

IN THE MATTER OF

MICHEEL KWAKYE, PA-C

Respondent

License Number: C04243

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2218-0091A

* * * * *

CONSENT ORDER

Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”), charged **MICHEEL KWAKYE, PA-C** (the “Respondent”), License Number C04243, under the Maryland Physician Assistants Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 15-101 *et seq.* (2014 Repl. Vol. & 2017 Supp.).

The pertinent provisions of the Act are as follows:

Health Occ. § 15-314. Reprimand, probation, suspension, revocation

(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:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (3) Is guilty of:
 - (ii) Unprofessional conduct in the practice of medicine;
- (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; [and]
- (36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine[.]

The underlying grounds for Health Occ. § 15-314 (a)(21), is Health Occ. § 15-314 (a)(3)(ii), Is guilty of unprofessional conduct in the practice of medicine, and Health Occ. § 15-314 (a)(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 the State.

On December 5, 2018, a conference with regard to this matter was held before Panel A of the Board's Disciplinary Committee for Case Resolution ("DCCR"). As a result of the DCCR, the Respondent agreed to enter into this Consent Order consisting of the Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF ACT

Disciplinary Panel A makes the following Findings of Fact:

1. The Respondent was originally licensed to practice as a physician assistant in Maryland on June 2, 2010, under License Number C04243.
2. The Respondent renewed her license on May 5, 2017.
3. The Board initiated an investigation after receiving information that the Respondent was disciplined in 2017 for disciplinary violations by the Texas Physician Assistant Board (the "Texas Board"), the licensing authority in the State of Texas.

2017 Renewal Application

4. On or about May 5, 2017, the Board received an application (the "Application") for renewal of the Respondent's physician assistant license.
5. In response to the Application's Character and Fitness questions the Respondent answered "NO" to questions (b) and (c). Specifically, the Respondent answered "NO" to the following questions:

- b. Has a state licensing board (including Maryland), a comparable body in 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.
- c. Has a state licensing board (including Maryland), a comparable body in armed services or the Veterans Administration, filed any complaints or charges against you or investigated you for any reason.

6. The Respondent failed to reveal on the Application that she had been disciplined in March of 2017, by the Texas Board, for failing to meet the standard of care for multiple patients at a pain clinic; failure to follow Board rules for treating pain; non-therapeutically prescribing controlled substances; writing fictitious or false prescriptions; and possessing prescription forms that were pre-signed by her supervising physician.

7. In an Order dated March 24, 2017, the Texas Board cited the Respondent for violations under Texas Occ. Code §§ 204-001 *et seq.*, including but not limited to the following:

- (a) § 204.302(4), authorizes the Texas Board to take disciplinary action for unprofessional conduct that is likely to deceive or defraud the public, including violation of federal and state laws or other statutes regulating or pertaining to the practice of medicine;
- (b) § 204.303(a)(1), authorizes the Texas Board to take disciplinary action for violation of Texas Board rules; specifically, failure to maintain an adequate medical record; failure to adhere to pain treatment guidelines; acting in an unprofessional or dishonorable manner which is likely to defraud or injure a member of the public;

prescribing or administering a drug that is not therapeutic; failure to practice as a physician assistant in a acceptable manner consistent with public health and welfare; and committing an act that is in violation of the laws of the State of Texas if the act is connected with practice as a physician assistant;

- (c) § 204.303(a)(3), committing an act that violates state or federal law; specifically, knowingly distributing or dispensing a controlled substance not authorized by the person's registration or delivering a prescription for other than a valid reason.
- (d) § 204.303(a)(5), writing a false or fictitious prescription for a dangerous drug;
- (e) § 204.304(a)(5), failure to practice as a physician assistant in an acceptable manner consistent with public health and welfare; specifically, failure to treat a patient in accordance with the standard of care; negligence in performing medical services; failure to use proper diligence; failure to safeguard against potential complications; and failure to disclose reasonable alternative treatment; and
- (f) § 204.304(a)(8), authorizes the Texas Board to take disciplinary action for prescribing, dispensing, or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is prescribed, dispensed, or administered

8. On March 24, 2017, the Texas Board imposed sanctions against Respondent's license, including, but not limited to the following:

- (a) The Respondent was issued a PUBLIC REPRIMAND;
- (b) Restricted from prescribing CDS;
- (c) Ordered to surrender DEA certificate and any state registration to prescribe controlled substances;
- (d) Ordered to refrain from applying for a DEA certificate or any state registration, except if permission is granted upon petition by the Texas Board;
- (e) Ordered to have medical practice monitored for 12 consecutive monitoring periods (3 months) by a physician designated by the Texas Board;
- (f) Ordered to submit certain patient medical files to the monitor for review;
- (g) Ordered to complete medical recordkeeping and risk management CMEs; and
- (h) Ordered to complete the Medical Jurisprudence Examination with a score of 75 or above.

9. In response to the Board's request for an explanation regarding why she failed to report the Texas Board action on her Application, the Respondent, by correspondence dated December 21, 2017, stated that she "...assume[d] the office of my counsel had delivered a copy of the reprimanded (sic) and restriction document. As promised to Maryland Board of Physicians also." The Respondent did not provide any documentation to support this claim.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact Disciplinary Panel A concludes as a matter of law that the Respondent violated Health Occ. § 15-314 (a):

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (3) Is guilty of:
 - (ii) Unprofessional conduct in the practice of medicine;
- (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; [and]
- (36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine

The underlying grounds for Health Occ. § 15-314 (a)(21), is Health Occ. § 15-314 (a)(3)(ii), Is guilty of unprofessional conduct in the practice of medicine, and Health Occ. § 15-314 (a)(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 the State.

ORDER

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

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

ORDERED that the Respondent is restricted from prescribing and administering controlled dangerous substances (“CDS”) until Texas permits her to prescribe and administer CDS; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum of **TWO (2) YEARS**.¹ During probation, the Respondent shall comply with the following terms and conditions of probation:

- (1) The Respondent is required to take a course in ethics. The following terms apply:
 - (a) it is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the course before the course is begun;
 - (b) the disciplinary panel will not accept a course taken over the internet;
 - (c) the Respondent shall enroll in and successfully complete a panel-approved course within six months;
 - (d) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;
 - (e) the course may not be used to fulfill the continuing medical education credits required for license renewal; and
 - (f) the Respondent is responsible for the cost of the course; and it is further
- (2) Within **TWO YEARS**, the Respondent shall pay a civil fine of **\$5,000**. 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;
- (3) If Respondent enters into a delegation agreement with a Maryland licensed physician, Respondent shall meet in-person with her supervising physician quarterly and shall submit a report from the delegating physician that summarizes their discussion and meeting regarding patient care;

¹ If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

(4) The Respondent shall comply with the Maryland Medical Practice Act, Md. Code Ann., Health Occ. §§ 14-101—14-702, and all federal and state laws and regulations governing the practice of medicine in Maryland; and it is further

ORDERED that Respondent shall provide documentation of her compliance and, if applicable, completion of her Texas Order;

ORDERED that the Respondent shall not apply for early termination of probation; and it is further

ORDERED that after the Respondent has complied with all terms and conditions of probation and the minimum period of probation imposed by the Consent Order has passed, the Respondent may submit a written petition for termination of probation. After consideration of the petition, the probation may be terminated through an order of the disciplinary panel. The Respondent may be required to appear before the disciplinary panel to discuss his petition for termination. The disciplinary panel may grant the petition to terminate the probation through an order of the disciplinary panel if there are no pending complaints relating to the charges; and it is further

ORDERED that a violation of probation constitutes a violation of the Consent Order; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition imposed by 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 followed by an exceptions process before a disciplinary panel; and if there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the 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 disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; 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 the disciplinary panel which has imposed the terms and conditions of this Consent Order; 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).

01/29/2019
Date

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

CONSENT

I, Micheel Kwakye assert that I am aware of my right to consult with and be represented by counsel in considering this Consent Order and in any proceedings that would otherwise result from the charges currently pending. I have chosen to proceed without counsel and I acknowledge that the decision to proceed without counsel is freely and voluntarily made.

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. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.*, concerning the pending charges. I waive these rights 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 their 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.

01/25/19
Date

Signature on File

Micheel Kwakye, P.A.-G
Respondent

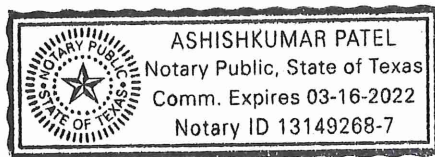
NOTARY

STATE OF TEXAS

COUNTY OF HARRIS

I HEREBY CERTIFY that on this 25th day of JAN., 2019, before me, a Notary Public of the State and County aforesaid, personally appeared Micheel Kwakye, P.A.-C., License Number: CO4243, 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:



Ashish
Notary Public

My Commission expires: _____