

Richard Falcioni, PA-C

Date: January 25, 2019

Damean Freas, D.O., Chair
Disciplinary Panel B
Maryland State Board of Physicians
4201 Patterson Avenue, 4th Floor
Baltimore, MD 21215-2299

Re: Surrender of License to Practice Medicine
Richard Falcioni, PA-C
License Number: C00537
Case Number: 7718-0120

Dear Dr. Freas and Members of the Disciplinary Panel B

Please be advised that, pursuant to Md. Code Ann., Health Occ. ("Health Occ.") §15-312(2014 Repl. Vol. & 2017 Supp.), I have decided to **SURRENDER** my license to practice as a physician assistant in the State of Maryland, License Number C00537, effective immediately. I understand that upon surrender of my license, I may not give medical advice or treatment to any individual, with or without compensation, and cannot prescribe medications or otherwise engage in the practice of medicine in the State of Maryland as it is defined in the Maryland Physician Assistants Practice Act (the "Act"), Health Occ. §§ 15-101 *et seq.* and other applicable laws. In other words, as of the effective date of this Letter of Surrender, I understand that the surrender of my license means that I am in the same position as an unlicensed individual in the State of Maryland.

I understand that this Letter of Surrender is a **PUBLIC DOCUMENT**, and upon Disciplinary Panel B's ("Panel B") acceptance, becomes a **FINAL ORDER** of Panel B of the Maryland State Board of Physicians (the "Board").

I acknowledge that the Board initiated an investigation of my practice and on March 15, 2018, Panel B issued disciplinary charges against me under Health Occ. § 15-314(a)(22) and (40). Specifically, Panel B alleged that I had failed to meet the standards of quality medical care and keep adequate records for multiple patients. I resolved these disciplinary charges through entering into a Consent Order with Panel B, dated June 12, 2018 (the "Consent Order"), in which Panel B found that I violated Health Occ. § 15-314(a)(22) and (40). The Consent Order imposed a reprimand and placed me on probation for a minimum of two (2) years with certain terms and conditions including that I cease prescribing controlled dangerous substances, with certain limited exceptions, that I complete panel-approved courses in recordkeeping and pain management within six (6) months of the Consent Order, and that I undergo a peer and/or chart review at the

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discretion of Panel B. A copy of the Consent Order is attached and incorporated herein as Attachment 1.

I admit that I failed to comply with the terms of the Consent Order by failing to take the required courses within six (6) months of the Consent Order. I have decided to surrender my license to practice medicine in the State of Maryland to avoid prosecution for violating the Consent Order and due to my planned retirement. I acknowledge that the Consent Order remains and will continue to be a valid Final Order of the Board, however, upon acceptance of the Letter of Surrender, I will not be required to comply with the conditions of the Order as long as I do not have or possess a medical license in Maryland.

I wish to make it clear that I have voluntarily, knowingly and freely chosen to submit this Letter of Surrender. I acknowledge that if this case proceeded to a hearing, the State would be able to prove that I violated the terms Consent Order by a preponderance of the evidence.

I understand that by executing this Letter of Surrender I am waiving my right to a hearing to contest any charges related to my violation of the Consent Order. In waiving my right to contest the charges, I am also waiving the right to be represented by counsel at the hearing, to confront witnesses, to give testimony, to call witnesses on my own behalf, and all other substantive and procedural protections provided by law, including the right to appeal to a circuit court.

I understand that the Board will advise the Federation of State Medical Boards, the National Practitioner Data Bank, and the Healthcare Integrity and Protection Data Bank of this Letter of Surrender. I also understand that in the event I would apply for licensure in any form in any other state or jurisdiction that this Letter of Surrender may be released or published by the Board to the same extent as a final order that would result from disciplinary action, pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014), and that this Letter of Surrender constitutes a disciplinary action by Panel B.

I further recognize and agree that by submitting this Letter of Surrender, my license will remain surrendered unless and until the Board grants reinstatement. In the event that I apply for reinstatement of my Maryland License, I understand that Panel B or its successor is not required to grant reinstatement; and, if it does grant reinstatement, may impose terms and conditions in conformity with or in addition to those set forth in the Consent Order. I further understand that if I ever file a petition for reinstatement, I will approach Panel B or its successor in the same position as an individual whose license has been revoked.

I acknowledge that I may not rescind this Letter of Surrender in part or in its entirety for any reason whatsoever. Finally, I wish to make clear that I have been advised of my right to be represented by an attorney of my choice throughout proceedings before Panel B, including the right to consult with an attorney prior to signing this Letter of

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Surrender. I have knowingly and willfully waived my right to be represented by an attorney of my choice throughout proceedings before Panel B, including the right to counsel prior to signing this Letter of Surrender. I understand both the nature of Panel B's actions and this Letter of Surrender fully. I acknowledge that I understand and comprehend the language, meaning and terms and effect of this Letter of Surrender. I make this decision knowingly and voluntarily.

Very truly yours,

Signature on File

Richard Falcioni, PA-C

NOTARY

STATE OF Maryland
CITY/COUNTY OF Cecil

I HEREBY CERTIFY that on this 18 day of January, 2019 before me, a Notary Public of the City/County aforesaid, personally appeared Richard Falcioni, PA-C, and declared and affirmed under the penalties of perjury that the signing of this Letter of Surrender was his voluntary act and deed.

AS WITNESS my hand and Notarial seal.

C. McSally
Notary Public

My commission expires: 11/01/2020

ACCEPTANCE

On behalf of Disciplinary Panel B, on this 25th day of January, 2019, I, Christine A. Farrelly, accept Richard Falcioni, PA-C's **PUBLIC SURRENDER** of his license to practice medicine in the State of Maryland.

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

ATTACHMENT 1

IN THE MATTER OF	*	BEFORE THE
RICHARD FALCIONI, PA-C	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: C00537	*	Case Number: 2217-0016B

CONSENT ORDER

On March 15, 2018, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") charged Richard Falcioni, PA-C (the "Respondent"), License Number C00537, with violating the Maryland Physician Assistants Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") § 15-314(a) (2014 Repl. Vol. & 2017 Supp.).

The pertinent provisions of the Act provide:

- (a) *Grounds.* -- 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:

...

(22) Fails to meet appropriate standards for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this state;

...

(40) Fails to keep adequate medical records[.]

On May 23, 2018, Panel B was convened as a Disciplinary Committee for Case Resolution ("DCCR") in this matter. Based on 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 and Order.

FINDINGS OF FACT

Panel B finds:

I. BACKGROUND

1. The Respondent is a Physician Assistant. The Respondent was initially licensed by the Board on September 17, 1981. The Respondent's license is scheduled to expire on June 30, 2019.
2. At all times relevant to these charges, the Respondent was a physician assistant at an urgent care center located in Havre De Grace, Maryland ("Facility A").
3. At all times relevant to these charges, the Respondent's assigned supervising physician was Physician A. The Board approved the Respondent's delegation agreement with Physician A in 2014 for internal medicine duties and urgent care including conducting histories and physical examinations, interpreting and evaluating patient data, administering and interpreting EKGs, repairing lacerations and incision and drainage of superficial abscesses. Pain management and psychiatry were not included in the requested scope of practice.
4. On or about November 28, 2016, the Board received an anonymous complaint alleging that a former patient of the Respondent (identified below as "Patient 4") presented to Hospital A during the evening of October 2, 2016 purportedly with an overdose of "Lexapro." Hospital A conducted a CRISP¹ search and discovered that Patient 4 had been prescribed several controlled dangerous substances ("CDS") by the Respondent through an urgent care center ("Facility A").

¹ "CRISP" stands for Chesapeake Regional Information System for our Patients and is a prescription drug monitoring program ("PDMP") available to providers in Maryland and the District of Columbia.

5. On receipt of the complaint, the Board initiated an investigation which included issuing a subpoena for a PDMP report of the Respondent's prescribing, issuing subpoenas to Facility A for a total of ten patient records and issuing a subpoena to Hospital A for Patient 4's records.
6. On or about March 24, 2017, the Board notified the Respondent of the complaint filed relating to Patient 4 and requested a written response.
7. On or about April 14, 2017, the Respondent submitted a written response to the Board regarding Patient 4. The Respondent stated that he had no knowledge of Patient 4's prescription(s) by her primary care provider for oxycodone, or that she had been treated for an overdose at Hospital A. Shortly thereafter, the Respondent submitted "summaries of care" for all ten patients as requested by the Board.
8. On or about July 5, 2017, Board staff interviewed the Respondent under oath at the Board's offices. The Respondent acknowledged that he had not completed any coursework or specialized training in pain management. The Respondent stated that although his supervising physician is available anytime and has access to the medical records of the patients the Respondent sees, he does not "typically" call him as he (the Respondent) has been seeing patients as a PA for 38 years.
9. In furtherance of its investigation, on or about October 24, 2017, Board staff transmitted ten patient records and other relevant investigative documents to Permedion requesting that a peer review be conducted of the Respondent's practice. On or about January 9, 2018, the Board received the peer review report regarding the Respondent's care and treatment of Patients 1-10.

II. PATIENT-RELATED FINDINGS

STANDARD OF CARE VIOLATIONS

10. The peer reviewer found the following deficiencies relating to nine patients (Patients 1, 2, 3, 4, 5, 6, 7, 9, and 10) that relate in whole or in part to the Respondent's failure to meet the standard of quality care for patients receiving opioids and/or benzodiazepines and/or psychiatric medications. The peer reviewer found:

- The Respondent's inadequate use of random urine drug screening to monitor for abuse or diversion of controlled dangerous substances ("CDS") (Patients 1, 3, 4, 5, 7, 9, 10);
- The Respondent's early prescribing of CDS refills (Patients 1, 2);
- The Respondent's prescribing of CDS to patients for lost or forgotten medications without documentation of warning or reiteration of policy (Patients 1, 2);
- The Respondent's failure to obtain narcotics' contracts (Patient 1, 3, 5, 7);
- The Respondent's inappropriate prescribing of CDS to patients with a history of substance abuse disorders (Patients 2, 6, 7);
- The Respondent's prescribing of opioids or other CDS including increasing dosages without obtaining prior medical records from pain providers, mental health providers, primary care providers or imaging studies substantiating legitimate need for opioids (Patient 1, 2, 3, 4, 5, 6, 9, 10);
- The Respondent's prescribing for chronic pain and or psychiatric medication management to patients in an acute care setting without evidence of immediate danger to the patient (Patient 1, 2, 3, 4, 5, 6, 7, 9, 10);
- The Respondent's prescribing of opioids to patients concurrently with another provider despite having access to CRISP (Patients 3, 4, 9, 10);
- The Respondent's failure to appropriately refer patients to pain management providers (Patient 5); and/or
- The Respondent's failure to prescribe adjuvant therapies (Patient 5).

11. The Respondent's care as outlined above in whole or in part is evidence of the Respondent's failure to meet the standard of quality medical care in violation of Health Occ. § 15-314(a)(22).

INADEQUATE MEDICAL RECORDKEEPING

12. The peer reviewer found the Respondent's record keeping was inadequate for eight patients (Patients 1, 2, 4, 5, 6, 7, 9 and 10), for reasons in whole or in part as follows:

- The Respondent failed to accurately list current medications the patient was being prescribed (Patients 1, 2);
- The Respondent failed to obtain prior medical records from patients' pain or mental health providers to justify the diagnoses documented as rationales for prescribing CDS (Patients 1, 2, 4, 5, 10);
- The Respondent failed to adequately document the patient's progress on the medication regimen (Patients 6);
- The Respondent failed to document an adequate evaluation of the patient including the subjective symptoms (Patients 6, 7, 9, 10); and/or
- The Respondent used a repetitive chronic low back care plan although the complaint was not complaining of back pain (Patient 7).

13. The Respondent's actions and inactions as outlined in pertinent part above in whole or in part evidence deficiencies in the Respondent's record keeping in violation of Health Occ. § 15-314(a)(40).

II. CONCLUSIONS OF LAW

Based on the Findings of Fact, Panel B concludes as a matter of law that the Respondent's conduct constitutes violations of Health Occ. § 15-314(a) (22) and (40).

III. ORDER

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

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum period of **TWO (2) YEARS**, and shall fully and satisfactorily comply with the following probationary conditions:

1. The Respondent shall cease the practice of pain management. The Respondent is prohibited from prescribing controlled dangerous substances ("CDS"), except as provided in this paragraph. In emergency cases, the Respondent may issue no more than one prescription of a CDS to a patient, but the prescription may not exceed the lowest effective dose and quantity needed for a duration of five days. The prescription may not be refilled, nor may it be renewed. The Respondent may not prescribe an emergency prescription for a CDS to a patient more than once per year per patient. The Respondent shall notify the Board within 24 hours of any prescription authorized under this paragraph;

2. Within **SIX (6) MONTHS** of this Consent Order, the Respondent shall successfully complete a comprehensive Panel-approved course in recordkeeping. The course may not be used to fulfill the continuing medical education credits required for license renewal. The Respondent must provide documentation to the Board that the Respondent has successfully completed the course. The course may not be taken over the internet;

3. Within **SIX (6) MONTHS** of this Consent Order, the Respondent shall successfully complete a comprehensive Panel-approved course in the treatment of pain management. The course may not be used to fulfill the continuing medical education credits required for license renewal. The Respondent must provide documentation to the Board that the Respondent has successfully completed the course. The course may not be taken over the internet;

4. During the probationary period, the Respondent is subject to a chart and/or peer review conducted by the Board or Board disciplinary panel or its agents; and it is further

ORDERED that the Panel may issue administrative subpoenas to the Maryland Prescription Drug Monitoring Program on a quarterly basis for the Respondent's CDS prescriptions. The administrative subpoenas may request a review of the Respondent's CDS prescriptions from the beginning of each quarter; and it is further

ORDERED that, after **TWO (2) YEARS**, the Respondent may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated through an order of the Board or Panel. The Respondent may be required to appear before the Board or Panel to discuss his/her petition for termination. The Board or Panel will grant the petition to terminate the probation if the Respondent has complied with all of the probationary terms and conditions and there are no pending complaints related to the charges; and it is further

ORDERED that there shall be no early termination of probation or of any conditions of this Consent Order; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition of this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings. If there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board or a Disciplinary Panel; and it is further

ORDERED that, after the appropriate hearing, if the Board or Disciplinary Panel determines that the Respondent has failed to comply with any term or condition of this Consent Order, the Board or Disciplinary Panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice medicine in Maryland. The Board or Disciplinary Panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon the Respondent; and it is further


ORDERED that the Respondent shall comply with all laws governing the practice of medicine under the Maryland Physician Assistants Act and all rules and regulations promulgated thereunder; 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, unless stated otherwise in the order, any time period prescribed in this order begins when the Consent Order goes into effect. The Consent Order goes into effect upon the signature of the Board's Executive Director, who signs on behalf of Panel B; and it is further

ORDERED that this Consent Order is a public document pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014 & 2016 Supp.).

06/12/2018
Date


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

CONSENT

I, Richard A. Falcioni, PA-C, by affixing my signature hereto, acknowledge that:

I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for the sole purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into 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 own behalf, and to all other substantive and procedural protections provided by law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that I might have filed after any such hearing.

I sign this Consent Order after having an opportunity to consult with counsel, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of the Consent Order.

6-4-2018
Date

Signature on File

Richard A. Falcioni, PÁ-C

STATE/ DISTRICT OF Maryland

CITY/COUNTY OF:

I HEREBY CERTIFY that on this 4 day of June, 2018, before me, a Notary Public of the State/District and County aforesaid, personally appeared Richard A. Falcioni, PA-C, and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Wanda Cox
Notary Public

