

IN THE MATTER OF  
Kelly Lynn Murray, PA-C

Respondent

License Number: C05322

\* BEFORE THE  
\* MARYLAND STATE  
\* BOARD OF PHYSICIANS  
\* Case Number: 2218-0111 B

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**CONSENT ORDER**

On April 12, 2019, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") charged Kelly Lynn Murray, PA-C (the "Respondent"), License Number C05322, with violating the Maryland Physician Assistants Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") § 15-314(a) (2014 Repl. Vol. & 2018 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 June 26, 2019, Panel B was convened as a Disciplinary Committee for Case Resolution ("DCCR") in this matter. Based on negotiations occurring because of the

DCCR, the Respondent agreed to enter this Consent Order, consisting of Findings of Fact, Conclusions of Law, Order, and Consent.

### **FINDINGS OF FACT**

Panel B of the Board makes the following findings of fact:

#### **I. Background**

1. The Respondent is a Physician Assistant. The Respondent was initially licensed by the Board on February 4, 2014. The Respondent's license is active through June 30, 2021.

2. At all times relevant to these charges, the Respondent was a physician assistant at a pain management center located in Frederick, Maryland ("Facility A").<sup>1</sup>

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 2015 for pain management duties including conducting histories and physical examinations, interpreting and evaluating patient data, diagnosis and treatment, prescribing controlled dangerous substances ("CDS"), coordinating referrals, planning treatment, and ordering laboratory work.

4. On or about February 16, 2018, the Respondent ended her employment at Facility A and her delegation agreement with Physician A.

5. On or about June 19, 2018, the Board approved the Respondent's delegation

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<sup>1</sup> To ensure confidentiality, the names of individuals, patients, and institutions involved in this case are not disclosed in this document. The Respondent may obtain the identity of all individuals, patients, and institutions referenced in this document by contacting the administrative prosecutor.

agreement with Physician B for addiction medicine duties including conducting histories and physical examinations, interpreting and evaluating patient data, ordering laboratory work, prescribing medications including Buprenorphine products, and overseeing patients' recovery process. The Respondent is currently employed at an addiction medicine practice in Maryland ("Facility B").

## **II. Complaint and Investigation**

6. On October 13, 2017, the Board received an anonymous complaint alleging that the Respondent was overprescribing CDS. The Complainant wrote that while in the waiting room of Facility A, she overheard a patient say to other patients that "he was receiving medication when he was positive on his drug screen for cocaine." The Complainant reported that the patient was also overheard saying, "just ask for Dr. Kelly she will prescribe you more."

7. The Board thereafter initiated an investigation which included issuing a subpoena to the Prescription Drug Monitoring Program ("PDMP") for a report of the Respondent's recent prescribing of CDS.

8. On or about January 4, 2018, the Board notified the Respondent of the complaint, requested a written response to the complaint, subpoenaed ten patient records selected from the PDMP report, and requested summaries for care for all ten patients indicated by the Board.

9. On or about January 11, 2018, the Respondent submitted the documents requested by the Board. In response to the complaint, the Respondent wrote that she complies with Facility A's policies to ensure that patients do not abuse their medications.

10. On April 5, 2018, Board staff interviewed the Respondent under oath at the Board's offices. The Respondent stated that Facility A requires random pill counts, random urine drug screens with quantitative testing, monthly Chesapeake Regional Information System for our Patients (CRISP)/PDMP screening, and monthly opioid risk assessments. The Respondent stated that Facility A required probation followed by termination in event of diversion, noncompliance, or positive testing for illicit drugs. The Respondent additionally acknowledged familiarity with the 2016 guidelines for prescribing opioids.<sup>2</sup>

11. In furtherance of its investigation, the Board referred the matter to a Physician Assistant peer reviewer who specializes in pain management.

### **III. Patient-Related Findings**

12. Based upon the review of the 10 patient records, the peer reviewer stated:

Overall, the Respondent provides mostly adequate, detailed documentation in the office visit notes. The Respondent's overall prescribing pattern of opioid pain medications however are considered excessive and outside of the range for chronic pain management. In all 10 of the charts reviewed, every patient was prescribed >90mg MME<sup>3</sup> dosages. The Respondent largely did not offer a collaborative approach consisting of interventional procedures, physical therapy, durable medical equipment, or referrals to other medical professionals when necessary in conjunction with judicious prescribing of opioid medications.

13. The peer reviewer found the following deficiencies relating to all ten patients that demonstrate, in whole or in part, the Respondent's failure to meet the standard of quality care for prescribing CDS. The peer reviewer found that:

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<sup>2</sup> Presumably, the Respondent was referring to the 2016 Centers for Disease Control ("CDC") Guidelines for Prescribing Opioids for Chronic Pain issued by the CDC in March 2016.

<sup>3</sup> Morphine milligram equivalents

- a. The Respondent's prescribing pattern of opioid pain medications were excessive and outside of the range for chronic pain management (Patients 1-10, ranging from 150mg MME to 915mg MME);
- b. The Respondent failed to appropriately taper or wean pain medications from excessive amounts of opioids in spite of the lack of function improvement or pain control over an extended period of time (Patients 1-10);
- c. The Respondent failed to establish a treatment plan that includes only prescribing opioids if the pain and functionality improvement outweighs the risk (Patients 1-10);
- d. The Respondent failed to utilize diagnostic imaging to assess the source of pain (Patients 4, 6, 7, 9);
- e. The Respondent failed to appropriately screen for substance use disorder (Patients 1, 2, 3, 4, 6, 8);
- f. The Respondent failed to obtain laboratory confirmed toxicology screens as part of routine treatment and monitoring (Patients 1, 2, 4, 5, 6, 7, 8, 9);
- g. The Respondent failed to consistently check patients' past and/or ongoing medication history within the CRISP/PDMP (Patients 1, 2, 3, 4, 5, 6, 7);
- h. The Respondent failed to consider "red flags" indicating potential abuse, misuse, and/or diversion of CDS, such as recent arrests, extended commutes to see the Respondent, inconsistent urine toxicology results, positive tests for illicit drugs, and/or self-escalation (Patients 1-10); and
- i. The Respondent failed to utilize non-opioid therapies such as physical therapy, interventional treatment, and psychosocial treatment (Patients 1-10).

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, Panel B concludes as a matter of law that the Respondent violated Md. Code Ann., Health Occ. § 15-314(a)(22)(fails to meet standards of quality care). Panel B dismisses the charge under Md Health Occ. § 15-314(a)(40)(fails to maintain adequate medical records).

## **ORDER**

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

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

**ORDERED** that the Respondent is placed on **PROBATION** for a minimum of **TWO (2) YEARS**.<sup>4</sup> During probation, the Respondent shall comply with the following terms and conditions of probation:

1. For the full duration of probation the Respondent is prohibited from certifying a patient for the medical use of cannabis;

2. Within **ONE (1) YEAR**, the Respondent is required to take and successfully complete a course in opioid prescribing. 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 must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;

(d) the course may not be used to fulfill the continuing medical education credits required for license renewal;

(e) the Respondent is responsible for the cost of the course;

3. During the first year of probation, the Respondent is prohibited from prescribing and dispensing all CDS with the exception of Buprenorphine in the treatment of addiction medicine;

4. During the second year of probation, if the Respondent has successfully completed the panel-approved course in opioid prescribing, the Respondent may prescribe and dispense all CDS pursuant to the terms of her delegation agreement;

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<sup>4</sup> If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

5. During the second year of probation, the Respondent shall meet with her supervising physician in-person at least once each month. The disciplinary panel will provide the supervising physician with a copy of this Consent Order and any other documents the disciplinary panel deems relevant. It is the Respondent's responsibility to ensure that her supervising physician:

(a) reviews the records of a minimum of 10 patients each month, such patient records to be chosen by the supervising physician and not the Respondent;

(b) meets in-person with the Respondent at least once each month and discuss in-person with the Respondent the care the Respondent has provided for these specific patients;

(c) provides the Board with quarterly reports which detail the quality of the Respondent's practice, any deficiencies, concerns, or needed improvements, as well as any measures that have been taken to improve patient care; and

(d) immediately reports to the Board any indication that the Respondent may pose a substantial risk to patients; =

6. The disciplinary panel may issue administrative subpoenas to the Maryland Prescription Drug Monitoring Program on a quarterly basis for the Respondent's CDS prescriptions. The administrative subpoena will request the Respondent's CDS prescriptions from the beginning of each quarter; and it is further

**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 to the Board 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 her petition for termination. The disciplinary panel may grant the petition to terminate the probation, through an order of the disciplinary panel, if the

Respondent has complied with all probationary terms and conditions and 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 disciplinary panel, upon consideration of the supervising physician's reports and the Respondent's response, if any, has a reasonable basis to believe that the Respondent is not meeting the standard of quality care in her practice, the disciplinary panel may find a violation of probation after a hearing; 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 the Panel 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; and if the Panel determines 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 with appropriate terms and conditions, 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 Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

**ORDERED** that the disciplinary panel may issue administrative subpoenas to the Maryland Prescription Drug Monitoring Program for three (3) years following the termination of probation, on a quarterly basis, for the Respondent's CDS prescriptions for the purpose of monitoring the Respondent's prescribing; 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. 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 this Consent Order is a public document. See Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

07/29/2019  
Date

***Signature on File***

Christine A. Farrelly  
Executive Director  
Maryland State Board of Physicians

## CONSENT

I, Kelly Lynn Murray, PA-C, acknowledge that I have consulted with counsel before signing this document.

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

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 15-315 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* concerning the pending charges. I waive 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 my behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order.

I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the Application. 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.

7/23/2019  
Date

## *Signature on File*

Kelly Lynn Murray, PA-C  
The Respondent

### NOTARY

STATE OF Maryland  
CITY/COUNTY OF Frederick

I HEREBY CERTIFY that on this 23 day of July, 2019 before me, a Notary Public of the State and County aforesaid, personally appeared Kelly Lynn Murray, PA-C and gave oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Jessica Roberts  
Notary Public

My commission expires Sept 19, 2021

7/23, 2019  
Date

