

Crystal M. McGinty, M.D.

Date: April 23, 2019

Arun Bhandari, M.D., Chair
Disciplinary Panel A
Maryland State Board of Physicians
4201 Patterson Avenue, 4th Floor
Baltimore, MD 21215-2299

Re: Surrender of License to Practice Medicine
Crystal M. McGinty, M.D. License Number: D36182
Case Number: 2219-0011A

Dear Dr. Bhandari and Members of Disciplinary Panel A,

Please be advised that, pursuant to Md. Code Ann., Health Occ. ("Health Occ.") §14-403 (2014 Repl. Vol. & 2018 Supp.), I have decided to **SURRENDER** my license to practice medicine in the State of Maryland, License Number D36182, effective immediately. I understand that upon surrender of my license, I may not give medical advice or treatment to any individual, with or without compensation, and cannot prescribe medications or otherwise engage in the practice of medicine in the State of Maryland as it is defined in the Maryland Medical Practice Act (the "Act"), Health Occ. §§ 14-101 *et seq.* and other applicable laws. In other words, as of the effective date of this Letter of Surrender, I understand that the surrender of my license means that I am in the same position as an unlicensed individual in the State of Maryland.

I understand that this Letter of Surrender is a **PUBLIC DOCUMENT**, and upon Disciplinary Panel A's ("Panel A") acceptance, becomes a **FINAL ORDER** of Panel A of the Maryland State Board of Physicians (the "Board").

I acknowledge that the Board initiated an investigation of my practice and on January 4, 2019, Panel A issued disciplinary charges against me under Health Occ. § 14-404(a)(3)(ii) (Is guilty of unprofessional conduct in the practice of medicine); and § 14-404(a)(4) (Is professionally, physically, or mentally incompetent). Based on the Board's investigation, the charging document included allegations concerning large quantities of opioids that I prescribed and a requirement that I submit to an appropriate examination directed by the Board pursuant to § 14-402 of the Act. A copy of the charging document is attached as Attachment 1.

Based on the Board's investigation, the charging document also revealed that a criminal indictment was filed against me on July 31, 2018, in federal court. On January 2, 2019, I pleaded guilty to (1) mail fraud, in violation of 18 U.S.C. § 1341; and (2) theft of government property, in violation of 18 U.S.C. § 641, based on my receipt of Social

Arun Bhandari, M.D. and Members of Disciplinary Panel A_

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Security and pension benefits in excess of \$500,000 on behalf of my deceased mother. I acknowledge that the crimes to which I pleaded guilty support a conclusion that I violated Health Occ. § 14-404(b) (crime of moral turpitude).

I have decided to surrender my license to practice medicine in the State of Maryland to avoid further investigation and prosecution of Panel A's disciplinary charges and the allegations that I pleaded guilty to crimes involving moral turpitude. I wish to make it clear that I have voluntarily, knowingly and freely chosen to submit this Letter of Surrender to avoid further prosecution of the disciplinary charges. I acknowledge that for all purposes related to medical licensure, the charges will be treated as if proven.

I understand that by executing this Letter of Surrender I am waiving my right to a hearing to contest the disciplinary charges. In waiving my right to contest the charges, I am also waiving the right to be represented by counsel at the hearing, to confront witnesses, to give testimony, to call witnesses on my own behalf, and all other substantive and procedural protections provided by law, including the right to appeal to circuit court.

I understand that the Board will advise the Federation of State Medical Boards, and the National Practitioner Data Bank of this Letter of Surrender. I also understand that in the event I would apply for licensure in any form in any other state or jurisdiction that this Letter of Surrender may be released or published by the Board to the same extent as a final order that would result from disciplinary action, pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014), and that this Letter of Surrender constitutes a disciplinary action by Panel A.

I affirm that I will provide access to and copies of medical records to my patients in compliance with Title 4, subtitle 3 of the Health General Article.

I further recognize and agree that by submitting this Letter of Surrender, my license will remain surrendered unless and until the Board grants reinstatement. In the event that I apply for reinstatement of my Maryland License, I understand that Panel A or its successor is not required to grant reinstatement; and, if it does grant reinstatement, may impose any terms and conditions the disciplinary panel considers appropriate for public safety and the protection of the integrity and reputation of the profession. I further understand that if I file a petition for reinstatement, I will approach Panel A or its successor in the same position as an individual whose license has been revoked.

I acknowledge that I may not rescind this Letter of Surrender in part or in its entirety for any reason whatsoever. Finally, I wish to make clear that I have been advised of my right to be represented by an attorney of my choice throughout proceedings before Panel A, including the right to consult with an attorney prior to signing this Letter of Surrender. I have consulted with and was represented by an attorney prior to signing this letter surrendering my license to practice medicine in Maryland. I understand both the nature of Panel A's actions and this Letter of Surrender fully. I acknowledge that I understand and

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comprehend the language, meaning and terms and effect of this Letter of Surrender. I make this decision knowingly and voluntarily.

Very truly yours,

Signature on File


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

NOTARY

STATE OF MARYLAND
CITY/COUNTY OF MONTGOMERY

I HEREBY CERTIFY that on this 23 day of APRIL, 2019 before me, a Notary Public of the City/County aforesaid, personally appeared Crystal M. McGinty, M.D., and declared and affirmed under the penalties of perjury that the signing of this Letter of Surrender was a voluntary act and deed.

AS WITNESS my hand and Notarial seal.



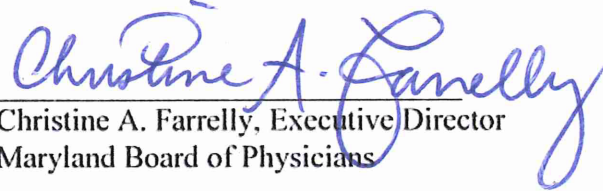
Notary Public

My commission expires:

02.09.2022

ACCEPTANCE

On behalf of Disciplinary Panel A, on this 16th day of May, 2019, I, Christine A. Farrelly, accept the **PUBLIC SURRENDER** of Crystal M. McGinty, M.D.'s license to practice medicine in the State of Maryland.



Christine A. Farrelly, Executive Director
Maryland Board of Physicians

ATTACHMENT 1

IN THE MATTER OF	*	BEFORE THE
CRYSTAL M. McGINTY, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D36182	*	Case Number: 2219-0011A

* * * * *

CHARGES UNDER THE MARYLAND MEDICAL PRACTICE ACT

Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") hereby charges **CRYSTAL M. McGINTY, M.D.** (the "Respondent"), License Number D36182, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2014 Repl. Vol. and 2017 Supp.) and Md. Code Regs ("COMAR") 10.32.17 *et seq.*

Panel A charges the Respondent with violating the following provisions of the Act under Health Occ. § 14-404:

- (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; [and/or]
 - (4) Is professionally, physically, or mentally incompetent[.]

ALLEGATIONS OF FACT¹

Panel A bases its charges on the following facts that it has reason to believe are true:

I. BACKGROUND

1. The Respondent was originally licensed to practice medicine in Maryland on December 31, 1987, under License Number D36182. The Respondent's latest license was given the expiration date of June 30, 2019.

2. The Respondent is currently employed as a physician at a health care facility ("Facility A")² in Greenbelt, Maryland, and performs physical examinations, pre-operative evaluations and acts as a second surgeon assisting in its ambulatory surgical center. For the past two years, the Respondent has also been employed at a health care facility ("Facility B") in Silver Spring, Maryland, working with weight loss patients. The Respondent was previously employed at a health care facility ("Facility C") as a locum tenens physician from in or around April 2018 to in or around August 2018.

3. The Respondent is not board-certified in any medical specialty.

¹ The allegations set forth in this document are intended to provide the Respondent with reasonable notice of the alleged facts. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with these charges.

² For confidentiality reasons, the names/identities of medical facilities, Complainants, pharmacies, and other individuals will not be disclosed in this document. The Respondent may obtain the identity of any entity/individual referenced herein by contacting the assigned administrative prosecutor.

4. On January 3, 2019, Panel A issued an *Order for Summary Suspension of License to Practice Medicine*, in which it summarily suspended the Respondent's Maryland medical license. Panel A took such action pursuant to Md. Code Ann., State Gov't § 10-226(c)(2), concluding that the public health, safety or welfare imperatively requires emergency action.

II. THE COMPLAINT

5. The Board initiated an investigation of the Respondent after receiving a complaint, dated July 18, 2018, from a pharmacy manager (the "Complainant") of a pharmacy located in Cambridge, Maryland. The Complainant reported that the pharmacy had received an influx of prescriptions for oxycodone 30 mg,³ in quantities of 120 units or greater, which were written/issued by the Respondent. The Complainant reported that he was unable to contact the Respondent when questioning such prescribing. The Complainant stated that despite not being able to reach the Respondent by telephone, he observed her patients having "no problem" calling the Respondent on her cell phone and reaching her. The Complainant stated that several of the Respondent's patients have never received narcotics previously but that the Respondent is prescribing oxycodone 30 mg on their first visits with her.

³ Oxycodone is an opioid analgesic and is a Schedule II controlled dangerous substance.

6. The Complainant stated he telephoned the Respondent to ask why a Maryland Medicaid patient was paying cash in Delaware for the Respondent's prescriptions. In response, the Respondent laughed and stated, "I have no idea."

7. The Complainant concluded the complaint by stating that the Respondent's "prescribing pattern is unethical, and her patient/Dr. relationships are unusual."

III. SUBSEQUENT BOARD INVESTIGATION

8. By letter dated August 29, 2018, the Board notified the Respondent that based on the above complaint, it had opened an investigation of her. The Board requested a response to the complaint and that the Respondent complete an information form.

9. The Respondent's counsel submitted a letter dated September 7, 2018, in which she notified the Board that her client, the Respondent, had been charged with crimes in the United States District Court for the District of Maryland. The Respondent's counsel stated that the Respondent had been charged in Case No. 18-00407-PX with mail fraud, in violation of 18 U.S.C. § 1341; theft of government property, in violation of 18 U.S.C. § 641; and aggravated identity theft, in violation of 18 U.S.C. § 1028A. The Respondent's counsel stated that the charges stem from accusations that the Respondent continued to receive Social Security benefits on behalf of her deceased mother. The letter from the Respondent's counsel also disclosed further information about the Respondent on this date.

10. On September 27, 2018, Board staff contacted the Respondent's counsel about the Respondent's pending criminal matter. In this telephone conversation, the Respondent's counsel provided updated information to Board staff regarding the

information previously disclosed on September 7, 2018, and a court hearing scheduled for October 4, 2018. The Respondent's counsel further advised that the Respondent did not provide her with the Board's August 29, 2018, letter until September 24, 2018, and that she would likely seek an extension of time for the material the Board requested.

11. Board staff obtained the indictment associated with Case No. 8:18-cr-00407-PX (the "Indictment"), which was filed on July 31, 2018, against the Respondent in the United States District Court for the District of Maryland. The Indictment states that beginning in or around June 2005 and continuing through in or around June 2018, the Respondent:

- a. For the purpose of executing and attempting to execute a scheme and artifice to defraud and deprive, the Respondent knowingly caused to be delivered by mail according to the direction thereon mail matter, to wit: The Teachers' Retirement System of the City of New York pension check payable and mailed to the Respondent's mother at the Respondent's address. 18 U.S.C. § 1341 (Mail Fraud), 18 U.S.C. § 2 (Forfeiture Allegations).
- b. Did embezzle, steal, purloin and knowingly convert to her use and use of another, money of the United States, whose value exceeded \$1,000, namely Social Security Retirements Insurance Benefits payments, to which she was not entitled. 18 U.S.C. § 641 (Theft of governmental Property), 18 U.S.C. § 2 (Forfeiture Allegations).
- c. Did knowingly use, without lawful authority, a means of identification of another person during and in relation to a felony violation enumerated in 18 U.S.C. § 1028A(c), to wit: Mail Fraud in violation of 18 U.S.C. § 1341, knowing that the means of identification belonged to another actual person. 18 U.S.C. § 1028A(a)(1).

12. On November 1, 2018, the Board issued a subpoena to the Respondent to appear for an interview at the Board's offices. On November 19, 2018, the Respondent, accompanied by counsel, appeared at the Board for an under-oath interview. During the interview, Board staff attempted to question the Respondent about the above complaint and her practices at Facility C, at which point the Respondent's counsel informed Board staff that there was an ongoing federal investigation pending against Facility C, and that the Respondent would be invoking her Fifth Amendment right against self-incrimination under the United States Constitution and would not be answering any questions regarding those subject areas. The Respondent further invoked her right against self-incrimination to questions regarding: the allegation in the complaint that her "prescription pattern is unethical, and her patient/Dr. relationships are unusual"; prescribing to family members; prescribing medications to patients to include querying the Prescription Drug Monitoring Program to monitor compliance while at Facility C; the basis for her decision to leave employment at Facility C; and the charges pending against her in the United States District Court for the District of Maryland. Board staff also questioned the Respondent regarding the information voluntarily disclosed by the Respondent's counsel to Board staff on September 7 and September 27, 2018. The Respondent's counsel refused to permit the Respondent to answer such questions, citing "medical privilege" and his assertion that the Board had no right to "get into her health status," which he claimed "was not an issue."

13. By letter dated December 5, 2018, the Board, pursuant to Health Occ. § 14-402,⁴ referred the Respondent to a Board-approved program (the “Program”) for an evaluation. Based on § 14-402(c), the Board’s notice advised the Respondent that “unreasonable failure or refusal to submit to examination is prima facie evidence of a licensed medical practitioner’s inability to practice medicine, unless the Board finds that the failure or refusal was beyond the control of the individual.”

14. On December 7, 2018, the Respondent entered into a plea agreement (“Plea Agreement”) with the United States Attorney’s Office for the District of Maryland. Pursuant to the Plea Agreement, the Respondent agreed to enter pleas of guilty to: Count One of the above Indictment, Mail Fraud, that on or about the time alleged in the Indictment, the Respondent (a) devised or intended to devise a scheme to defraud; and (b) used the mail for the purpose of executing, or attempting to execute, the scheme, in violation of 18 U.S.C. § 1341; and Count Two of the above Indictment, Theft of Government Property, that on or about the time alleged in the Indictment, the Respondent

⁴ Health Occ. § 14-402(a) states: In reviewing an application for licensure, certification, or registration or in investigation against a licensed physician or any allied health professional regulated by the Board under this title, the Physician Rehabilitation Program may request the Board to direct, or the Board on its own initiative may direct, any physician or any allied health professional regulated by the Board under this title to submit to an appropriate examination.

Health Occ. § 14-402(b) states: In return for the privilege given by the State issuing a license, certification, or registration, the licensed, certified, or registered individual is deemed to have: (1) Consented to submit to an examination under this section, if requested by the Board in writing; and (2) Waived any claim of privilege as to the testimony or examination reports

Health Occ. § 14-402(c) states: The unreasonable failure or refusal of the licensed, certified, or registered individual to submit to an examination is prima facie evidence of the licensed, certified, or registered individual’s inability to practice medicine or the respective discipline competently, unless the Board finds that the failure or refusal was beyond the control of the license, certified, or registered individual.

(a) knowingly converted to the Respondent's use property, with the intention of depriving the owner of its benefit or use; (b) the property belonged to the United States; and (c) the property had a value greater than \$1000.

15. According to the Plea Agreement, the Respondent and the United States Attorney's Office stipulated and agreed that a sentence of 37 months in the custody of the Bureau of Prisons was the appropriate disposition in the case.

16. On December 7, 2018, the Respondent executed a Stipulation of Facts in conjunction with the Plea Agreement, which stated the following:

Crystal Mebane McGinty ("MCGINTY"), age 58, is a resident of Silver Spring, Maryland. At all times relevant, MCGINTY worked as a physician at various practices in the State of Maryland and District of Columbia.

From in or around June 2005 through in or around June 2018, MCGINTY engaged in a scheme to commit mail fraud and theft of government property by means of materially false and fraudulent pretenses. In the scheme, MCGINTY spent her deceased mother's Social Security Administration ("SSA") Retirement Insurance Benefits ("RIB") payments and Teachers' Retirement System of the City of New York ("TRSCNY") pension payments and failed to disclose and concealed her mother's death from SSA and TRSCNY, in part, by posing as her deceased mother.

MCGINTY'S mother, D.M., died on or about June 17, 2005, and her death certificate names MCGINTY as the informant. In or about the year 2016, SSA suspected that D.M. was deceased, but was still receiving RIB payments by direct deposit into an account titled in the names of MCGINTY, D.M., and D.M.'s deceased husband, R.M.

On or about January 9, 2017, agents of SSA's Office of Inspector General met with MCGINTY at the health clinic at which she worked. MCGINTY was evasive in responding to questions regarding whether her mother was alive, and ultimately falsely stated that her mother was alive, "as far as she [knew]." MCGINTY acknowledged that she used the joint account into which SSA benefits were deposited, but falsely denied spending any of D.M.'s SSA benefits. MCGINTY admitted that she received and

purposefully failed to respond to SSA notices mailed to her address requesting that she contact SSA.

Agents learned through their investigation that MCGINTY was also depositing her mother's TRSCNY pension checks into the joint checking account, which were sent to MGINITY'S home each month by United States Mail. Before depositing the checks, MCGINTY endorsed the checks as herself, and then countersigned them as D.M.

TRSCNY records show that MCGINTY submitted to TRSCNY several "proof of life" forms, from 2012 to 2017, attesting that D.M. was still alive, and on which MGINITY forged D.M.'s signature, and also signed the documents as D.M.'s attesting physician. TRSCNY records also indicate that on or about May 31, 2016, MCGINTY contacted the TRSCNY customer service hotline and identified herself as D.M., and provided D.M.'s partial social security number and date of birth for identification purposes. MCGINTY contacted TRSCNY because it had ceased mailing D.M.'s pension checks, and MCGINTY sought to have the payments reinstated.

In total, MCGINTY spent approximately \$304,000 in funds belonging to TRSCNY and \$213,000 in funds belonging to SSA. MCGINTY often withdrew the funds as cash or transferred them to her personal accounts each month, and also spent the funds on expenses such as the mortgage and utilities for her Silver Spring home, renewal of her medical license, department store purchases, expenses associated with a cruise for a family vacation, purchases during a trip to the island of St. Thomas, and tuition for private schools for her children.

17. On or about December 13, 2018, the Respondent, accompanied by counsel, appeared at the Board-approved Program for intake, pursuant to the Board's referral for an appropriate examination under Health Occ. § 14-402, and the Board's notice sent to the Respondent on December 5, 2018.

18. On or about December 14, 2018, the Program Director notified the Board that based on interactions with the Respondent and her counsel, the Program was unable to undertake a comprehensive evaluation of the Respondent. The Program did provide

other relevant, substantive information to the Board regarding its encounter with the Respondent, however.⁵

19. On multiple occasions, the Respondent has failed to provide relevant information to the Board upon request. On September 21, 2018, the Board forwarded to the Respondent an Authorization for Release of Information form to complete. On October 1, 2018, the Board sent a follow-up letter notifying the Respondent of its investigation, requested a written response, a completed information form and requested that the Respondent sign an Authorization of Release of Information form. To date, the Respondent has not complied with any of these Board directives.

20. On December 14, 2018, the Respondent's counsel advised Board staff that on January 2, 2019, the Respondent would be entering a guilty plea to the pending criminal charges against her in the United States District Court for the District of Maryland.

21. On January 2, 2019, the Respondent appeared in the United States District Court for the District of Maryland and entered pleas of guilty to Count One (Mail Fraud) and Count Two (Theft of Government Property) of the above Indictment. A sentencing date has been scheduled in this matter for April 4, 2019.

⁵ In order to maintain confidentiality, the details of this information, which is relevant and material to this matter, will not be disclosed in this Order, but the report will be made available to the Respondent upon request.

IV. GROUNDS FOR DISCIPLINE

22. The Respondent's conduct, as described above, constitutes, in whole or in part, a violation of the following provisions of the Act under Health Occ. § 14-404(a): (3) Is guilty of: (ii) Unprofessional conduct in the practice of medicine; and/or (4) Is professionally, physically, or mentally incompetent.

NOTICE OF POSSIBLE SANCTIONS

If, after a hearing, Disciplinary Panel B of the Board finds that there are grounds for action under Health Occ. §§ 14-404(a)(3)(ii) and/or (4), Disciplinary Panel B may impose disciplinary sanctions against the Respondent's license in accordance with the Board's regulations under COMAR 10.32.02.10, including revocation, suspension, or reprimand, and may place the Respondent on probation, and/or may impose a monetary fine.

NOTICE OF DISCIPLINARY COMMITTEE FOR CASE RESOLUTION CONFERENCE, PREHEARING CONFERENCE AND HEARING

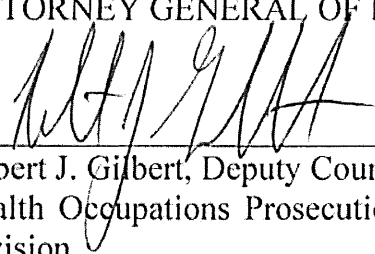
A conference before Panel B, sitting as a Disciplinary Committee for Case Resolution ("DCCR") in this matter, is scheduled for **Wednesday, April 10, 2019, at 9:00 a.m.**, at the Board's office, 4201 Patterson Avenue, Baltimore, Maryland 21215. The Respondent must confirm in writing her intention to attend the DCCR. The Respondent should send her written confirmation of her intention to participate in the DCCR to: Christine A. Farrelly, Executive Director, Maryland State Board of Physicians, 4201 Patterson Avenue, 4th Floor, Baltimore, Maryland 21215. The nature

and purpose of the case resolution conference and prehearing conference is described in the attached letter to the Respondent.

If the case cannot be resolved at the DCCR, a pre-hearing conference and a hearing in this matter will be scheduled at the Office of Administrative Hearings, 11101 Gilroy Road, Hunt Valley, Maryland 21031. The hearing will be conducted in accordance with Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* (2014 Repl. Vol.).

January 4, 2019
Date

BRIAN E. FROSH
ATTORNEY GENERAL OF MARYLAND



Robert J. Gilbert, Deputy Counsel
Health Occupations Prosecution and Litigation
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