

<p><b>IN THE MATTER OF</b></p> <p><b>PHILIP MUSSENDEN, JR., M.D.</b></p> <p style="padding-left: 40px;"><b>Respondent</b></p> <p><b>License Number: D81280</b></p>	<p>*</p> <p>*</p> <p>*</p> <p>*</p>	<p><b>BEFORE THE</b></p> <p><b>MARYLAND STATE</b></p> <p><b>BOARD OF PHYSICIANS</b></p> <p><b>Case Number: 2224-0157A</b></p>
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**CONSENT ORDER**

On September 5, 2024, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) charged **Philip Mussenden, Jr., M.D.** (the “Respondent”), License Number D81280, under the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2021 Repl. Vol. and 2023 Supp.).

Panel A charged the Respondent with violating the following provisions of the Act:

**§ 14-404. Denials, reprimands, probations, suspensions, and revocations – Grounds.**

(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:

...

- (3) Is guilty of:
  - (ii) Unprofessional conduct in the practice of medicine; ...
- (7) Habitually is intoxicated; [and] ...
- (9) Provides professional services:
  - (i) While under the influence of alcohol[.]

On December 4, 2024, Panel A 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 A finds:

1. At all relevant times, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent initially was licensed to practice medicine in the State of Maryland on March 23, 2016, under License Number D81280. His license expires on or about September 30, 2025.

2. At all relevant times, the Respondent practiced internal medicine at a health care facility (“Health Care Facility”) <sup>1</sup> in Anne Arundel County, Maryland. He is not board certified in any medical specialty.

### **PRIOR DISCIPLINARY PROCEEDING**

3. In Case Number 2223-0083A, the Board and the Respondent entered into a public Consent Order after the Respondent made inappropriate comments about a female patient’s physical appearance and later sent unsolicited text messages to the patient on her personal cell phone. The February 7, 2024 Consent Order concluded as a matter of law that the Respondent was guilty of unprofessional conduct in the practice of medicine. The Consent Order reprimanded the Respondent, ordered that he be placed on probation for one year, enroll in the Maryland Professional Rehabilitation Program, complete a course in professional boundaries, and pay a civil fine of \$5,000.00.

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<sup>1</sup> For confidentiality and privacy purposes, the names of individuals and health care facilities involved in this case are not disclosed in this document. The Respondent may obtain the names of all individuals and health care facilities referenced in this document by contacting the administrative prosecutor.

## COMPLAINT

4. On or about April 23, 2024, the Board received an incident report from the Health Care Facility concerning the Respondent. The incident report stated that on December 29, 2023, a female Patient (the “Patient”) “called and said she wanted to file a complaint. She claims that she was uncomfortable during her visit with the [Respondent] and that he smelt like alcohol and was slurring his words and dozed off while she was talking.”

## BOARD INVESTIGATION

5. The Board initiated an investigation into the Respondent upon receiving the incident report. As part of its investigation, Board staff conducted under-oath interviews of four employees of the Health Care Facility and the Patient, obtained medical records of the Patient, obtained the Respondent’s personnel file from the Health Care Facility, and received a written response from the Respondent.

6. In her interview, the Patient confirmed that at her December 29, 2023 appointment with the Respondent at the Health Care Facility, she observed Dr. Mussenden’s words “were pretty slurred...slurred like something was going on, but then I noticed him like nodding while he was keying in everything at the computer.” The Patient also observed that “at one point, he had forgotten what I was there for and then he started talking about what I was there for. So, it was kind of disturbing, but I immediately – as soon as he told me I was fine to go, I went straight to the front desk, and I asked to speak with someone and I spoke to two young ladies. They gave me a phone number and told me to call, you know, to speak to someone about the concern.” The Patient also stated the Respondent smelled of alcohol.

7. A registered nurse at the Health Care Facility stated there “was an instance or two where I did smell, it seemed like his breath. I could smell his breath, and it smelled like alcohol[.]” The registered nurse also recalled the Patient remarking to her on December 29, 2023 that the Respondent “was acting strange and that she asked if he had, you know been drinking.”

8. In his written response, the Respondent stated that during the prior disciplinary proceeding, “my frequency of drinking alcohol increased, leading to an increase in the amount of drinks off-duty. This was in conjunction with an already erratic and demanding work schedule...I was able to reduce my frequency of drinking over time and as of now I have been in complete abstinence since February 29, 2024.”

9. With the consent of the Respondent, the Board also obtained medical records for the Respondent which document that in April 2024, the Respondent was diagnosed with and in the process of being treated for certain medical conditions.<sup>2</sup>

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, Disciplinary Panel A concludes as a matter of law that the Respondent’s conduct, as described above, constitutes a violation of the following provisions of the Act under Health Occ. § 14-404(a): (3)(a)(ii) Unprofessional conduct in the practice of medicine; (7) Habitually is intoxicated; and (9)(i) Provides professional services while under the influence of alcohol.

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<sup>2</sup> For confidentiality reasons, the specific information in the Respondent’s medical records will not be disclosed in this document. This information will be disclosed to the Respondent upon request.

## ORDER

It is, on the affirmative vote of a majority of the quorum of Disciplinary Panel A, hereby:

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

**ORDERED** that the probation imposed by the February 7, 2024 Consent Order is **TERMINATED**; and it is further

**ORDERED** that the Respondent is placed on **PROBATION** at a minimum until February 7, 2028, which is **THREE (3) YEARS** from the date that his prior probation was due to expire. During probation, the Respondent shall comply with the following terms and conditions of probation:

- (1) The Respondent shall continue enrollment in the Maryland Professional Rehabilitation Program (MPRP) as follows:
  - (a) the Respondent shall fully and timely cooperate and comply with all MPRP's referrals, rules, and requirements, including, but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by MPRP;
  - (b) the Respondent shall sign and update the written release/consent forms requested by the Board and MPRP, including release/consent forms to authorize MPRP to make verbal and written disclosures to the Board and to authorize the Board to disclose relevant information from MPRP records and files in a public order. The Respondent shall not withdraw his release/consent;
  - (c) the Respondent shall also sign any written release/consent forms to authorize MPRP to exchange with (i.e., disclose to and receive from) outside entities (including all of the Respondent's current therapists and treatment providers) verbal and written information concerning the Respondent and to ensure that MPRP is authorized to receive the medical records of the Respondent, including,

but not limited to, mental health and drug or alcohol evaluation and treatment records. The Respondent shall not withdraw his release/consent;

(d) the Respondent's failure to comply with any of the above terms or conditions including terms or conditions of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s) constitutes a violation of this Consent Order;

(e) if, upon the authorization of MPRP, the Respondent transfers to a rehabilitation program in another state, the Respondent's failure to comply with any term or condition of the out-of-state's rehabilitation program, constitutes a violation of this Consent Order. The Respondent shall also sign any out-of-state written release/consent forms to authorize the Board to exchange with (i.e., disclose to and receive from) the out-of-state program verbal and written information concerning the Respondent, and to ensure that the Board is authorized to receive the medical records of the Respondent, including, but not limited to, mental health and drug or alcohol evaluation and treatment records. The Respondent shall not withdraw his release/consent;

(2) Within **ONE (1) YEAR**, the Respondent shall pay a civil fine of \$2,500.00. 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 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, the minimum period of probation imposed by the Consent Order has passed, and MPRP finds and notifies the Board that the Respondent is safe to return to the practice of medicine without monitoring, 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 his 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 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 disciplinary 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 disciplinary 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 this Consent Order shall not be amended or modified and future requests for modification will not be considered; 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 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 Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

## *Signature On File*

12/16/2024  
Date

Christine A. Farrelly  
Executive Director  
Maryland State Board of Physicians

### CONSENT

I, Phillip Mussenden Jr., 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.

12/12/2024  
Date

***Signature On File***

Phillip Mussenden Jr., M.D.

NOTARY

STATE OF Maryland

CITY/COUNTY OF Upper Marlboro/Prince Georges

I HEREBY CERTIFY that on this 12th day of

December 2024, before me, a Notary Public of the foregoing

State and City/County, Phillip Mussenden Jr., M.D. personally appeared and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSTH my hand and notarial seal.

Gina S. Duncan

Notary Public

My commission expires: 5/31/2024

Gina S. Duncan  
Notary Public  
Prince George's County  
Maryland  
My Commission Expires 5/30/2026  
(280-601-446 please)