

IN THE MATTER OF * BEFORE THE MARYLAND
ADVANCED RADIOLOGY, P.A. * STATE BOARD
The Respondent * OF PHYSICIANS
* Case Number: 2220-0067B

* * * * *

CONSENT ORDER

On or about November 19, 2019, the Maryland State Board of Physicians (the “Board”) notified Advanced Radiology, P.A. (the “Respondent”) of its failure to comply with the provisions of the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.).

The pertinent provisions of the Act are as follows:

Health Occ. § 14-5B-15 Report.

(a) In general. -- Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in Section 1-401 of this article, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensee for any reason that might be grounds for disciplinary action under Section 14-5B-14 of this subtitle.

...

(e) Time for filing report. -- The hospital, related institution, alternative health system, or employer shall submit the report within 10 days of any action described in this section.

...

(g) Penalties. –

(I) The Board may impose a civil penalty of up to \$ 1,000 for failure to report under this section.

The pertinent regulations adopted by the Board are as follows:

COMAR 10.32.22.06 Enforcement.

M. It is not a defense to the allegation of a failure to report that:

(1) An employee of the reporting entity was not aware of:

(a) The change made by the reporting entity; or

(b) The obligation to report[.]

...

O. If the Board finds after a hearing that a reporting entity failed to file any report required by this chapter, the Board shall issue a final disposition with findings of fact, conclusions of law, and civil penalty. In its final disposition, the Board may impose a civil penalty as follows:

...

(2) With respect to reports concerning allied health providers:

(a) \$500 for the first occurrence in a calendar year[.]

On or about February 26, 2020, the Board and the Respondent participated in a settlement conference at the Board. Following the settlement conference, the Board and the Respondent agreed to enter into this Consent Order to resolve the case described below.

FINDINGS OF FACT

The Board finds the following facts:

1. On or about March 8, 2019, the Board received a renewal application for a Maryland licensed radiographer (the "Radiographer").¹ In the renewal application, the

¹ The names of facilities and individuals are confidential and will not be disclosed in this Consent Order. The Respondent is aware of the names of facilities and individuals referenced herein.

Radiographer revealed that within the last two years, she had been terminated for disciplinary reasons, explaining: "I was terminated from Advanced Radiology for disciplinary reasons. I performed foot and ankle views lying down instead of standing."

2. Based on the information in the Radiographer's renewal application (the "Complaint"), the Board initiated an investigation.

3. In furtherance of the investigation, the Board's investigator obtained written responses from the Respondent and relevant personnel records. The records revealed the following.

4. Effective May 10, 2017, the Respondent, a Maryland medical diagnostic imaging firm, terminated the Radiographer, who it had been employing since approximately June 27, 1994.

5. The Respondent terminated the Radiographer by letter dated May 11, 2017, after at least the following three incidents of unsatisfactory performance that resulted in verbal and formal counseling.

6. On or about January 9, 2017, the Radiographer was counseled regarding her failure on at least two occasions to obtain an advance beneficiary notice (ABN) before performing an imaging study on a Medicare patient, which is required in order to bill Medicare for the imaging study.

7. On or about March 13, 2017 the Radiographer was counseled regarding her performance of several unnecessary radiographs on a patient due to her failure to verify the patient's identity according to protocol. This incident resulted in unnecessary radiation exposure to the patient.

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8. On April 7, 2017, the Radiographer was counseled regarding her inappropriate administration of a radiograph to a patient in a recumbent position when the order stated that the radiograph was to be taken of the patient while standing upright. Again, the incident resulted in unnecessary radiation exposure to the patient. The written counseling record stated, "Clearly you did not read the X-ray order prior to performing the X-ray on the patient. In addition, you chose to leave the office after this incident compromising the care of our patients and leaving your co-worker unsupported."

9. When asked to respond to the Board's concerns regarding its failure to report the Radiographer's termination to the Board, the Respondent stated in a letter dated June 24, 2019, that it wished to comply with all relevant law, but that it was not aware of the reporting requirements under the Act.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent failed to report to the Board within 10 days that effective May 10, 2017, it terminated its employee, the Radiographer, at least in part for reasons that might be grounds for disciplinary action under Health Occ. § 14-5B-14, specifically: (3) ("Is guilty of unprofessional or immoral conduct in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance"); (4) ("Is

professionally, physically, or mentally incompetent”); (5) (“Abandons a patient”); and/or (18) (“Fails to meet appropriate standards for the delivery of quality radiation therapy, radiography, nuclear medicine technology, or radiology assistance care performed in any outpatient surgical facility, office, hospital or related institution, or any other location in this State”). The Respondent’s failure to timely report the termination of the Radiographer to the Board, as described above, constitutes a violation of Health Occ. §14-5B-15.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by the Board, hereby:

ORDERED that within **THIRTY (30) DAYS** of the effective date of this Consent Order, the Respondent shall pay to the Board a civil penalty of **FIVE HUNDRED DOLLARS (\$500.00)**. The payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297; and it is further

ORDERED that this Consent Order is a **PUBLIC DOCUMENT**. See Md. Code Ann., Gen. Prov. §§ 4-101 through 4-601 (2019 Repl. Vol.).

03/30/2020
Date

Signature on File

Christine A. Farrelly, Executive Director
Maryland State Board of Physicians

CONSENT

I, LAURA FOSTER [Agent for the Respondent],
acknowledge that the Respondent has had the opportunity to consult with counsel before
signing this document.

By this Consent, the Respondent agrees to be bound by this Consent Order and all
its terms and conditions and understand that the Board will not entertain any request for
amendments or modifications to any condition.

The Respondent is aware of the right to a hearing before the Board pursuant to
COMAR 10.32.22.06 concerning the Notice issued against the Respondent. The
Respondent waives this right and has elected to sign this Consent Order instead.

The Respondent acknowledges the validity and enforceability of this Consent Order
as if entered after the conclusion of a formal evidentiary hearing in which the Respondent
would have had the right to counsel, to confront witnesses, to give testimony, to call
witnesses on the Respondent's behalf, and to all other substantive and procedural
protections as provided by law. The Respondent waives those substantive and procedural
protections. The Respondent acknowledges the legal authority and the jurisdiction of the
Board to initiate these proceedings and to issue and enforce this Consent Order.

The Respondent voluntarily enters into and agrees to comply with the terms and
conditions set forth in this Consent Order as a resolution of the Notice issued against the
Respondent in this case. The Respondent waives any right to contest the Findings of Fact
and the Conclusions of Law set out in this Consent Order. The Respondent waives all rights

to appeal this Consent Order.

On behalf of the Respondent, I sign this Consent Order without reservation, and I fully understand and comprehend the language and meaning of its terms.

3-17-2020
Date

Signature on File

Agent for the Respondent (printed name)

Signature on File

Agent for the Respondent (signature)

NOTARY

STATE OF _____

CITY / COUNTY OF _____

See attached

I HEREBY CERTIFY that on this _____ day of _____ 2020, before me, a Notary Public of the foregoing State and City/County, personally appeared _____ [Agent for the Respondent] and made oath in due form of law that signing the foregoing Consent Order was his/her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Notary Public

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Los Angeles }
On March 17, 2020 before me, Ydairi R. Ramos, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Laura Foster
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature Ydairi R. Ramos
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____
 Corporate Officer – Title(s): _____ Corporate Officer – Title(s): _____
 Partner – Limited General Partner – Limited General
 Individual Attorney in Fact Individual Attorney in Fact
 Trustee Guardian or Conservator Trustee Guardian or Conservator
 Other: _____ Other: _____
Signer is Representing: _____ Signer is Representing: _____