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| IN THE MATTER OF | * | BEFORE THE |
| ATEMKENG FOMENGIA, PA-C | * | MARYLAND STATE |
| Respondent | * | BOARD OF PHYSICIANS |
| License Number: C06399 | * | Case Number: 2218-0045A |

CONSENT ORDER

On June 7, 2018, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board"), charged **ATEMKENG FOMENGIA, PA-C** (the "Respondent"), License Number C06399, under the Maryland Physician Assistants Act (the "Act"), Md. Code Ann., Health Occ. §§ 15-314.

The pertinent provisions of the Act provide:

§ 15-314

(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:

...

(3) Is guilty of:

...

(ii) Unprofessional conduct in the practice of medicine;

§ 15-401

- (a) *Prohibited.* – Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice as a physician assistant in the State unless the person has a license issued by the Board.
- (b) *Performing delegated medical acts beyond scope of license.* – Except as otherwise provided in this title, a person may not perform, attempt to perform, or offer to perform any delegated medical act beyond the scope

of the license and which is consistent with a delegation agreement filed with the Board.

On September 12, 2018, Panel A was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

I. FINDINGS OF FACT

Panel A finds:

1. The Respondent was initially licensed as a physician assistant (“PA”) in the State of Maryland on February 23, 2017.
2. During all times relevant to these charges, the Respondent was a physician assistant employed part time by Urgent Center A in Bethesda, Maryland.
3. On March 10, 2017, the Board approved a Delegation Agreement for the Respondent, designating Physician A as his supervising physician.
4. The Respondent began working as a physician assistant with Urgent Center A in April 2017.
5. The Respondent’s physician assistant license expired on June 30, 2017.
6. The Delegation Agreement was terminated on July 1, 2017 as a result of the expiration of his license.
7. The Respondent submitted a Physician Assistant Reinstatement Application (“Reinstatement Application”) to the Board on August 15, 2017. On the Reinstatement Application the Respondent listed that he worked as a physician assistant from April 2017 through July 2017.

8. The Board sent a letter to the Respondent on August 24, 2017 requesting additional information including the last day he worked as a physician assistant, verification of his Washington D.C. physician assistant license, and results of a Criminal History Records Check.

9. On August 28, 2017, the Respondent submitted a written response by email, stating, “my last day working as a PA July 17th but im [sic] still with [Urgent Center A] but not performing PA duties.” As a result, on September 7, 2017, the Board initiated an investigation and requested a copy of the Respondent’s personnel file from July 1, 2017 forward from Urgent Center A.

10. The Board reinstated the Respondent’s license on September 1, 2017.

11. The Respondent submitted a Delegation Agreement on October 5, 2017 and it was approved by the Board on October 13, 2017.

PRACTICING WITHOUT A BOARD- APPROVED DELEGATION AGREEMENT

12. Personnel records and patient logs provided by Urgent Center A indicated that the Respondent worked as a physician assistant from March 16, 2017 through at least October 3, 2017, without a Board-approved Delegation Agreement.

13. Physician A provided medical records for six of his patients which confirmed that the Respondent saw and treated patients of Physician A without a Board-approved Delegation Agreement.

14. On October 3, 2017, Board Staff visited Urgent Center A and hand delivered a letter notifying the Respondent of its investigation. During the visit, Physician A told Board Staff that the Respondent was present and “seeing patients.”

15. Board staff conducted an on-site interview of the Respondent. During the interview, the Respondent stated that he was aware his delegation agreement had lapsed. The Respondent also said that when Board staff arrived at Urgent Center A he was “advising” a patient who had a

cold. The Respondent stated that he stopped working when his license lapsed and did not submit a Delegation Agreement because he was confused about paying the fees and renewing his license.

16. On October 5, 2017, the Respondent submitted a written response by email, acknowledging that between July 7, 2018 and the date of the letter, the Respondent, while employed at Urgent Center A, completed patient care activities including taking medical histories, treating patients, ordering and interpreting laboratory tests and X-rays, diagnosing patients, and prescribing medications. He wrote that he extended his “deepest apologies for falling short of meeting the deadlines of having an active delegation agreement while performing my duties. As you know, there is no excuse on why I was not able to send the delegation agreement in a timely manner.”

II. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent violated Health Occ. § 15-314(3)(ii), unprofessional conduct in the practice of medicine, and performed delegated medical acts without the supervision of a physician in violation of Health Occ. § 15-401(a) and (b).

III. ORDER

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

ORDERED that within one year, the Respondent shall pay a civil fine of \$1,000. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297; and it is further

ORDERED that unless stated otherwise in the order, any time period prescribed in this order begins when the Consent Order goes into effect. The Consent Order goes into effect upon the signature of the Board’s Executive Director, who signs on behalf of Panel A; and it is further

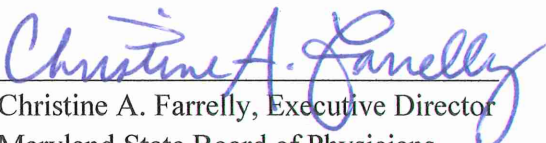
ORDERED that if the Respondent allegedly fails to comply with any term imposed by this Consent Order, Respondent shall be given notice and an opportunity for a hearing. If there is a dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings followed by an exceptions process before a disciplinary panel; and if there is no 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 of this Consent Order, the 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 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 this Consent Order is a public document pursuant to Md. Code Ann., Gen.

Prov. §§ 4-101 et seq.

10/10/2018
Date


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

CONSENT

I, Atemkeng Fomengia, by affixing my signature hereto, acknowledge that I have been apprised of my right to counsel and I have agreed to enter into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the law. I agree not to challenge the Findings of Fact, Conclusions of Law, and Order set forth in this Consent Order. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing.

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

Signature on File

10/8/17
Date

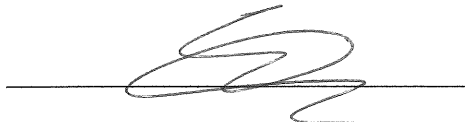
Atemkeng Fomengia

STATE/~~DISTRICT~~ OF MARYLAND

~~CITY~~/COUNTY OF: MONTGOMERY

I HEREBY CERTIFY that on this 8 day of OCT, 2018, before me, a Notary Public of the State/District and County aforesaid, personally appeared Atemkeng Fomengia, PA-C, and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.



Notary Public

My commission expires: 02.09.2022

SWAIZ KHAN
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires February 9, 2022