IN THE MATTER OF	*	**BEFORE THE**
ROBERT SOLARCZYK, PA-C	*	**MARYLAND STATE**
Respondent	*	**BOARD OF PHYSICIANS**
License Number: C06597	*	**Case Number: 2220-0158 A**

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CONSENT ORDER

On June 10, 2020, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged **Robert Solarczyk, PA-C** (the "Respondent"), License Number **C06597**, with violating the Maryland Physician Assistants Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 15-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.)

The pertinent provisions of the Act under Health Occ. provide the following:

§ 15-314 Discipline of Physician Assistants

(a) *In general.* 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

...

(42) Performs delegated medical acts without the supervision of a physician[.]

On September 9, 2020, Panel A was convened as a Disciplinary Committee on Case Resolution ("DCCR") in this matter. Based on negotiations occurring as a result of the

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

FINDINGS OF FACT

Panel A finds:

1. At all relevant times, the Respondent was and is licensed as a physician assistant in the State of Maryland. He was initially licensed in Maryland on September 14, 2017, under License Number C06597. His license is active through June 30, 2021.

2. The Respondent is a physician assistant at a pain management center in Cumberland, Maryland (the "Center").[1] The Respondent began his employment at the Center on September 18, 2017.

3. The Center's pain management practice includes prescribing prescription drugs to patients, including Controlled Dangerous Substances ("CDS").

4. On December 20, 2017, the Board approved a delegation agreement filed by the Respondent and a primary supervising physician employed at the Center (the "Supervising Physician").[2] The delegation agreement did not identify an alternate supervising physician.[3]

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[1] The names of facilities and individuals in this document are confidential. The Respondent may obtain the names upon request to the Administrative Prosecutor.

[2] The Code of Maryland Regulations (COMAR) 10.32.03.05A provides that before a physician assistant may perform medical acts, the physician assistant and primary supervising physician shall file with the Board a delegation agreement on the Board-approved form.

[3] COMAR 10.32.03.07B provides that an alternate supervising physician can temporarily accept supervisory responsibility when the primary supervising physician is unavailable. Health Occ. § 15-302(I)(2) states that if there is no designated alternate supervising physician or the designated alternate supervising physician does not agree to supervise the physician assistant, the physician assistant may not practice until the physician assistant receives approval of a new delegation agreement under § 15-302.1.

I. The Complaint

5. On June 28, 2019, the Board received a complaint that alleged physicians and physician assistants at the Center were engaging in improper and unlawful prescribing practices (the "Complaint").

6. Specifically, the Complaint alleged the Respondent was practicing under the supervision of physicians other than the Supervising Physician identified in the delegation agreement filed with the Board.[4]

II. Board Investigation

7. The Board opened an investigation into the Complaint. In furtherance of the investigation, the Board: subpoenaed records; reviewed filed delegation agreements; notified the Respondent of the Complaint and investigation; and requested a written response from the Respondent.

8. On July 15, 2019, the Board subpoenaed records of prescriptions written by the Respondent.[5]

9. The prescription records revealed that the Respondent was prescribing medications, including CDS, under the supervision of two physicians at the Center ("Physician 1" and "Physician 2") other than the Supervising Physician. The Respondent was regularly prescribing under the supervision of Physician 1 from February 4, 2019 to

[4] This delegation agreement was terminated on July 12, 2019 as the result of this investigation.
[5] Pursuant to the Maryland Medical Practice Act § 14-101, prescribing medications to a patient constitutes the practice of medicine. COMAR 10.32.03.08A provides that a primary supervising physician may delegate to a physician assistant prescribing authority for prescription drugs, including CDS.

May 7, 2019. The Respondent was also regularly prescribing under the supervision of Physician 2 from January 16, 2019 to May 28, 2019.

10. The Respondent never filed a delegation agreement with the Board with either Physician 1 or Physician 2 prior to or during the time he was prescribing medications under their supervision.

11. On July 26, 2019, the Board received a delegation agreement between Physician 1 and the Respondent.

12. The instructions accompanying the Board-approved delegation agreement form state:

> A [physician assistant] may begin working after the Board acknowledges receipt of the completed delegation agreement. The Board will send acknowledgements to the [physician assistant] and the [primary supervising physician] by email (emphasis in original)[.]

13. On July 31, 2019, the Board emailed the Respondent and Physician 1 and acknowledged receiving the delegation agreement.[6]

14. On August 16, 2019, the Board subpoenaed the Center's employment records and discovered that the Supervising Physician terminated employment at the Center on January 3, 2019.

15. The Board's investigation determined that the Respondent prescribed medications under the supervision of two physicians, Physician 1 and Physician 2, in the

[6] COMAR 10.32.03.06B states that the Board shall notify the primary supervising physician and the physician assistant of the Board's receipt of the delegation agreement and that upon receipt of a delegation agreement at the Board of Physicians, a physician may delegate and a physician assistant may perform delegated core medical acts.

absence of filing delegation agreements with the Board. The Respondent prescribed medications from January 16, 2019 to May 28, 2019, after the Supervising Physician identified in the delegation agreement filed with the Board was no longer employed at the Center. In late July 2019, the Respondent and Physician 1 filed a delegation agreement with the Board.

16. On October 4, 2019, the Board notified the Respondent of the investigation and requested that the Respondent submit a written response.

17. On October 31, 2019, the Respondent submitted a response to the Board, written by his attorney, stating:

> On or about January 3, 2019, [the Supervising Physician] ended his employment with [the Center]. Although [the Respondent] continued to practice under the direct supervision of a licensed [Center] physician at all times subsequent to [the Supervising Physician]'s departure, his delegation agreement was not formally updated and resubmitted by the practice's credentialing service provider to reflect this change in his designated supervisory physician until July 2019.

CONCLUSIONS OF LAW

Based on the Findings of Fact, Panel A concludes as a matter of law that the Respondent performed delegated medical acts without the supervision of a physician, in violation of Health Occ. § 15-314(a)(42). The charge under Health Occ. § 15-314(a)(3)(ii) is dismissed.

ORDER

It is thus by Panel A hereby:

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

ORDERED that within six (6) months, the Respondent shall pay a civil fine of $500.00. The payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297. The Board will not renew or reinstate the Respondent's license if the Respondent fails to timely pay the fine to the Board; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director or her designee 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).

10/13/2020
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Robert Solarcyk, 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 this right 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 charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

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

Signature on File

9-24-2020
Date

Robert Solarcyk, PA-C
Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF Anne Arundel

I HEREBY CERTIFY that on this 29th day of September 2020, before me, a Notary Public of the foregoing State and City/County, Robert Solarcyk, PAC, personally appeared and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Loni D. Graham
Notary Public

My Commission expires: December 20, 2021