Order**

IN THE MATTER OF THE
MARYLAND BOARD OF
PHYSICIANS

v.

SHAWNA MICHELLE GUNTER,
RESPONDENT

* BEFORE LORRAINE E. FRASER,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
* OAH No.: DHMH-MBP-79-15-19712
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RULING ON MOTION FOR PROPOSED DEFAULT ORDER

On March 3, 2015, the Maryland Board of Physicians (Board) filed charges against the Respondent under the Maryland Physician Assistants Act¹ (Charges) for practicing as a physician assistant without a license. On March 3, 2015, the Board hand delivered the Charges to the Respondent via private process server at the Chesapeake Detention Facility, 401 East Madison Street, Baltimore, Maryland. On June 10, 2015, the Board forwarded the case to the Office of Administrative Hearings (OAH) for a hearing.

On June 11, 2015, the OAH sent the parties a Notice of Scheduling Conference, which notified them that an in-person Scheduling Conference (SC) had been set for July 9, 2015 at 9:30 a.m. at the OAH in Hunt Valley. The Respondent's June 11, 2015 Notice of Scheduling Conference was returned to the OAH by the U.S. Postal Service as not deliverable as addressed.

On July 9, 2015, I held the SC at the OAH in Hunt Valley, Maryland. Janet Klein Brown, Assistant Attorney General, Administrative Prosecutor, represented the State of Maryland (State). The Respondent did not appear. After waiting fifteen minutes, I went forward with the SC in the Respondent's absence. The State did not move for default at that time. During the SC, Ms. Brown and I set August 18, 2015 at 9:30 a.m. for a Telephone Prehearing.

¹ Md. Code Ann., Health Occ. §§ 15-101 through 15-502 (2014).

Conference to be held in this matter. On July 10, 2015, I issued a Scheduling Order including this information.

On July 15, 2015, the OAH sent a Notice of the Telephone Prehearing Conference to the Respondent at the federal facility where she is currently incarcerated: FMC Carswell, Federal Medical Center, P.O. Box 27137, Fort Worth, Texas 76127. The U.S. Postal Service did not return my Scheduling Order or the Notice of Telephone Prehearing Conference to the OAH.

On August 17, 2015, Ms. Brown notified the OAH that the OAH had failed to include the Respondent's register number 57873-037 as part of the Respondent's mailing address on its notices. Ms. Brown requested that the August 18, 2015 Telephone Prehearing Conference be rescheduled in order to ensure that the scheduling notice mailed to the Respondent included her register number. On August 18, 2015, I convened the Telephone Prehearing Conference as scheduled. Dawn Rubin, Assistant Attorney General, represented the State in Ms. Brown's stead. The Respondent did not appear. Ms. Rubin reiterated Ms. Brown's request that the Telephone Prehearing Conference be rescheduled and that the notice include the Respondent's register number. Ms. Rubin and I set September 21, 2015 at 10:00 a.m. Eastern Daylight Time for the rescheduled Telephone Prehearing Conference. Ms. Rubin noted that Texas was on Central Time. On August 18, 2015, I issued a Scheduling Order including this information.

On August 19, 2015, the OAH sent a Notice of the Telephone Prehearing Conference to the Respondent at: Register Number 57873-037, FMC Carswell, Federal Medical Center, P.O. Box 27137, Fort Worth, Texas 76127. The U.S. Postal Service did not return my Scheduling Order or the Notice of Telephone Prehearing Conference to the OAH.

On September 9, 2015, Ms. Brown filed a Motion for Proposed Order of Default with attachments A-C and exhibits 1-7.² The Respondent did not file any response to the State's

² Those exhibits are listed in an Appendix to this Default Order.

motion. In addition, the Respondent did not provide to the OAH a telephone number where she could be reached for the Telephone Prehearing Conference.

On September 21, 2015 at 10:00 a.m., I convened the Telephone Prehearing Conference as scheduled. Ms. Brown represented the State. The Respondent did not appear. Ms. Brown argued in support of her Motion for Proposed Order of Default.

I find that there is uncontroverted evidence showing that the Respondent was properly notified of the Telephone Prehearing Conference and that she failed to appear. As a result, I find that the allegations of fact cited by the Board in its Charges against the Respondent for practicing as a physician assistant without a license are uncontested. Further, I admit into evidence the State's exhibits 1 – 7.

IT IS THEREFORE PROPOSED that the Respondent be found in default in OAH Case No. DHMH-MBP-79-15-19712;

IT IS PROPOSED that the Board adopt the allegations of fact set forth in the Charges as its findings of fact;

IT IS PROPOSED that the Board conclude as a matter of law that the Respondent practiced as a physician assistant without a license, in violation of sections 15-401 and 15-402 of the Maryland Physician Assistants Act;

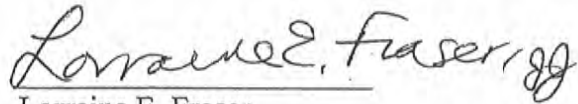
IT IS PROPOSED that the Board sanction the Respondent by imposing a civil penalty of \$5,000.00, pursuant to section 15-403 of the Maryland Physician Assistants Act;

IT IS PROPOSED that all further proceedings in this matter are **TERMINATED**; and

IT IS PROPOSED that in accordance with Code of Maryland Regulations (COMAR) 10.32.02.05B(1)(a) and COMAR 28.02.01.23C: (1) the parties may file written exceptions to this Proposed Default Order and request a hearing with the Board (4201 Patterson Avenue, Baltimore, Maryland 21215-2299, ATTN: Geneva Goode, Administrative Aide to Supervisor,

Compliance Administration) within fifteen working days of the date of this Proposed Default Order; (2) any such written exceptions and/or request for hearing must be copied to the opposing party; and (3) the opposing party will have fifteen days from the date of any written exceptions to file exceptions in response.

September 22, 2015
Date Default Order Mailed


Lorraine E. Fraser
Administrative Law Judge

LEF/dlm
#158271

Copies mailed to:

Shawna Michelle Gunter
Register No. 57873-037
FMC Carswell
Federal Medical Center
P.O. Box 27137
Fort Worth, TX 76127

Janet Klein Brown, AAG
Office of the Attorney General
Health Occupations Prosecution
and Litigation Division
300 West Preston Street, Ste. 201
Baltimore, MD 21201

Christine Farrelly, Executive Director
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Maryland Board of Physicians
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Devinder Singh, M.D., Chair
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Metro Executive Plaza
4201 Patterson Avenue, Third floor
Baltimore, MD 21215

John Nugent, Principal Counsel
Office of the Attorney General
Health Occupations Prosecution
and Litigation Division
300 West Preston Street, Room 201
Baltimore, MD 21201

IN THE MATTER OF THE
MARYLAND BOARD OF
PHYSICIANS

v.

SHAWNA MICHELLE GUNTER,
RESPONDENT

* BEFORE LORRAINE E. FRASER,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
* OAH No.: DHMH-MBP-79-15-19712

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APPENDIX
EXHIBIT LIST

State's Exhibits:

I accepted the following exhibits into evidence on behalf of the State:

- State Ex. 1 - Investigative Report, Dana Mullen, 10/8/14
- State Ex. 2 - Indictment, USA v. Gunter, United States District Court for the District of Maryland, 3/18/14
- State Ex. 3 - Criminal Docket, USA v. Gunter, United States District Court for the District of Maryland, 3/18/14; Plea Agreement, 10/21/14; Regular Sentencing Order, 10/29/14; Letter from counsel for the Respondent to the Honorable Stephanie Gallagher, 11/10/14; Memorandum Order, 1/6/15
- State Ex. 4 - Facsimile to Dana Mullen from Dr. Julio Ramirez, M.D., patient list, 8/19/14
- State Ex. 5 - Illegible print out with handwritten note to the Respondent requesting additional information, 7/25/13
- State Ex. 6 - Illegible print out
- State Ex. 7 - Transcript of interview with Dr. Julio Ramirez, M.D., 8/19/14

Respondent's Exhibits:

The Respondent failed to appear and offered no exhibits.