

IN THE MATTER OF

AHMED GBADAMOSI, PA-C,

Respondent.

License No. C04261

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BEFORE THE MARYLAND

STATE BOARD OF PHYSICIANS

Case Number: 2218-0054A

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FINAL DECISION AND ORDER

Ahmed Gbadamosi, PA-C, is a physician assistant licensed by the Maryland State Board of Physicians ("Board"). Mr. Gbadamosi was first licensed by the Board on June 29, 2010. After his license expired on June 30, 2013, he subsequently applied for reinstatement in September, 2014, which was granted by the Board on October 28, 2014. He has been continuously licensed in Maryland since that date, having renewed his license in 2015 and 2017.

In 2010, Mr. Gbadamosi moved to Georgia and remained there until 2015, at which point he returned to Maryland. On February 18, 2014, while he lived in Georgia, Mr. Gbadamosi pleaded guilty to and was convicted of criminal trespass in the State Court of Cobb County, Georgia. He was sentenced to twelve months confinement, was required to serve one day of that sentence and was placed on probation for the remainder of the twelve-month period. On his September 2014 reinstatement application, Mr. Gbadamosi answered "NO" to a question asking whether he had been charged with or convicted of any criminal act.

During Mr. Gbadamosi's license renewal process in 2017, he was required to submit to a criminal history background check, pursuant to § 15-307(g) of the Health Occupations Article.¹ That background check flagged his 2014 criminal conviction in Georgia, and led to a Board

¹ In 2015, the Maryland General Assembly enacted legislation that required all applicants for initial licensure, renewal, and reinstatement to obtain a criminal history records check, beginning October 1, 2016. See Senate Bill 449, ch. 34, 2015 Md. Laws 178.

investigation of the conviction and his prior applications for license reinstatement and renewal. In May 2018, based on the Board's investigation, Disciplinary Panel A of the Board charged Mr. Gbadamosi with fraudulently or deceptively obtaining or attempting to obtain a license, unprofessional conduct in the practice of medicine, and willfully making a false representation when seeking or making application for licensure or any other application related to the practice of medicine, in violation of the Act, Md. Code Ann., Health Occ. § 15-314(a)(1), (3)(ii), and (36), respectively.

Mr. Gbadamosi requested and received an evidentiary hearing on December 10, 2018, at the Office of Administrative Hearings before an Administrative Law Judge ("ALJ"). In a Proposed Decision issued on February 22, 2019, the ALJ recommended that the charges be upheld and found that Mr. Gbadamosi had made false representations when filling out his 2014 Reinstatement Application, his 2017 Renewal Application and a Maryland Hospital Credentialing Application in 2015. As a sanction, the ALJ recommended that Mr. Gbadamosi's physician assistant license be suspended for one year and that he be fined \$25,000.00.

Mr. Gbadamosi filed written exceptions to the ALJ's Proposed Decision, and the State filed a Response to Mr. Gbadamosi's exceptions. Both parties appeared before Disciplinary Panel B of the Board for an oral exceptions hearing on April 24, 2019.² After considering the entire record in this case, including the evidentiary record made before the ALJ, and the written exceptions and oral arguments by both parties, Panel B now issues this Final Decision and Order.

² At the exceptions hearing, Mr. Gbadamosi was not present but was represented by his attorney.

FINDINGS OF FACT

Panel B adopts the findings of fact numbered 1-28 proposed by the ALJ with one modification. The panel corrects the date in Finding of Fact 3 of the ALJ's Proposed Decision to state that Mr. Gbadamosi pleaded guilty to and was convicted of criminal trespass, a misdemeanor, in the State Court of Cobb County, Georgia, on February 18, 2014. The panel adopts that finding as amended. (The ALJ's Proposed Decision of February 22, 2019 is incorporated by reference into this Final Decision and Order and is appended to this Order as Attachment A).

In addition to her findings that Mr. Gbadamosi falsely answered questions on Board licensure applications in 2014 and 2017, and on a Maryland Hospital Credentialing Application in July, 2015, the ALJ made the following findings regarding Mr. Gbadamosi's employment history:

(1) Mr. Gbadamosi was terminated from his position at a medical practice in June, 2015, after three weeks of employment, due to poor attendance and failure to follow policy and protocols. *See* Finding of Fact 12; ALJ Proposed Dec., pp. 15-16.

(2) Mr. Gbadamosi failed to disclose that prior employment on his July, 2015 credentialing application, when he applied for another position at a hospital facility that month, despite clear language on that application requiring that the applicant list "ALL HEALTHCARE FACILITIES at which you hold or have held privileges." *See* Finding of Fact 17; ALJ Proposed Dec., p. 18.

(3) Mr. Gbadamosi falsely answered "NO" to another question on the 2015 hospital credentialing application asking whether his membership on the staff of "any facility, health plan, or HMO . . . had "ever been voluntarily or involuntarily withdrawn, relinquished . . .

revoked, suspended, or investigated,” despite his termination from his position at the medical practice a month earlier. *See* Findings of Fact 16, 17; ALJ Proposed Dec., p. 18.

(4) Mr. Gbadamosi falsely answered “NO” to yet another question on the employment credentialing application asking whether he had “ever been named as a defendant in a criminal case . . .”, when in fact he had been convicted of criminal trespass in 2014. *See* Finding of Fact 17.

(5) In January, 2017, Mr. Gbadamosi was evaluated by his supervisor at the hospital facility, who determined that Mr. Gbadamosi had failed to meet the standard of care. The supervisor noted concerns regarding interpersonal interaction, slow response time, and improper documentation. *See* Finding of Fact 20.

(6) Mr. Gbadamosi resigned from the hospital facility in lieu of termination. *See* Finding of Fact 22.

The factual findings in this case were proven by a preponderance of the evidence. The panel also adopts the ALJ’s discussion and analysis on pages 8-20 of the Proposed Decision.

The ALJ’s Credibility Determinations

Based on the ALJ’s evaluation of the documentary evidence and Mr. Gbadamosi’s testimony at the hearing, the ALJ found that he failed to credibly refute the facts alleged by the State, and engaged in multiple instances of deception, which she found represented a troubling pattern of deception. The ALJ also determined that Mr. Gbadamosi’s testimonial claims and responses to the facts presented at the hearing were implausible and undermined his credibility because they were unsupported by any credible explanations. In addition, the ALJ found that Mr. Gbadamosi took no responsibility for his false representations, but continued to offer

explanations that strained credibility. For example, Mr. Gbadamosi testified that he voluntarily resigned from his position at the medical practice, in stark contradiction to the mandated 10-day report submitted from the practice to the Board disclosing his termination, and Mr. Gbadamosi's own written response to the Board stating three separate times that he was "released on [his] third week," that he was "terminated," and that he was "terminated unjustly." Panel B adopts the ALJ's credibility determinations on Mr. Gbadamosi.

CONSIDERATION OF EXCEPTIONS

Mr. Gbadamosi does not dispute the ALJ's proposed findings and conclusions that he was terminated from the medical practice in June 2015, nor does he challenge the ALJ's findings that he failed to disclose his employment with and termination from the practice as well as his criminal conviction on the 2015 hospital credentialing application. He also does not dispute the ALJ's finding that he was evaluated by his supervisor at the hospital facility in January, 2017. Mr. Gbadamosi does take exception specifically to the ALJ's proposed factual findings numbered 7, 21, and 25. He also excepts generally to the ALJ's proposed conclusions of law that he fraudulently or deceptively obtained or attempted to obtain a license, engaged in unprofessional conduct in the practice of medicine, and willfully made a false representation when seeking or making application for licensure or any other application in the practice of medicine.

In Finding of Fact 7, the ALJ found that Mr. Gbadamosi provided a false response on his 2014 Reinstatement Application to the Board, by answering "NO" to Question 12e which asked whether he had ever been charged with or convicted of any criminal act for which he was sentenced to probation or confinement. Mr. Gbadamosi further certified on his application that the information in his responses was true and correct. In his exceptions, Mr. Gbadamosi does not

dispute the charge or conviction but argues that his "NO" answer was based on his belief that his criminal offense had been expunged from the record, and that he held this belief in good faith based on the advice of counsel in the criminal matter. The record does not support Mr. Gbadamosi's arguments.

The court documents obtained by the Board from the Georgia State Court of Cobb County established that Mr. Gbadamosi pled guilty to misdemeanor criminal trespass on February 18, 2014, and was sentenced to 12 months confinement. Under the terms of a negotiated plea, Mr. Gbadamosi was incarcerated for one day and placed on probation for the remaining 11 months and 29 days of his sentence, with probationary conditions that included evaluation and treatment for anger/violence. Mr. Gbadamosi applied for reinstatement in Maryland just seven months after his plea and conviction. At the evidentiary hearing, Mr. Gbadamosi did not provide any documentation to support his assertions that his conviction had been expunged from the court record or that his criminal counsel had so advised him. He further argues in his exceptions that his answer was not false because of his good faith but mistaken belief concerning expungement. Based on the plain language of the question on the 2014 reinstatement application - which made no exception for expungement - and the evidence in the criminal court documents, this was not a good faith error on Mr. Gbadamosi's part. His stated beliefs were neither reasonable nor plausible. The ALJ found that his "NO" answer to this licensure question was unequivocally false and willfully made. The panel concurs. Mr. Gbadamosi's exception to Finding of Fact 7 is denied.

In Finding of Fact 21, the ALJ found that Mr. Gbadamosi's employment supervisor at a Maryland hospital met with him on March 7, 2017 to discuss problems with Mr. Gbadamosi's patient care, punctuality, and responsiveness to colleagues and patients. The supervisor noted

that Mr. Gbadamosi had been counseled repeatedly and recommended that he be terminated, citing concerns about Mr. Gbadamosi's work performance, including responsiveness to patient needs and colleagues, rudeness, inadequate patient care, and medication errors. The March 7, 2017 meeting was preceded by an earlier meeting that Mr. Gbadamosi had with the supervisor in January, 2017 (Finding of Fact 20), as documented on an Employee/Supervisor Written Conference Report dated January 4, 2017. In his exceptions, Mr. Gbadamosi argues that the ALJ erred in making Finding of Fact 21 because the Employee/Supervisor Written Conference Report dated March 7, 2017 from the hospital does not contain his signature or verify that it was ever presented to him. Again, the record does not support Mr. Gbadamosi's arguments.

Mr. Gbadamosi's hospital employment records³ demonstrate that Mr. Gbadamosi was the subject of multiple formal and informal complaints at the hospital regarding rudeness, responsiveness, and attendance issues, as well as unprofessional interactions with nursing staff and patients, and the quality of care he was providing to patients. It is also evident that Mr. Gbadamosi was aware of these complaints because he signed the Employee/Supervisor Written Conference Report dated January 4, 2017. In that January 4, 2017 Report, Mr. Gbadamosi's supervisor included specific feedback and responses that he gave to the supervisor's questions in the "Employee's Comments" section of the document. At the hearing, the ALJ did not find credible Mr. Gbadamosi's assertion that the signature on the January 4, 2017 report was not his, nor did she accept his claims that he was unaware of the hospital's complaints against him. Panel B is similarly unpersuaded.

First, upon inspection, the signature "A. Gbadamosi" on the January 4, 2017 Report merely omits the remaining letters of Mr. Gbadamosi's first name, and the last name "Gbadamosi" is identical to all other documents in the record containing his signature with his

³ Mr. Gbadamosi's employment records from the hospital were obtained by the Board and submitted into evidence.

full first and last names. Second, and more significantly, the initial "A." in this document is identical to other documents in the record that contain only Mr. Gbadamosi's initials "A.G." For example, the hospital's "Consent, Release & Verification Form" was initialed by Mr. Gbadamosi on August 2, 2015, and the initial "A." on that form is identical to the initial "A." on the January 4, 2017 Report. Another hospital form entitled "Statement of Applicant and Release of Information" was also initialed multiple times by Mr. Gbadamosi on September 13, 2016, and the initial "A." is identical to the initial "A." on the January 4, 2017 Report. Mr. Gbadamosi's exception to Finding of Fact 21 is denied.

In Finding of Fact 25, the ALJ found that Mr. Gbadamosi's "NO" answer to Question II.o of his 2017 Renewal Application was false because he did not disclose his resignation in lieu of termination from the hospital. That question asked whether the applicant had voluntarily resigned or terminated a contract from any hospital while under investigation for disciplinary reasons. On the 2017 Renewal Application, Mr. Gbadamosi further affirmed that the information he provided was true and correct.

In his exceptions, Mr. Gbadamosi contends that the ALJ's analysis regarding signatures and irregularities on the hospital documents contradicts her conclusions. The employment records from the hospital, however, consistently indicate that Mr. Gbadamosi resigned from his position in lieu of termination. As a reason for his separation of employment, his personnel action form stated that he "resign[ed] in lieu of discharge", and the "Maryland Unemployment Insurance Request for Separation Information" form confirmed that Mr. Gbadamosi "quit in lieu of discharge," with comments indicating "numerous patient and safety complaints." Emails between hospital staff also confirmed that Mr. Gbadamosi "resigned before they could terminate him."

Based on the investigation of complaints by the hospital, and the circumstances of Mr. Gbadamosi's resignation, the ALJ therefore correctly determined that he falsely answered Question II.o of his 2017 Renewal Application to the Board. Mr. Gbadamosi's exception to Finding of Fact 25 is denied.

Mr. Gbadamosi also excepts generally to the ALJ's proposed conclusions of law. In essence, he rehashes his testimonial claims that the ALJ rejected at the evidentiary hearing, because she found his testimony lacking in credibility. The ALJ's conclusions were correctly based on the findings established by the evidence presented by the State at the evidentiary hearing. Mr. Gbadamosi intended his "NO" answers to fully represent his responses to the Board and the hospital at which he sought employment. His answers conveyed the impression of an unblemished history, an impression very much at odds with his criminal and employment background. His answers were not only false, but willfully made in order to deceive the Board and employers regarding his criminal history and prior termination of employment. *See Proposed Decision*, pp. 18, 20. There is also no doubt about the effect of Mr. Gbadamosi's false representations. Because of his deception, the Board and his employers logically but incorrectly assumed that there was no problematic background information that would raise concerns about his qualifications. Neither the Board nor the hospital had any knowledge of his criminal history. Nor did the hospital know about Mr. Gbadamosi's termination from prior employment or the reason for the termination. Relying on his false application responses, the Board reinstated his license in 2014 and renewed his license in 2017. The hospital granted his application for privileges in 2015. The panel rejects Mr. Gbadamosi's self-exonerating narrative and denies these exceptions.

Mr. Gbadamosi further excepts to the ALJ's recommended sanction of a one-year suspension and the imposition of a \$25,000.00 civil fine as too high in contrast to sanctions in similar Board cases. Contrary to Mr. Gbadamosi's contentions, the cases he cites do not involve similarly situated individuals. Rather, they involve consent orders negotiated by the parties to resolve pending charges, single instances of misrepresentation regarding the completion of continuing medical education credits, a single instance of deception based on failure to disclose a criminal conviction from 1988, and the unlicensed practice of medicine. Mr. Gbadamosi's violations, however, involved numerous instances of deception and misrepresentation concerning problematic events that occurred in recent years. He deliberately and repeatedly provided false answers on multiple applications, omitted the unflattering truth about his criminal and employment history in an effort to hide his past, committed various factually discrete offenses that formed the basis of the charges against him, and took no responsibility for his willful misrepresentations before the ALJ or the panel.

The panel does not find credible that Mr. Gbadamosi was unaware of the requirement to disclose his criminal conviction on licensure and hospital credentialing applications, or that he had no knowledge of complaints about his work and behavior and an ongoing hospital investigation. The panel denies his exception and rejects his continuing efforts to minimize his violations.

CONCLUSIONS OF LAW

Based on Disciplinary Panel B's findings of fact and discussion of Mr. Gbadamosi's exceptions, as set forth above, the Panel concludes that Mr. Gbadamosi is guilty of fraudulently or deceptively obtaining a license, in violation of Health Occ. § 15-314(a)(1); unprofessional conduct in the practice of medicine, in violation of Health Occ. § 15 -314(a)(3)(ii); and willfully

making false representations when seeking or making application for licensure or any other application related to the practice of medicine, in violation of Health Occ. § 15-314(a)(36).

SANCTION

Physician assistants must disclose accurate information on applications to enable the Board and hospital credentialing committees to make informed decisions about the qualifications of applicants and prospective employees. Mr. Gbadamosi's false responses on his applications prevented the Board and employers charged with the protection of the public from performing their responsibilities. For the Board to implement its mandate, it is vital that all physician assistants understand their obligation to disclose accurate and truthful information on licensure applications. In failing to disclose this information, Mr. Gbadamosi ignored his legal obligations. Such a troubling pattern of deliberate concealment and dishonesty weakens the public trust, and has the potential to be very detrimental to public safety. Mr. Gbadamosi's lack of candor undermines public confidence in the integrity and dignity of the physician assistant profession, dishonors the reputation of the great majority of physician assistants who practice with honesty, and is inconsistent with the honesty required to maintain the privilege of licensure.

The panel has broad discretion to impose a sanction it deems appropriate in individual cases. In view of the willful and deceptive nature of Mr. Gbadamosi's repetitive behavior, the panel will suspend Mr. Gbadamosi's license for one year and impose a fine of \$5,000.00.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by an affirmative vote of a majority of the quorum of Board Disciplinary Panel B, hereby:

ORDERED that the physician assistant license of Respondent Ahmed Gbadamosi, PA-C, License No. **C04261**, to practice medicine in the State of Maryland, is **SUSPENDED**⁴ for a minimum period of **ONE (1) YEAR**; and it is further

ORDERED that Mr. Gbadamosi shall pay a civil fine of **FIVE THOUSAND DOLLARS (\$5,000.00)** within **ONE (1) YEAR**. 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 terminate the suspension of Mr. Gbadamosi's license if he fails to timely pay the fine to the Board; and it is further

ORDERED that during the suspension period, Mr. Gbadamosi shall not:

- (1) Practice medicine;
- (2) Take any actions after the effective date of this Final Decision and Order to hold himself out to the public as a licensed or current provider of medical services;
- (3) Authorize, allow, or condone the use of his name or provider number by any health practice or any other licensee or health care provider;
- (4) Function as a peer reviewer for the Board or for any hospital or other medical facility in the State;
- (5) Dispense medications or perform any other act that requires an active physician assistant license; and it is further

ORDERED that Mr. Gbadamosi shall not apply for an early termination of suspension; and it is further

ORDERED that if Mr. Gbadamosi allegedly violates this Final Decision and Order, Mr. Gbadamosi shall be given notice and an opportunity for a hearing. If the disciplinary panel

⁴ If Mr. Gbadamosi's physician assistant license expires during the period of suspension, the suspension and any requirements imposed by this Final Decision and Order will be tolled.

determines 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. If the disciplinary panel determines there is no genuine dispute as to a material fact, Mr. Gbadamosi 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 Mr. Gbadamosi has violated this Final Decision and Order, the disciplinary panel may reprimand Mr. Gbadamosi, place Mr. Gbadamosi on probation with appropriate terms and conditions, suspend Mr. Gbadamosi's physician assistant license with appropriate terms and conditions, or revoke Mr. Gbadamosi's physician assistant license in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon Mr. Gbadamosi; and it is further

ORDERED that after the minimum period of suspension imposed by this Final Decision and Order has passed, and if Mr. Gbadamosi has fully and satisfactorily complied with all requirements of the Final Decision and Order, Mr. Gbadamosi may submit a written petition to Disciplinary Panel B for termination of his suspension. After a determination that Mr. Gbadamosi has complied with the requirements of this Final Decision and Order, the disciplinary panel may administratively terminate Mr. Gbadamosi's suspension through an order of the disciplinary panel; and it is further

ORDERED that this Final Decision and Order is a **PUBLIC** document pursuant to Health Occ. § 1-607, § 14-411.1(b)(2), and Gen. Prov. § 4-333(b)(6).

Signature on File

08/29/2019
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. § 15-315(b), Mr. Gbadamosi has the right to seek judicial review of this Final Decision and Order. Any petition for judicial review shall be filed within thirty (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 Mr. Gbadamosi 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:

**Noreen Rubin
Assistant Attorney General
Department of Health and Mental Hygiene
300 West Preston Street, Suite 302
Baltimore, Maryland 21201**

ATTACHMENT A

MARYLAND STATE BOARD OF
PHYSICIANS

v.

AHMED GBADAMOSI,
RESPONDENT

LICENSE No.: C04261

* BEFORE JENNIFER L. GRESOCK,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
* OAH No.: MDH-MBP2-74-18-29622

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PROPOSED DECISION

STATEMENT OF THE CASE
ISSUES
SUMMARY OF THE EVIDENCE
PROPOSED FINDINGS OF FACT
DISCUSSION
PROPOSED CONCLUSIONS OF LAW
PROPOSED DISPOSITION

STATEMENT OF THE CASE

On May 15, 2018, the Maryland State Board of Physicians (Board) issued charges against Ahmed Gbadamosi (Respondent) for alleged violations of the Maryland Physician Assistants Act (the Act). Md. Code Ann., Health Occ. §§ 15-101 *et seq.* (2014 & Supp. 2018). Specifically, the Respondent is charged with violating the following three sections of the Act: 15-314(a)(1) (fraudulently or deceptively obtaining or attempting to obtain a license); 15-314(a)(3)(ii) (unprofessional conduct in the practice of medicine); and 15-314(a)(36) (willfully making a false representation when seeking or making application for licensure or any other application related to the practice of medicine). Code of Maryland Regulations (COMAR) 10.32.02.03E(3)(d).

The disciplinary panel to which the complaint was assigned scheduled a meeting with the Respondent on August 8, 2018, to explore the possibility of resolution. COMAR 10.32.02.03E(9). The parties did not resolve the issues at that time. On September 14, 2018, the matter was

delegated to the Office of Administrative Hearings (OAH) to issue proposed findings of fact, proposed conclusions of law, proposed sanctions, and a proposed disposition.

I held a hearing on December 10, 2018, at the OAH in Hunt Valley, Maryland. Christopher B. Anderson, Assistant Attorney General and Administrative Prosecutor, represented the State of Maryland. John O. Iweanoge, Esquire, represented the Respondent, who was present.

The contested case provisions of the Administrative Procedure Act, the Rules of Procedure for the Board, and the Rules of Procedure of the OAH govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2018); COMAR 10.32.02; COMAR 28.02.01.

ISSUES

1. Did the Respondent fraudulently or deceptively obtain or attempt to obtain a license, in violation of section 15-314(a)(1) of the Health Occupations Article?
2. Did the Respondent engage in unprofessional conduct in the practice of medicine, in violation of section 15-314(a)(3)(ii) of the Health Occupations Article?
3. Did the Respondent willfully make a false representation when seeking or making application for licensure or any other application related to the practice of medicine, in violation of section 15-314(a)(36) of the Health Occupations Article?
4. If the Respondent committed any or all of the alleged violations listed above, what is the appropriate sanction?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits on behalf of the State, except as noted:

State Ex. 1 Board Report of Investigation, dated November 20, 2017

- State Ex. 2 Requests for Additional Information sent to Respondent, dated June 8, 2017 and June 26, 2017, and Respondent's Response to the June 8, 2017 Request, date-stamped June 22, 2017
- State Ex. 3 Request for Explanation of Criminal History Records Check Result sent to Respondent, dated October 20, 2017, and Respondent's Responses, including email chain with attachments, dated November 2, 2017; letters, dated November 2, 2017 and September 8, 2015; Email, dated November 2, 2017, with attached court documents
- State Ex. 4 Subpoena Duces Tecum, [REDACTED] Hospital, dated August 30, 2017, and Response, date-stamped September 19, 2017. Response includes: Appointment letter, dated November 24, 2015; Privilege Application, dated August 2015; Recommendation Form – Provisional Appointment, dated December 3, 2015; Memorandum – Temporary Privileges, dated August 27, 2015; Email, dated November 13, 2015; Professional Practice Evaluation (OPPE/FPPE) Plan, dated December 3, 2015; Proctoring Evaluation Form (Medical), dated November 13, 2015; Maryland Hospital Credentialing Application, dated July 30, 2015, with undated Addendum; Resume, undated; copy of Respondent's Georgia driver's license; Authorization for Background Check, dated July 1, 2015; Emails, dated September 3, 2015; Documents related to Delegation Agreement, various dates; Bachelor of Science degree, dated December 18, 2009; AAPA Physician Assistant Profile, undated; National Practitioner Data Bank printout, dated September 4, 2015; Letter, dated August 25, 2015; OIG Results, dated August 25, 2015; SAM Search Results, undated; Private Eyes, Inc. Report, dated August 26, 2015; Certificate of Liability Insurance, dated July 31, 2015; MagMutual Letters, dated September 28, 2015; [REDACTED] Hospital Letter, dated August 25, 2015; CNA records, dated August 25, 2015; Letters from Western Litigation and NCCPA, dated December 2, 2015, August 25, 2015, and July 30, 2015; Maryland Board of Physicians Practitioner Profile System printout, dated August 25, 2015; License, expiration date June 30, 2017; Department of Health and Mental Hygiene¹ documents, various dates; CDS license, expiration date April 30, 2017; Provider Cards, various dates; Confidential References, various dates; Drug Enforcement Administration (DEA) printout, dated August 3, 2015; DEA card, issued June 9, 2015; Reference Request Forms, dated July 1, 2015; [REDACTED] Hospital Personnel documents, various dates
- State Ex. 5 [NOT ADMITTED]
- State Ex. 6 Subpoena Duces Tecum, [REDACTED] Hospital, dated October 13, 2017, and Response, date-stamped November 2, 2017. Response includes: Unemployment Insurance document, dated May 17, 2017; [REDACTED] Hospital personnel documents, various dates
- State Ex. 7 Court Records and Responses, including: documents from Cobb County, Georgia, various dates (Tab A); documents from the Commonwealth of Virginia, various

¹ Now the Maryland Department of Health.

dates (Tab B); documents from the District of Columbia, dated September 5, 2017 (Tab C)

State Ex. 8 Respondent's Board Licensure Information and Applications, including: initial documents from June 29, 2010 certification, various dates (Tab A); 2011 Renewal Application documents, various dates (Tab B); 2014 Reinstatement Application documents, various dates (Tab C); 2015 Renewal Application documents, various dates (Tab D); 2017 Renewal Application documents, various dates (Tab E); Maryland Board of Physicians Practitioner Profile System printout, dated November 16, 2017 (Tab F); Mandated 10-Day Report, date of action June 1, 2015 (Tab G); Delegation Agreement documents, various dates (Tab H)

The Respondent did not offer any exhibits for admission into evidence.

Testimony

The State presented the testimony of Maureen Sammons, Intake Manager for the Board of Physicians. The Respondent testified on his own behalf.

PROPOSED FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. The Respondent was first licensed as a physician assistant in Maryland on June 29, 2010 (license number C04261). He was licensed continually until June 30, 2013, when his license expired. His application for reinstatement was approved on October 28, 2014, and he has remained continuously licensed since that time.
2. Sometime in 2010, the Respondent moved to Georgia and remained there until sometime in 2015, when he returned to Maryland.
3. On September 18, 2014, the Respondent pleaded guilty to and was convicted of criminal trespass, a misdemeanor, in the State Court of Cobb County, Georgia.
4. The Respondent was sentenced to twelve months' confinement. He was required to serve one day of that sentence and was placed on probation for the balance of the twelve months.
5. On September 17, 2014, the Respondent submitted an application for reinstatement to the Board, dated September 10, 2014 (2014 Reinstatement Application).

6. The 2014 Reinstatement Application included the following question (Question 12e) with regard to the period since the Appellant's last renewal, which occurred on June 30, 2013: Have you been charged with or convicted of any criminal act for which you pled nolo contendere, could receive, or did receive, probation before judgment, or were sentenced to probation or confinement? (e.g. police reports; court orders or judgments; orders of probation; certificates and/or letters of completion of any mandatory program(s), termination of probation, orders of dismissal, orders of expungement).

7. The Respondent marked the box indicating "no" as the answer to Question 12e. This response was false.

8. The Respondent's 2014 Reinstatement Application was approved on October 28, 2014.

9. On May 7, 2015, the Respondent submitted an application for renewal of his license (2015 Renewal Application).

10. The 2015 Renewal Application included the following question (Question II.f) with regard to the period since the Appellant's reinstatement, which occurred on October 28, 2014: Has a hospital, related health care facility, HMO, or alternative health care system denied your application for privileges, or failed to renew your privileges, including your privileges as a resident; or limited, restricted, suspended, or revoked your privileges in any way?

11. The Respondent marked the box indicating "no" as the answer to Question II.f. At the time the Respondent marked the box, the answer he provided was truthful.

12. On June 1, 2015, the Respondent was terminated from the [REDACTED]

[REDACTED] Center [REDACTED]

13. [REDACTED] LLC, dba [REDACTED] is a medical practice with multiple health care facility locations in Maryland.

14. The Respondent did not notify the Board of his termination from [REDACTED] despite his pending 2015 Renewal Application.

15. On or about July 30, 2015, the Respondent applied for hospital privileges at [REDACTED] Hospital in [REDACTED] Maryland, by completing the Maryland Hospital Credentialing Application (Credentialing Application).

16. The Credentialing Application required the Respondent to disclose "all healthcare facilities" at which he held or had held privileges; to indicate whether his "membership on the staff of any facility, health plan, or HMO" had "ever been . . . voluntarily or involuntarily withdrawn, relinquished, not renewed, reduced, limited, placed on probation, denied, revoked, suspended, or investigated;" and to disclose whether he had "ever been named as a defendant in a criminal case, other than misdemeanor traffic violation."

17. On his completed Credentialing Application, the Respondent failed to disclose both his employment with and termination from [REDACTED]. He also did not disclose his 2014 conviction for criminal trespass.

18. On or about September 11, 2015, the Respondent was granted temporary privileges at [REDACTED] Hospital, valid through January 1, 2016.

19. On November 13, 2015, the Respondent was hired as a provisional staff member at [REDACTED] Hospital. The appointment was valid through November 30, 2016 and was subsequently extended through November 30, 2017.

20. In January 2017, the Respondent was evaluated by his supervisor at [REDACTED] Hospital, who determined that the Respondent had failed to meet the standard of care. The supervisor noted concerns regarding interpersonal interaction, slow response time, and improper documentation.

21. On or about March 7, 2017, the Respondent's supervisor met with him to discuss problems with the Respondent's patient care, punctuality, and responsiveness to colleagues and patients. The Respondent's supervisor noted that he had been counseled repeatedly and recommended that he be terminated, citing concerns about the Respondent's work performance, including unresponsiveness to patient needs and colleagues, rudeness, inadequate patient care, and medication errors.

22. On March 7, 2017, the Respondent resigned from his position at [REDACTED] Hospital in lieu of termination.

23. On June 7, 2017, the Respondent submitted an application for renewal of his license (2017 Renewal Application).

24. The 2017 Renewal Application included the following question, with regard to the period since June 30, 2015 (Question II.o): Have you voluntarily resigned or terminated a contract from any hospital, HMO, or other health care facility, health care provider, or institution, armed services or the Veterans Administration while under investigation by that institution for disciplinary reasons?

25. The Respondent marked "no" in response to Question II.o. His answer was false, as he did not disclose his March 7, 2017 resignation in lieu of termination from [REDACTED] Hospital.

26. Effective October 1, 2016, all Board applicants and licensees are required to submit to criminal history background checks, including both state and national criminal history record information.² Previously, the Board relied on applicants' self-reporting.

27. The submission of the Respondent's 2017 Renewal Application required that the Respondent submit to a criminal background check. That criminal background check flagged

² See section 15-307(g) of the Health Occupations Article of the Maryland Annotated Code (Supp. 2018).

criminal history that prompted the Board to further investigate the Respondent's criminal history, employment history, and prior applications he had submitted to the Board.

28. The Respondent has no prior violations and has not previously been sanctioned by the Board.

DISCUSSION

Legal Standards

The Board is responsible for the licensure of physician assistants in Maryland. Md. Code Ann., Health Occ. §§ 15-301(d)(1) and 15-305 (2014 & Supp. 2018). A physician assistant is an individual who is licensed to practice medicine with physician supervision. In addition to licensing authority, the Board also has disciplinary authority. Accordingly, the Board may reprimand any physician assistant, place any physician assistant on probation, or suspend or revoke a license for violations of that section. Md. Code Ann., Health Occ. § 15-314 (Supp. 2018). Before the Board takes such action, the physician assistant is entitled to a hearing before an administrative law judge. Md. Code Ann., Health Occ. § 15-315 (Supp. 2018). Furthermore, if after a hearing under section 15-315, the Board finds there are grounds for discipline under section 15-314(a), the Board may impose a fine subject to the Board's regulations instead of or in addition to suspending or revoking the license or reprimanding the licensee. Md. Code Ann., Health Occ. § 15-316 (2014).

In an administrative hearing, the State, as the moving party, has the burden of proof by a preponderance of the evidence to demonstrate that the Respondent violated the statutory and regulatory sections at issue. *Comm'r of Labor and Indus. v. Bethlehem Steel Corp.*, 344 Md. 17, 34 (1996), citing *Bernstein v. Real Estate Comm'n*, 221 Md. 221, 231 (1959); Md. Code Ann., State Gov't § 10-217 (2014). See also *Schaffer v. Weast*, 546 U.S. 49, 56 - 58 (2005).

In this case, the Board alleges that the Respondent violated provisions of section 15-314(a) as follows:

(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;

....
(36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine[.]

Md. Code Ann., Health Occ. § 15-314(a)(1), (a)(3)(ii), and (a)(36).

Motion for Judgment

At the close of the State's case, the Respondent made an oral motion for judgment, arguing that the State had not carried its burden. A party may make a motion for judgment pursuant to COMAR 28.02.01.12E at the close of the evidence offered by the opposing party. I may decline to render such judgment until the close of all evidence, which is what I did in this case. COMAR 28.02.01.12E(2)(b). The Respondent then opted to offer evidence; in so doing, he withdrew his motion for judgment in accordance with the OAH Rules of Procedure. COMAR 28.02.01.12E(3). There is therefore no need for me to address the motion further in this decision.

Arguments of the Parties

The State contended that the Respondent engaged in a pattern of false attestation and concealment of his employment and criminal history in order to reinstate and maintain his license. This concealment is demonstrated through the false information the Respondent provided on multiple applications submitted to the Board, including his 2014 Reinstatement

Application, 2015 Renewal Application and Credentialing Application, and 2017 Renewal Application. Noting the Board's responsibility to protect the public by evaluating the character and fitness of applicants and licensees, the State argued that the Respondent compromised that process by concealing information and providing false responses to questions. That he did so over a period of three years, and on four different applications, reflects a troubling pattern of deliberate concealment that is inconsistent with the honesty required to maintain a license to practice medicine.

The Respondent disagreed with the State's characterization of the applications he submitted, arguing that he acted in good faith at all times and reasonably believed that he had disclosed all information he was required to disclose. The Respondent also disputed the Board's conclusions regarding his employment history, maintaining that he voluntarily quit the two positions from which the Board claims he was either terminated or resigned in lieu of termination. He further contended that the 2014 criminal conviction was expunged. As he had no intention to deceive and completed all applications to the best of his knowledge and ability, the Respondent argued that he did not violate the law and should not be subject to discipline.

Testimony

Maureen Sammons, Intake Manager for the Board, testified on behalf of the State. She explained that cases are referred to her unit if something in the criminal history background check "pops," meaning that the background check reflects any criminal history. In the Respondent's case, the first criminal history background check was run when he submitted his 2017 Renewal Application, as the law had been changed the prior year to require criminal history background checks. When the Respondent's criminal history background check yielded a positive result, it was referred to her unit and she conducted a full investigation. As part of that investigation, she gathered documentary evidence from courts in the relevant jurisdictions as

well as information and documents from the Respondent's previous employers. In addition, she reviewed the prior applications the Respondent had submitted to the Board. Ms. Sammons testified that this investigation revealed that the Respondent had submitted false information on multiple applications, including licensure applications and a credentialing application.

Specifically, Ms. Sammons found that on February 18, 2014, the Respondent pleaded guilty to criminal trespass in Cobb County, Georgia. He was sentenced to twelve months' confinement, served one day in jail, and was placed on probation for the remainder of the twelve months. In addition, Ms. Sammons discovered that the Respondent had a troubling employment history, including termination from his briefly-held position with [REDACTED] as well as resignation in lieu of termination from his position with [REDACTED] Hospital. Based on information provided by [REDACTED] Hospital, Ms. Sammons concluded that the Respondent's supervisor had recommended separation based on multiple complaints about the Respondent's work performance, including unresponsiveness to patient needs and colleagues, rudeness, inadequate patient care, and medication errors.

With this new information in mind, Ms. Sammons reviewed the information the Respondent provided in his 2017 Renewal Application, as well as prior applications he had submitted to the Board. According to Ms. Sammons, this review revealed that the Respondent had, on four separate occasions, failed to answer application questions truthfully. His false answers included the following:

- On his 2014 Reinstatement Application, the Respondent indicated that he had not been charged with or convicted of any criminal act for which he pled nolo contendere, could receive, or did receive probation before judgment, or was sentenced to probation or confinement. His answer applied to the period since June 30, 2013, and his 2014 Reinstatement Application was submitted in

September 2014. Ms. Sammons explained that his answer was false because it omitted his February 2014 conviction.

- On his 2015 Renewal Application, which covered the period since his October 28, 2014 reinstatement, the Respondent indicated that a hospital, related health care facility, HMO, or alternative health care system had not denied his application for privileges or failed to renew his privileges, including his privileges as a resident; or limited, restricted, suspended or revoked his privileges in any way. Ms. Sammons explained that his answer was false because several weeks after he submitted the 2015 Renewal Application and before the renewal deadline, the Respondent was terminated from his employment with [REDACTED]
- On his 2015 Credentialing Application, the Respondent did not include his employment with [REDACTED] though he was required to list all healthcare facilities at which he holds or has held privileges. He also did not disclose his termination from that position, though the application required that information. Further, the Respondent did not disclose his 2014 conviction for criminal trespass, though the application also required this information. Ms. Sammons maintained that the Respondent therefore provided false information.
- On his 2017 Renewal Application, which covered the period since June 30, 2015, the Respondent indicated that he had not voluntarily resigned or terminated a contract from any hospital, HMO, other health care facility, health care provider, or institution, armed service or the Veterans Administration while under investigation by that institution for disciplinary

reasons. Ms. Sammons explained that this answer was false because the Respondent had resigned from employment with [REDACTED] Hospital after being counseled both formally and informally following investigation of complaints from patients and colleagues.

In November 2017, Ms. Sammons prepared a report reflecting these findings and documenting the sources upon which she relied. She noted both in her testimony and her report that the Respondent was contacted during the investigation and given an opportunity to provide explanations for his failure to disclose required information. She testified that he disputed the circumstances of his separation from both [REDACTED] and [REDACTED] Hospital. With regard to the former, the Respondent submitted a letter to Ms. Sammons that stated he was unjustly terminated following contentious exchanges with the office manager and a dispute about medications provided to several patients. With regard to the latter, he claimed that the work schedule requirements were too demanding, and that he resigned over his schedule. Finally, he provided an explanation of the circumstances of the 2014 conviction but did not dispute the charge or conviction.

The Respondent testified on his own behalf. With regard to the 2014 conviction, the Respondent maintained that the conviction had been expunged, and that he was specifically told by the attorney who represented him that he would not need to disclose the conviction, as it would not appear anywhere on his record. He therefore believed that the responses he provided on applications regarding criminal history were accurate and truthful. With regard to his employment with [REDACTED] Hospital, the Respondent testified that he resigned because the organization was understaffed, and he was expected to work every weekend. The intensity of the schedule left him feeling burned out, so he resigned. With regard to [REDACTED] the Respondent testified that his employer demanded that he prescribe pain medications

even though he lacked the required professional license to do so. The Respondent testified that he resigned rather than prescribe medications illegally.

The Respondent insisted that he answered all questions on the applications to the best of his knowledge and ability. On cross-examination, he acknowledged that at no time did he provide the Board with documents to support his contention that his 2014 conviction was expunged. He contended that because of the expungement, there were no such documents or records and therefore he could not provide them. He also insisted that he had resigned from [REDACTED] though that contradicts the explanatory letter he submitted to the Board in September 2017 stating (repeatedly) he had been terminated. The Respondent testified that they terminated him after his resignation to make him look bad. The Respondent also disputed Ms. Sammons' conclusions regarding [REDACTED] Hospital. He denied any issues or complaints during his employment there and maintained that he was never counseled by his employer. He denied that the signature on the written counseling document from [REDACTED] [REDACTED] Hospital was his own and that the other document had no signature for him, claiming that he had never seen either document prior to the hearing.³

Analysis

The State presented clear, persuasive evidence that the Respondent engaged in a pattern of misrepresentation and deception in the licensure and credentialing applications he submitted to the Board. The Board conducted a thorough investigation, gathering documents and giving the Respondent an opportunity to respond during the course of the investigation. At no time has the Respondent credibly refuted the facts alleged by the State, and I therefore find that the State has shown violations of sections 15-314(a)(1), (3)(ii), and (36) of the Health Occupations Article.

³ The Respondent refers to the Employee/Supervisor Written Conference Reports dated January 4, 2017, and March 7, 2017. (State Ex. 6, p. 275-76.)

Specifically, the State demonstrated the Respondent was convicted of criminal trespass in February 2014 and sentenced to confinement and probation (State Ex. 7B), and he subsequently failed to disclose that information on his 2014 Reinstatement Application and his Credentialing Application. (State Ex. 8C and 4B.) Both applications included questions to which the Respondent clearly should have answered "yes," as he was convicted of a criminal act and was sentenced to confinement and probation. Neither application question excluded crimes for which an applicant has been granted an expungement. More significantly, the Respondent offered no evidence that there was in fact any expungement of his 2014 criminal conviction. He also offered no evidence to support his claim that he had a good faith basis for believing that such an expungement had occurred.

I am also persuaded that the Respondent was terminated from his position with [REDACTED] and that he resigned in lieu of termination from his position with [REDACTED] Hospital. The Respondent testified that he resigned from [REDACTED] after he was pressured to improperly prescribe pain medications to patients. This contradicts the written account he provided to the Board in September 2015. (State Ex. 3.) In this written account, the Respondent refers to his termination from [REDACTED] three separate times, stating that he was "released on [his] third week," that he was "terminated," and that he was "terminated unjustly." While his letter does allege improper and inadequate training, as well as some dispute about whether several patients under the Respondent's care were given medication that was not prescribed to them, at no time does the Respondent state that he was pressured to prescribe pain medications that he was not permitted to prescribe. Furthermore, the Respondent's letter does not claim that he resigned or voluntarily separated from employment. The Respondent's account at the hearing of his purported voluntary separation from [REDACTED] is simply not credible.

In addition, the State provided the Mandated 10-Day Report from [REDACTED] which was submitted to the Board in June 2015, indicating that the Respondent was terminated "due to poor attendance and failure to follow policy and protocols." (State Ex. 8G.) The Respondent's claim that he resigned is inconsistent with both his own written statement and the employer's account of his separation. It is clear from the evidence that he was terminated from [REDACTED] [REDACTED]

Even less credible is the Respondent's version of his separation from [REDACTED] Hospital. The Respondent claimed that he voluntarily resigned because he was expected to work every weekend, rather than one weekend a month, as he had been told when he was hired. He denied that he was the subject of complaints by patients or colleagues, or that there were any issues regarding quality of care. However, the employment records obtained by the Board and submitted into evidence demonstrate that the Respondent was the subject of complaints regarding his interactions with patients and colleagues, and that his employer had concerns about quality of care and patient safety. (State Ex. 6.) The Respondent himself signed an Employee/Supervisor Written Conference Report dated January 4, 2017, which documented the complaints and patient safety issues, as well as the employer's detailed discussion of these issues with the Respondent.

The Respondent denied that the signature on the January 4, 2017 document is his; he argued that the signature differs from the one he provided on other documents, pointing specifically to delegation documents (State Ex. 8H, p. 359) and a Court Return Notice (State Ex. 7A, p. 299) bearing his signature. Certainly the signatures are not identical (on the January 4, 2017 document, for example, the signature includes only the first initial, while the other two signatures have the Respondent's first name written out in full). In addition, there are some small irregularities in the March 7, 2017 Employee/Supervisor Written Conference Report; for example, the Report bears a signature that appears to be crossed out, as if someone (not the Respondent) initially signed in the

wrong place and then attempted to correct the error. In fact, the March 7, 2017 document does not include a signature for the Respondent. On its face, the document does not include any verification that it was presented to the Respondent. The January 4, 2017 document includes feedback from the Respondent in the "Employee's comments" portion of the form, but that portion of the form is left blank on the March 7, 2017 document.

Nonetheless, these irregularities are minor, especially when weighed against the Respondent's own lack of credibility. The January 4, 2017 document clearly reflects a discussion the Respondent's supervisor had with him regarding patient complaints, rudeness, attendance issues, and complaints from colleagues. It includes his supervisor's comments about the Respondent's responses during the discussion, including questions that he asked and his assertion that he did not have a record of tardiness. The Respondent articulated no nefarious motivation or rationale to support his implication that someone falsified the January 4, 2017 document. He offered no explanation or support for his claim that the signature on the form was not his own.

In short, the Respondent's claim that he had no knowledge of complaints against him is not credible. The Respondent's lack of credibility undermines his assertion that he simply resigned, and that his resignation was not in lieu of termination. The documents from [REDACTED] Hospital consistently reflect its position that the Respondent resigned in lieu of termination; these documents include the March 7, 2017 recommendation for termination, information provided to the Division of Unemployment Insurance (State Ex. 6, p. 225), and the employer's personnel records (State Ex. 6, pp. 226 – 228). Even if the Respondent was never presented with the March 7, 2017 written recommendation of termination, it is clear from the January 4, 2017 document that he was aware of his employer's concerns, despite his claim to the contrary. Accordingly, I conclude that the Respondent resigned in lieu of termination from his position with [REDACTED] Hospital, and that this occurred in March 2017.

I now consider the applications submitted by the Respondent to the Board, in light of the criminal and employment history discussed above; the allegedly false statements in these applications are key to the Board's allegations of statutory violations.

Both the 2014 Reinstatement Application and the Credentialing Application include questions regarding the Respondent's criminal history. The Respondent's answer on the 2014 Reinstatement Application was unequivocally false: he answered "no" when in fact he had been convicted of a criminal act for which he was sentenced to probation and confinement. (State Ex. 8C.) The Respondent's answer on the Credentialing Application was also false, as it requires disclosure of a conviction for "any misdemeanor." (State Ex. 4, p. 41.) In addition, the Respondent failed to disclose his employment with and termination from [REDACTED] on his Credentialing Application, despite clear language in the Credentialing Application requiring that the applicant list "ALL HEALTHCARE FACILITIES AT WHICH YOU HOLD OR HAVE HELD PRIVILEGES." The Respondent signed the Credentialing Application on July 30, 2015; his employment with [REDACTED] had only ended in the previous month. The most likely explanation for a failure to disclose such recent employment history is a desire to deceive with regard to that history; that he merely overlooked an incident that so recently occurred is not plausible.

Similarly, the Respondent failed to disclose both his termination from [REDACTED] and his resignation in lieu of termination from [REDACTED] Hospital in his 2015 Renewal Application and his 2017 Renewal Application. When the Respondent completed the 2017 Renewal Application in early June 2017, his resignation in lieu of termination from [REDACTED] Hospital had only been a few months prior. The resignation is clearly within the scope of the question on the renewal application, which refers to voluntary resignation while

under investigation for disciplinary reasons. Again, the Respondent provided a false answer on this Renewal Application.

The State's position with regard to the 2015 Renewal Application is less compelling; as the State acknowledges, at the time the Respondent completed the renewal application, in early May 2015, he had not yet been terminated from [REDACTED]. His responses on the renewal application were therefore truthful at the time he completed the application. While it is true that he did not correct his answer when he was terminated just a few weeks later, which was before the renewal deadline, the renewal application contains no statement about an obligation to correct or amend information provided in the application. Certainly the most forthright approach would have been for the Respondent to notify the Board of his termination in early June. However, I am not persuaded that his failure to do so was willfully deceptive or fraudulent.

I conclude that the Respondent made false representations on multiple applications submitted to the Board, including the 2014 Reinstatement Application, the Credentialing Application, and the 2017 Renewal Application.

Finally, I turn to the specific violations with which the Board has charged the Respondent under section 15-314(a) of the Health Occupations Article: that the Respondent fraudulently or deceptively obtained or attempted to obtain a license; that the Respondent is guilty of unprofessional conduct in the practice of medicine; and that the Respondent willfully made a false representation when seeking or making application for licensure or any other application related to the practice of medicine. The State emphasizes that the false information submitted by the Respondent was submitted over a period of three years and involved multiple applications, noting that this is indicative of a pattern of deception, rather than a careless oversight. The State also noted the particular importance of honesty in the practice of medicine. The State contends that a

pattern of dishonesty amounts to unprofessional conduct that is contrary to the Respondent's obligations and responsibilities as a physician assistant.

I agree. The willfully deceptive information the Respondent provided on the 2014 Reinstatement Application, the Credentialing Application, and the 2017 Renewal Application reflect a clear pattern of dishonesty, as well as a willingness to put self-interest before professional responsibility. Such a pattern is incompatible with the professional conduct, including truthfulness, required of a physician assistant, who must establish trust as a core component of his or her relationships with both colleagues and patients. Accordingly, I find that the Respondent deceptively obtained his licensure, is guilty of unprofessional conduct in the practice of medicine, and willfully made false representations on his licensure applications and Credentialing Application, in violation of section 15-314(a)(1), (3)(ii), and (36) of the Health Occupations Article.

Sanctions

The State cited the sanctioning guidelines in COMAR 10.32.03.18, which sets out a range of sanctions for specified violations. For violations of section 15-314(a)(1), the recommendation ranges from a reprimand with two years of probation to revocation, and/or a fine of \$5,000.00 to \$25,000.00. For willfully making a false representation in violation of section 15-314(a)(36), the recommendation ranges from a reprimand to a revocation, and/or a fine of \$5,000.00 to \$25,000.00.⁴ Along with these guidelines, COMAR 10.32.03.17B(4) and (5) set out mitigating and aggravating factors. Mitigating factors include the history of violations, whether the violation was self-reported, whether the individual admitted to and/or disclosed the violation, any remedial measures or good faith efforts to rectify the consequences, rehabilitative potential, potential harm, whether the violation was premeditated, and whether the incident was an isolated one. Aggravating factors include

⁴ Unprofessional conduct under section 15-314(a)(3)(ii) is not specifically listed in the guidelines.

previous disciplinary history; whether the violation was deliberate, grossly negligent, or reckless; potential or actual harm; whether the violation was part of a pattern; whether there were multiple offenses adjudicated in a single action; whether financial gain was a factor; the vulnerability of the patients; whether the individual attempted to hide the error; concealment, falsification, or destruction of evidence; failure to cooperate with investigation; and evidence of previous failure of rehabilitation.

Of these factors, the State noted in particular the deliberateness of the Respondent's actions, the pattern of deception, the factually discrete offenses being addressed in a single action, and the Respondent's continued attempts to conceal and/or minimize his conduct. The State proposes a one-year suspension, with possible reinstatement upon application at that time, and payment of a \$25,000.00 fine before submission of that application. The State acknowledged that this is a large fine, but argued that the false statements provided by the Respondent allowed him to advance his career and enjoy the financial gain from such advancement after obtaining licensure based on fraudulent and deceptive representations.

I agree with the State's consideration of the relevant factors. While the Respondent has had no prior violations, the Board's investigation revealed multiple instances of deception which, together, represent a troubling pattern of deception. In addition, the Respondent continues to offer explanations that strain credibility, rather than taking responsibility for his false misrepresentations. Accordingly, I find the proposed \$25,000.00 fine, to be paid before the Respondent may apply for reinstatement after a one-year suspension, both fair and appropriate. COMAR 10.32.03.17A and G.

PROPOSED CONCLUSIONS OF LAW

I conclude as follows:

1. The Respondent fraudulently or deceptively obtained a license, in violation of section 15-314(a)(1) of the Health Occupations Article;

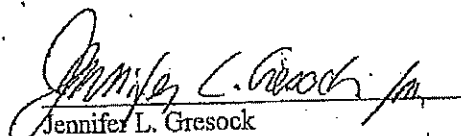
2. The Respondent engaged in unprofessional conduct in the practice of medicine, in violation of section 15-314(a)(3)(ii) of the Health Occupations Article;
3. The Respondent willfully made false representations when seeking or making application for licensure or any other application related to the practice of medicine, in violation of section 15-314(a)(36) of the Health Occupations Article;
4. The appropriate sanction is that the Respondent be suspended for one year and fined \$25,000.00, with the fine to be paid in full before submission of any application for reinstatement. COMAR 10.32.03.17A and G; COMAR 10.32.03.18.

PROPOSED DISPOSITION

I PROPOSE that the charges filed by the Board on May 15, 2018, against the Respondent based on his alleged violation of Section 15-314(a)(1), (3)(ii), and (36) of the Health Occupations Article be **UPHELD**; and I further

PROPOSE that the Respondent be fined \$25,000.00 and suspended for one year, with the fine to be paid in full before the submission of any application for reinstatement.

February 22, 2019
Date Decision Mailed


Jennifer L. Gresock
Administrative Law Judge

JLG/dlm
#177776

NOTICE OF RIGHT TO FILE EXCEPTIONS

Any party adversely affected by this proposed decision may file written exceptions with the disciplinary panel of the Maryland State Board of Physicians that delegated the captioned case to the Office of Administrative Hearings (OAH), and request a hearing on the exceptions. Md. Code Ann., State Gov't § 10-216(a) (2014); COMAR 10.32.02.05. Exceptions must be filed within fifteen (15) days of the date of issuance of this proposed order. COMAR 10.32.02.05B(1). The exceptions and request for hearing must be addressed to the Disciplinary Panel of the Board of Physicians, 4201 Patterson Avenue, Baltimore, MD, 21215-2299, Attn: Christine A. Farrelly, Executive Director.

A copy of the exceptions should be mailed to the opposing attorney, and the other party will have fifteen (15) days from the filing of exceptions to file a written response addressed as above. *Id.* The disciplinary panel will issue a final order following the exceptions hearing or other formal panel proceedings. Md. Code Ann., State Gov't §§ 10-216, 10-221 (2014); COMAR 10.32.02.05C. The OAH is not a party to any review process.

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