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| <b>IN THE MATTER OF</b>                                 | * | <b>BEFORE THE MARYLAND</b> |
| <b>CIMENGA M. TSHIBAKA, M.D.</b>                        | * | <b>STATE BOARD OF</b>      |
| <b>Applicant for Reinstatement<br/>after Revocation</b> | * | <b>PHYSICIANS</b>          |
|                                                         | * | <b>Case No.: 8818-0003</b> |
| <b>Former License No.: D63895</b>                       |   |                            |

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## **ORDER OF REINSTATEMENT OF MEDICAL LICENSE**

### **I. PROCEDURAL AND FACTUAL HISTORY**

Cimenga M. Tshibaka, M.D., was a board-certified surgeon, who specialized in thoracic and vascular surgery, and was originally licensed to practice medicine in Maryland in 2005. On July 23, 2015, after an evidentiary hearing before the Office of Administrative Hearings and an exceptions hearing before Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board"), Panel A found that Dr. Tshibaka was guilty of immoral and unprofessional conduct in the practice of medicine and revoked his license to practice medicine. *See* Md. Code Ann. Health Occ. § 14-404(a)(3)(i) and (ii). The Final Decision and Order permitted Dr. Tshibaka to apply for reinstatement after one year.

On August 11, 2016, Dr. Tshibaka applied for the reinstatement of his license. On March 31, 2017, after considering Dr. Tshibaka's application, the Panel denied his application. The Panel allowed him to reapply for the reinstatement of his license after six months.

In October of 2017, Dr. Tshibaka submitted another application for the reinstatement of his medical license. As part of his reinstatement application, the Board sent Dr. Tshibaka a series of questions, to which he responded on December 6, 2017. On March 14, 2018, the Panel met with Dr. Tshibaka to consider his second application for the reinstatement of his license.

### **III. CONSIDERATION OF APPLICATION**

The reinstatement of a physician's medical license after revocation is discretionary. *See* Md. Code Ann., Health Occ. § 14-409. In his current application for reinstatement, Dr. Tshibaka accepted full responsibility for his actions, acknowledged the significance of his violation, and demonstrated insight into his offenses. Dr. Tshibaka took several courses related to his misconduct. He also voluntarily entered into the Maryland Physician Health Program, which reported that Dr. Tshibaka has "developed insight" into his actions. The Panel believes that he is unlikely to repeat the conduct that led to the revocation of his license. The Panel, therefore, will grant Dr. Tshibaka's application for reinstatement, and impose a period of probation with certain probationary conditions.

### **IV. ORDER**

It is thus, by Disciplinary Panel A, hereby

**ORDERED** that Dr. Tshibaka's license to practice medicine in Maryland is **REINSTATED**; and it is further

**ORDERED** that Dr. Tshibaka is placed on **PROBATION** for a minimum period of **ONE YEAR**.<sup>1</sup> During the probationary period, Dr. Tshibaka shall comply with the following probationary terms and conditions:

1. Dr. Tshibaka shall enroll in the Maryland Professional Rehabilitation Program ("MPRP");
2. Within **5 business days**, Dr. Tshibaka shall contact MPRP to schedule an initial consultation for enrollment. Within **15 business days**, Dr. Tshibaka shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP. Dr. Tshibaka shall

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<sup>1</sup> The probation will not be terminated if Dr. Tshibaka fails to renew his license. If Dr. Tshibaka's license expires while the license is on probation, the probationary period and any probationary conditions will be tolled. COMAR 10.32.02.05C(3).

fully and timely cooperate and comply with all of 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 into with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and toxicology screenings as directed by MPRP;

6. Dr. Tshibaka shall sign and update the written release/consent forms requested by the Board and MPRP. Dr. Tshibaka shall sign the release/consent forms to authorize MPRP to make verbal and written disclosures to the Board, including disclosure of any and all MPRP records and files possessed by MPRP. Dr. Tshibaka 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 Dr. Tshibaka's current therapists and treatment providers) verbal and written information concerning Dr. Tshibaka and to ensure that MPRP is authorized to receive the medical records of Dr. Tshibaka, including, but not limited to, mental health and drug or alcohol treatment records;

7. Dr. Tshibaka shall comply with the Maryland Medical Practice Act, Md. Code Ann., Health Occ. §§ 14-101—14-702, and all laws and regulations governing the practice of medicine in Maryland; and it is further

**ORDERED** that after a minimum period of **ONE YEAR**, Dr. Tshibaka may submit a written petition to Panel A requesting termination of his **PROBATION**; and it is further

**ORDERED** that, upon a written petition to Panel A requesting termination of probation, Dr. Tshibaka may be required to appear before Panel A to discuss his petition for termination of probation. Panel A will grant the petition to terminate the probation if Dr. Tshibaka has

complied with all of the probationary terms and conditions and there are no pending complaints related to the charges; and it is further

**ORDERED** that a violation of any term or condition of MPRP's Rehabilitation Agreement or the Rehabilitation Plan constitutes a violation of the probation imposed under this Order; and it is further

**ORDERED** that if Dr. Tshibaka allegedly fails to comply with any term or condition of probation or this Order, Dr. Tshibaka shall be given notice and an opportunity for a hearing. If 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. If there is no genuine dispute as to a material fact, Dr. Tshibaka shall be given a show cause hearing before the Board or Disciplinary Panel; and it is further

**ORDERED** that, after the appropriate hearing, if the Board or Disciplinary Panel determines that Dr. Tshibaka has failed to comply with any term or condition of this probation or this Order, the Board or Disciplinary Panel may reprimand Dr. Tshibaka, place Dr. Tshibaka on probation with appropriate terms and conditions, or suspend or revoke Dr. Tshibaka's license to practice medicine in Maryland. The Board or Disciplinary Panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon Dr. Tshibaka; and it is further

**ORDERED** that Dr. Tshibaka shall not apply for the early termination of probation; and it is further

**ORDERED** that Dr. Tshibaka is responsible for all costs incurred in fulfilling the terms and conditions of this order; and it is further

**ORDERED** that, unless stated otherwise in the order, any time period begins when the order goes into effect. This order goes into effect upon the signature of the Board's Executive Director, who signs on behalf of the Panel; and it is further

**ORDERED** that this is a **PUBLIC DOCUMENT**.

03/27/2018  
Date

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