

IN THE MATTER OF	*	BEFORE THE
DANIELA S. DA ROCHA, PA	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: C08555	*	Case Number: 2224-0108

* * * * *

CONSENT ORDER

On April 17, 2024, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) charged **Daniela S. Da Rocha, PA** (the “Respondent”), License Number C08555, with violating the Maryland Physician Assistants Act (the “Act”), Md. Code Ann., Health Occ. §§ 15-101 *et seq.* (2021 Repl. Vol. & 2022 Supp.).

The Respondent was charged under the following provisions of the Act:

Health Occ. § 15-314. Discipline of physician assistants.

(a) *Grounds for discipline.* - Subject to the hearing provisions of § 15-315 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum, may reprimand any physician assistant, place any physician assistant on probation, or suspend or revoke a license if the physician assistant:

(42) Performs delegated medical acts without the supervision of a physician;

.....

(45) Fails to comply with any State or federal law pertaining to the practice as a physician assistant.^[1]

¹ The Respondent was also charged under Health Occ. § 15-314(a)(3)(ii), but this charge is dismissed, as mentioned in the Conclusions of Law.

With respect to Health Occ. § 15-314(a)(45), the Respondent was charged with failing to comply with Health Occ. § 15-314(a)(42) and the following State laws pertaining to the practice as a physician assistant:

Health Occ. § 15-314.

- (42) Performs delegated medical acts without the supervision of a physician.

Health Occ. § 15-401.

- (a) *In general.* - 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.

Code of Maryland Regulations (“COMAR”) 10.32.03.05. Delegation Agreements – Contents.

- A. Before a physician may delegate medical acts and before a physician assistant may perform medical acts, the physician assistant and primary supervising physician shall file with the Board:
- (1) A delegation agreement on the Board-approved form; and
 - (2) The required fee as specified in Regulation .16 of this chapter.

COMAR 10.32.05.02. Definitions.

....

- B. Terms Defined.

....

- (10) “Telehealth practitioner” means a Maryland licensed physician or licensed allied health practitioner performing telehealth services within their respective scope of practice.

COMAR 10.32.05.03. Licensure.

... [A] telehealth practitioner may practice telehealth if one or both of the following occurs:

- A. The individual practicing telehealth is physically located in Maryland; or
- B. The patient is in Maryland.

On June 26, 2024, Panel B was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on the negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

Panel B finds the following:

A. LICENSING INFORMATION

1. The Respondent was and is a physician assistant (“PA”) licensed in the State of Maryland. She was initially licensed in Maryland on July 2, 2022. Her license is scheduled to expire on June 30, 2025, subject to renewal.

2. The Respondent is also licensed as a PA in Washington, D.C. She was initially licensed in Washington, D.C. on May 5, 2017, and her license is set to expire on December 31, 2024, subject to renewal.

3. Since May 15, 2017, the Respondent has been employed as a PA at a Medical Facility (the “Medical Facility”)² in Washington, D.C.

B. TREATING PATIENTS IN MARYLAND

² To ensure confidentiality and privacy, the names of individuals, patients and institutions involved in this case are not disclosed in this document.

4. On June 8, 2023, the Respondent called the Board for assistance in renewing her Maryland PA license. While speaking with Board staff over the phone, the Respondent stated that she occasionally treated Maryland patients via telehealth while she was working outside of Maryland.

5. As of June 8, 2023, the Respondent had not previously submitted a delegation agreement to the Board.

6. On June 8, 2023, the Respondent submitted a Delegation Agreement for Core Duties (the "Delegation Agreement") to the Board in which she named a physician who is licensed to practice medicine in Maryland ("Physician A") as her primary supervising physician. The Respondent listed the Medical Facility in Washington, D.C. as her practice location.

7. On or about July 18, 2023, the Board approved the Respondent's Delegation Agreement.

8. Based on the Respondent's disclosure that she was treating patients in Maryland via telehealth while she was outside of Maryland, the absence of her Maryland licensure prior to July 2, 2022, and the absence of a delegation agreement prior to June 8, 2023, the Board initiated an investigation.

9. On September 8, 2023, the Board issued a subpoena duces tecum to the Medical Facility for the following:

- a. A copy of the complete, unredacted personnel/human resources file for the Respondent;
- b. A listing of any and all Maryland patients treated by the Respondent

via telehealth, to include name, date of birth and reason for visit, from date of hire to present; and

- c. A copy of the job/position descriptions for any and all positions held by the Respondent.

10. On or about September 21, 2023, the Medical Facility provided the requested documents to the Board via email.

11. The Medical Facility's documents revealed the following:

- a. The Respondent works as a full-time PA at the Medical Facility in Washington, D.C.;
- b. The Respondent entered into an employment contract with the Medical Facility on or about May 15, 2017;
- c. Between July 11, 2018, and July 1, 2022,³ the Respondent treated several patients in Maryland via telehealth;
- d. Between July 2, 2022, and June 7, 2023,⁴ the Respondent treated several patients in Maryland via telehealth.

12. By letter dated October 16, 2023, Board staff notified the Respondent that the Board initiated an investigation into the Respondent's practicing as a PA in Maryland without a license and without a Board approved delegation agreement from approximately July 11, 2018, to June 7, 2023. Board staff requested that the Respondent provide a written response to the allegations and requested that the Respondent provide the name of her supervising physician(s) from July 11, 2018, to June 7, 2023.

³ The Respondent did not have a Maryland license to practice as a physician assistant during this time, and consequently, she did not have a Board approved delegation agreement during this time.

⁴ The Respondent had a Maryland license to practice as a physician assistant during this time. However, the Respondent did not have a Board approved delegation agreement during this time.

13. By letter dated October 22, 2023, the Respondent responded in pertinent part:
- a. Visits with one of the patients were carried out at that patient's home;
 - b. Visits listed as "telephone" were "non-medical encounters" during which patients received information regarding their medical referrals;
 - c. Visits between March 18, 2020 and February 3, 2022 were performed under "the licensure reciprocity waiver invoked by the Public Health Emergency, which went into effect in Maryland [on March 5, 2020] and expired [February 3, 2022] when the Public Health Emergency was terminated[;]"⁵
 - d. The Respondent has been licensed in Washington, D.C. since May 5, 2017. Since that time, she has worked at the Medical Facility, and she has been under the supervision of Physician A;
 - e. The Respondent obtained her Maryland license on July 2, 2022;
 - f. The Respondent stated: "It is evident that, in the rapidly changing pandemic telehealth environment, I failed to recognize that by continuing to see telehealth patients who might be located in Maryland, I was practicing medicine out of state, and therefore was functionally without licensure at the time of the visits between 2/3/2022 and 7/2/2022. Furthermore, once I was licensed in Maryland in July of 2022, it was my oversight not to ask my supervising physician to sign an additional, Maryland delegation agreement."

14. On November 20, 2023, the Board issued a subpoena duces tecum to the Medical Facility for "a complete unredacted copy of the medical record[s]" for 14 patients ("Patients 1 - 14") treated by the Respondent.

⁵ Beginning on March 16, 2020, pursuant to an Executive Order issued during the Maryland COVID-19 state of emergency, PAs with an out-of-state license were permitted to treat patients in Maryland under the supervision of a Maryland licensed physician, and they were required to notify the Board by completing an out-of-state registration for COVID-19 within 30 days of beginning to perform medical acts. The Respondent was not registered as an out-of-state PA practicing in Maryland during the COVID-19 state of emergency. The Executive Order permitting out-of-state PAs to practice without a license in Maryland expired on August 15, 2021.

15. On November 22, 2023, the Medical Facility transmitted the medical records for Patients 1 - 4 and Patients 6 - 14 to the Board.

16. On November 27, 2023, the Board issued a second subpoena duces tecum to the Medical Facility for “a complete unredacted copy of the medical record[s]” for Patient 5.

17. On November 27, 2023, the Medical Facility transmitted Patient 5’s medical records to the Board.

18. On December 11, 2023, the Board issued a subpoena duces tecum to the Medical Facility for “a complete unredacted copy of the medical record[s]” for one additional patient (“Patient 15”) treated by the Respondent.

19. On December 11, 2023, the Medical Facility transmitted Patient 15’s records to the Board.

20. The medical records show that the Respondent treated Patients 1 - 15 in Maryland on approximately 37 occasions between July 11, 2018, and May 15, 2023.⁶ The Respondent’s treatment of these patients included but was not limited to the following:

- a. Gathering the patients’ chief complaints and histories of present illness;
- b. Conducting patient screenings and examinations;
- c. Formulating assessments of patients’ conditions and treatment plans;
- d. Reviewing, refilling, adding, stopping, and/or modifying the patients’ medications;

⁶ All of these visits were telehealth visits, except for four visits with one patient that took place in the patient’s home in Maryland.

- e. Providing referrals to specialists based on the patients' conditions.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel B of the Board concludes as a matter of law that the Respondent: performed delegated medical acts without the supervision of a physician, in violation of Health Occ. § 15-314(a)(42); and failed to comply with any State or federal law pertaining to the practice as a physician assistant, in violation of Health Occ. § 15-314(a)(45). With respect to Health Occ. § 15-314(a)(45), the Respondent's conduct, as described above, constitutes failing to comply with the following State laws: Health Occ. § 15-314(a)(42), Health Occ. § 15-401, COMAR 10.32.03.05A, and COMAR 10.32.05.03. The charge of Health Occ. § 15-314(a)(3)(ii) is dismissed.

ORDER

It is, thus, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel B, hereby:

ORDERED that the Respondent Daniela S. Da Rocha is **REPRIMANDED**; and it is further

ORDERED that, within **SIX MONTHS** of the effective date of this Consent Order, the Respondent shall pay a civil fine of **ONE THOUSAND DOLLARS (\$1,000)**. 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. The Board will not renew or reinstate the Respondent's license if the Respondent fails to timely pay the fine to the Board; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director signs the Consent Order on behalf of Panel B; and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent 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).

07/24/2024
Date

Signature On File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Daniela S. Da Rocha, PA, acknowledge that I have consulted with counsel before signing this document.

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

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 15-315 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* concerning the pending charges. I waive this right and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order. I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

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

07/18/2024
Date

Signature On File
Daniela S. Da Rocha, PA
Respondent

NOTARY

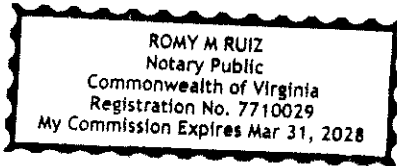
STATE OF Virginia

CITY/COUNTY OF Fairfax

I **HEREBY CERTIFY** that on this 18 day of July 2024, before me, a Notary Public of the foregoing

State and City/County, Daniela S. Da Rocha, PA, personally appeared and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSTH my hand and notarial seal.



A handwritten signature in cursive script, appearing to read "Rommy Ruiz".

Notary Public

My commission expires: 03/31/2028