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| IN THE MATTER OF | * | BEFORE THE |
| DANA C. MUELLER, M.D. | * | MARYLAND STATE |
| Respondent | * | BOARD OF PHYSICIANS |
| License Number: D78018 | * | Case Number: 2224-0109 |

* * * * *

CONSENT ORDER

On April 17, 2024, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) charged **Dana C. Mueller** (the “Respondent”), License Number D78018, with violating the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. §§ 14-101—14-702 (2021 Repl. Vol.).

The Respondent was charged under the following provisions of the Act:

Health Occ. § 14-404. License denial, suspension, or revocation.

(a) *In general.* - Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

....

(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine;

....

(43) Except for the licensure process described under Subtitle 3A of this

title,¹ violates any provision of this title, any rule or regulation adopted by the Board, or any State or federal law pertaining to the practice of medicine.^[2]

With respect to Health Occ. § 14-404(a)(43), the pertinent provisions provide as follows:

Health Occ. § 15-302. Physician delegations to physician assistants; delegation agreements.

- (a) A physician may delegate medical acts to a physician assistant only after:
 - (1) A delegation agreement has been executed and filed with the Board[.]

On June 26, 2024, Panel B was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on the 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, Order, and Consent.

FINDINGS OF FACT

Panel B finds the following:

A. LICENSING INFORMATION

1. The Respondent was and is licensed to practice medicine in the State of Maryland. She was initially licensed in Maryland on June 16, 2014. Her license is scheduled to expire on September 30, 2025.

¹ Subtitle 3A is not relevant to this case.

² The Respondent was also charged under Health Occ. § 14-404(a)(3)(ii), but this charge is dismissed, as mentioned in the Conclusions of Law.

2. The Respondent is also licensed to practice medicine in Washington, D.C. She was initially licensed in Washington, D.C. on May 20, 2014, and her license is set to expire on December 31, 2024.

3. The Respondent is employed as a physician at a medical facility (the “Medical Facility”) in Washington, D.C.³

4. Since on or about May 15, 2017, the Respondent has served as the supervising physician for a physician assistant (the “PA”) at the Medical Facility in Washington, D.C.

B. THE PA’S TREATMENT OF PATIENTS IN MARYLAND

5. On June 8, 2023, the PA called the Board for assistance in renewing her Maryland PA license. While speaking with Board staff over the phone, the PA stated that she occasionally treated Maryland patients via telehealth while she was working outside of Maryland.

6. As of June 8, 2023, the PA had not previously submitted a delegation agreement to the Board.

7. On June 8, 2023, the PA submitted a Delegation Agreement for Core Duties (the “Delegation Agreement”) to the Board in which she named the Respondent as her primary supervising physician. The PA listed the Medical Facility in Washington, D.C. as her practice location.

³ To ensure confidentiality and privacy, the names of individuals, patients and institutions involved in this case are not disclosed in this document.

8. On or about July 18, 2023, the Board approved the PA's Delegation Agreement.

9. Based on the PA's disclosure that she was treating patients in Maryland via telehealth while she was outside of Maryland, the absence of her Maryland licensure prior to July 2, 2022, and the absence of a delegation agreement prior to June 8, 2023, the Board initiated an investigation.

10. On September 8, 2023, the Board issued a subpoena duces tecum to the Medical Facility for the following:

- a. A copy of the complete, unredacted personnel/human resources file for the PA;
- b. A listing of any and all Maryland patients treated by the PA via telehealth, to include name, date of birth and reason for visit, from date of hire to present; and
- c. A copy of the job/position descriptions for any and all positions held by the PA.

11. On or about September 21, 2023, the Medical Facility provided the requested documents to the Board via email.

12. The Medical Facility's documents revealed the following:

- a. The PA works full-time at the Medical Facility in Washington, D.C.;
- b. The PA entered into an employment contract with the Medical Facility on or about May 15, 2017;
- c. Between July 11, 2018, and July 1, 2022,⁴ the PA treated several patients in Maryland via telehealth;

⁴ The PA did not have a Maryland license to practice as a physician assistant during this time, and consequently, she did not have a Board approved delegation agreement during this time.

- d. Between July 2, 2022 and June 7, 2023,⁵ the PA treated several patients in Maryland via telehealth.
13. On November 20, 2023, the Board issued a subpoena duces tecum to the Medical Facility for “a complete unredacted copy of the medical record[s]” for 14 patients (“Patients 1 - 14”) treated by the PA.
14. On November 22, 2023, the Medical Facility transmitted the medical records for Patients 1 - 4 and Patients 6 - 14 to the Board.
15. On November 27, 2023, the Board issued a second subpoena duces tecum to the Medical Facility for “a complete unredacted copy of the medical record[s]” for Patient 5.
16. On November 27, 2023, the Medical Facility transmitted Patient 5’s medical records to the Board.
17. On December 11, 2023, the Board issued a subpoena duces tecum to the Medical Facility for “a complete unredacted copy of the medical record[s]” for one additional patient (“Patient 15”) treated by the Respondent.
18. On December 11, 2023, the Medical Facility transmitted Patient 15’s records to the Board.
19. The medical records show that the PA treated Patients 1 - 15 in Maryland on approximately 37 occasions between July 11, 2018, and May 15, 2023,⁶ and that the

⁵ The PA had a Maryland license to practice as a physician assistant during this time. However, the Respondent did not have a Board approved delegation agreement during this time.

⁶ All of these visits were telehealth visits, except for four visits with one patient that took place in the patient’s home in Maryland.

Respondent signed all of the PA's treatment notes. The PA's treatment of these patients included but was not limited to the following:

- a. Gathering the patients' chief complaints and histories of present illness;
- b. Conducting patient screenings and examinations;
- c. Formulating assessments of patients' conditions and treatment plans;
- d. Reviewing, refilling, adding, stopping, and/or modifying the patients' medications;
- e. Providing referrals to specialists based on the patients' conditions.

C. THE RESPONDENT'S RESPONSE

20. By letter dated November 22, 2023, Board staff notified the Respondent that the Board initiated an investigation of the Respondent because she served as supervising physician to the PA who was treating patients in Maryland without a Board approved delegation agreement from approximately July 11, 2018 to June 7, 2023, and the PA was not licensed in Maryland until July 2, 2022. Board staff requested that the Respondent provide a written response to the allegations.

21. By letter dated December 6, 2023, the Respondent responded in pertinent part:

- a. The Respondent has served as the PA's supervising physician in Washington, D.C. since the PA was hired at the Medical Facility in 2017;
- b. From 2017 until the start of the COVID-19 public health emergency, the PA's clinical practice took place entirely at the Medical Facility in Washington, D.C. During this time, the Respondent "reviewed and signed notes from all visits and, when necessary, collaborated with the PA regarding care decisions[]";

- c. When the COVID-19 public health emergency was declared in March 2020, the Medical Facility transitioned to telemedicine, and “utilizing the licensure reciprocity waiver, [the PA] provided care to patients located in Maryland[;]”⁷
- d. The Respondent “was unaware that [the PA’s] Maryland licensure was not active immediately following the expiry of the licensure reciprocity waiver”;
- e. The Respondent stated: “There was an administrative oversight in not recognizing that a separate supervisory delegation agreement would need to be filed with the Board upon [the PA’s] Maryland licensure. Professional collaboration under the DC delegation agreement was so longstanding that the need for immediate correction was overlooked.”

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel B of the Board concludes as a matter of law that the Respondent: practiced medicine with an unauthorized person or aided an unauthorized person in the practice of medicine, in violation of Health Occ. § 14-404(a)(18); violating any provision of this title, any rule or regulation adopted by the Board, or any State or federal law pertaining to the practice of medicine, in violation of Health Occ. § 14-404(a)(43). With respect to Health Occ. § 14-404(a)(43), the Respondent’s conduct, as described above, constitutes a violation of Health Occ. §§ 15-302(a)(1). The charge of Health Occ. § 14-404(a)(3)(ii) is dismissed.

⁷ Beginning on March 16, 2020, pursuant to an Executive Order issued during the Maryland COVID-19 state of emergency, PAs with an out-of-state license were permitted to treat patients in Maryland under the supervision of a Maryland licensed physician, and they were required to notify the Board by completing an out-of-state registration for COVID-19 within 30 days of beginning to perform medical acts. The PA was not registered as an out-of-state PA practicing in Maryland during the COVID-19 state of emergency. The Executive Order permitting out-of-state PAs to practice without a license in Maryland expired on August 15, 2021.

ORDER

It is, thus, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel B, hereby:

ORDERED that the Respondent Dana C. Mueller, M.D. is **REPRIMANDED**; and it is further

ORDERED that, within **SIX MONTHS** of the effective date of this Consent Order, the Respondent shall pay a civil fine of **ONE THOUSAND DOLLARS (\$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. 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 signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order, and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is a public document. *See* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

07/24/2024
Date

Signature On File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Dana C. Mueller, M.D., 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. § 14-405 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

7/18/2024

Date

Dana C. Mueller, M.D.

Respondent

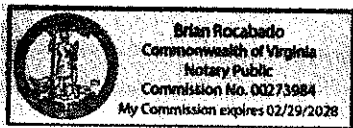
NOTARY

STATE OF Virginia

CITY/COUNTY OF Arlington

I **HEREBY CERTIFY** that on this 19 day of July 2024, before me, a Notary Public of the foregoing State and City/County, Dana C. Mueller, M.D., personally appeared and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSTH my hand and notarial seal.



Brian Rocabato
Notary Public

My commission expires: 02/29/2028