

IN THE MATTER OF
MATTHEW KLEESE, D.O.
Respondent

License Number: H0073248

*** BEFORE THE**
*** MARYLAND STATE BOARD**
*** OF PHYSICIANS**
*** Case Number: 2224-0100 B**

* * * * *

ORDER OF DEFAULT

On April 25, 2024, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) issued charges against Matthew Kleese, D.O. (the “Respondent”). Panel B charged the Respondent under the Maryland Medical Practice Act (“Act”) with violating provisions of Md. Code Ann., Health Occ. § 14-404 (2021 Repl. Vol. and 2023 Supp.) and Md. Code Ann., Health-Gen. § 4-403 (2023 Repl. Vol.). Specifically, the Respondent was charged with violating the following provisions of Health Occ. § 14-404:

(a) 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;

....

(13) On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health General Article, fails to provide details of a patient’s medical record to the patient, another physician, or hospital;

....

(33) Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel; and

.....

(43) 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[.]

Pursuant to Health Occ. § 14-404(a)(13) and (43), Panel B charged the Respondent with violating the following provisions of § 4-403 of the Health-General Article (2023 Repl. Vol.):

(e) After the death, retirement, surrender of the license, or discontinuance of the practice or business of a health care provider, the health care provider, the administrator of the estate, or a designee who agrees to provide for the maintenance of the medical records of the practice or business and who states, in writing to the appropriate health occupations board within a reasonable time, that the records will be maintained in compliance with this section, shall:

(1) Forward the notice required in this section before the destruction or transfer of medical records; or

(2) Publish a notice in a daily newspaper that is circulated locally for 2 consecutive weeks:

(i) Stating the date that the medical records will be destroyed or transferred; and

(ii) Designating a location, date, and time where the medical records may be retrieved, if wanted[.]

The panel scheduled a meeting with the Respondent at the Board, on July 24, 2024, to explore the possibility of a resolution to the charges. *See* COMAR 10.32.02.03E(9). The Respondent did not appear for that meeting. On October 8, 2024, the matter was delegated to the Office of Administrative Hearings (“OAH”) for an evidentiary hearing before an Administrative Law Judge (“ALJ”) and a proposed decision.

On October 18, 2024, the OAH issued a Notice of Remote Scheduling Conference to the parties informing them that a scheduling conference would be held on October 28, 2024, at 9:30 a.m. *via* Webex video-conferencing platform. The Respondent did not appear for the remote scheduling conference after proper notice was sent to him at his address of record, and the notice from the OAH was not returned to OAH as undeliverable by the United States Postal Service (“USPS”). The ALJ held the scheduling conference in the Respondent’s absence. An Administrative Prosecutor from the Office of the Attorney General appeared and represented the State of Maryland. During the Scheduling Conference, a Remote Prehearing Conference was scheduled for December 3, 2024, at 9:30 a.m., also on the Webex video-conferencing platform. COMAR 28.02.01.17 and COMAR 28.02.01.20B(1)(b). A hearing on the merits was set for January 7, at 9:30 a.m. *via* Webex.

On November 1, 2024, the OAH mailed a Notice of Remote Prehearing Conference (“Notice”) to each party at their respective addresses of record. The USPS did not return the Notice sent to the Respondent as undeliverable. The Notice informed the parties of the date, time, and Webex hearing room for the Remote Prehearing Conference and enclosed instructions directing each party to prepare and submit a Prehearing Conference Statement in advance of the Prehearing Conference. The Notice further informed the parties that failure to attend the December 3, 2024 Remote Prehearing Conference could result in a decision against the party failing to appear.

The Respondent did not request a postponement of the Remote Prehearing Conference and did not submit a Prehearing Conference Statement in advance of the

Prehearing Conference, as instructed. On November 1, 2024, the Administrative Prosecutor, on behalf of the State of Maryland, filed a Prehearing Conference Statement.

On December 3, 2024, the ALJ convened the Remote Prehearing Conference, as scheduled. COMAR 28.02.01.20B(1)(b). The Respondent did not contact the OAH to report that he was having any technical difficulty accessing the Webex Prehearing Conference. The Respondent did not appear, nor did anyone appear on his behalf. After waiting more than fifteen minutes for the Respondent to appear, the Administrative Prosecutor moved for a default judgment against the Respondent.

Under OAH's Rules of Procedure, "[i]f, after receiving proper notice, a party fails to attend or participate, either personally or through a representative, in a prehearing conference, hearing, or other stage of a proceeding, the ALJ may proceed in that party's absence or may, in accordance with the hearing authority delegated by the agency, issue a final or proposed default order against the defaulting party." COMAR 28.02.01.23A.

Similarly, § 14-405 of the Health Occupations Article provides, in pertinent part:

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board or a disciplinary panel takes any action under § 14-404(a) of the subtitle or § 14-205(b)(3) . . . of this title, it shall give the individual against whom the action is contemplated an opportunity for a hearing before a hearing officer.

....

(d) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the hearing officer may hear and refer the matter to the Board or a disciplinary panel for disposition.

(e) After performing any necessary hearing under this section, the hearing officer shall refer proposed factual findings to the Board or a disciplinary panel for the Board's or disciplinary panel's disposition.

Md. Code Ann., Health Occ. 14-405.

On December 4, 2024, the ALJ issued a Proposed Default Order in which she found the Respondent to be in default. The ALJ cited OAH's Rules of Procedure in conjunction with § 14-405(d), which provides that the ALJ "*may hear*" the matter if a party fails to appear, and with § 14-405(e), which uses the language "*any necessary hearing.*" The ALJ found that these provisions authorize defaults, requiring no evidentiary hearing on the merits. *See also* COMAR 28.02.01.23A.

The ALJ found that the Respondent had proper notice of the Webex Prehearing Conference held on December 3, 2024, and failed to attend or participate. The ALJ thus proposed that the Respondent be found in default and further proposed that the Board adopt as fact the statements in the Allegations of Fact section of the State's Charges. In addition, the ALJ proposed that the Respondent be found to have violated Health Occ. § 14-404(a)(3)(ii), (13), (33), and (43) and § 4-403(f)¹ of the Health General Article (Supp. 2024) in the manner set forth in the State's Charges. The ALJ proposed "that the Board impose disciplinary sanctions against the Respondent's license to practice medicine in the

¹ Effective October 1, 2024, Health-General § 4-403(e) was amended and replaced by Health-General § 4-403(f), which states:

(f) After the death, retirement, surrender of a license, or discontinuance of a practice or business of a health care provider, the health care provider, the administrator of the estate, or a designee who agrees to provide for the maintenance of the medical records of the practice or business and who states, in writing to the appropriate health occupations board within a reasonable time, that the records will be maintained in compliance with this section, shall forward the notice required in this section before the destruction or transfer of medical records to:

(1) The patient; or

(2) For a minor patient, the parent or guardian of the minor patient unless the medical care documented in the record was provided under § 20-102(c) or § 20-103(c) of this article.

State of Maryland, which may include revocation, suspension, reprimand, probation and/or fines.”

The Proposed Default Order notified the parties of the right to file exceptions to the Proposed Default Order and request a hearing on the exceptions with the disciplinary panel of the Board but that they must do so within fifteen (15) days of the date of issuance of the Proposed Default Order on December 4, 2024. In addition, the Proposed Default Order notified the parties that the exceptions and request for hearing should be addressed to the Board and that a copy of the exceptions should be mailed to the opposing party, and the other party would have fifteen (15) days from the filing of exceptions to file a written response. The Proposed Default Order was mailed to the parties at their respective addresses of record.

On December 18, 2024, the Administrative Prosecutor submitted written exceptions to the ALJ’s Proposed Default Order because no specific sanction was proposed by the ALJ and requested that the disciplinary panel adopt the ALJ’s Proposed Default Order and impose the sanction of revocation of the Respondent’s medical license. On December 19, 2024, the Board notified the Respondent that it would allow an additional three days to allow for mail delivery of the Proposed Decision, that written exceptions were due at the Board on December 23, 2024, and any response to the exceptions was due on January 10, 2025. The Board further notified the Respondent of the date that the exceptions hearing was scheduled before a disciplinary panel at the Board’s address. The Respondent did not file exceptions to the Proposed Default Order or any response to the State’s exceptions.

On February 12, 2025, this case came before Disciplinary Panel (“Panel A”) of the Board for final disposition.

FINDINGS OF FACT

Because Panel A of the Board concludes that the Respondent defaulted and has not filed exceptions to the ALJ’s Proposed Default Order, the following findings of fact are adopted from the allegations of fact set forth in the charges and are deemed proven by the preponderance of the evidence:

Background and Licensing Information

1. At all relevant times, the Respondent was licensed to practice medicine in Maryland. The Respondent originally was licensed to practice medicine in Maryland on October 21, 2011, under license number H0073248. The Respondent continuously has renewed his license.
2. The Respondent is board-certified in Family Medicine.
3. At all times relevant, the Respondent was a solo practitioner at a medical office (the “Office”) in Howard County, Maryland.

Complaint

4. The Board initiated an investigation of the Respondent after receiving complaints dated November 13, 2023 from two patients (the “Complainants”) of the Respondent. The Complainants stated the Respondent closed his medical practice without notifying the Complainants and providing them with the opportunity to retrieve their medical records. The Complainants requested the Board’s assistance in obtaining their medical records.

Board Investigation

5. In its investigation, on November 21, 2023, the Board informed the Respondent by letter that it opened a preliminary investigation based on the complaints and requested a written response within ten business days.

6. On December 5, 2023, the Respondent contacted the Board by email and requested an extension of time to respond to the complaints. The Board granted the Respondent an extension until December 15, 2023 to submit his response.

7. Receiving no response, on December 29, 2023, the Board contacted the Respondent by email on the status of his written response.

8. On January 5, 2024, the Board sent a subpoena duces tecum to the Respondent to appear at the Board on January 17, 2024 at 11:00 am and provide his written response, and produce the medical records from the two Complainants.

9. On January 17, 2024 at 11:08 am, the Respondent sent an email to the Board “asking (requesting) for more time to get completed what is needed to fulfill the subpoena.”

10. On February 1, 2024, the Board contacted the Respondent by email stating it still has not received the subpoenaed information and the two Complainants have not received the requested medical records. The Board also informed the Respondent that his failure to respond to the subpoena may be considered a violation of the Act.

CONCLUSIONS OF LAW

Panel A finds the Respondent in default based upon his failure to appear for, or participate in, the December 3, 2024 Remote Prehearing Conference held by OAH in this matter. *See* State Gov’t § 10-210(4). Panel A also concludes that the Respondent violated

Health Occ. § 14-404(a)(3)(ii), (13), (33), and (43), and Health-Gen. § 4-403(e)² (Repl. Vol. 2023) in the manner set forth in the charging document.

SANCTION

Panel A agrees with the Administrative Prosecutor that revocation of the Respondent's medical license is appropriate.

ORDER

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

ORDERED that the license of Respondent Matthew Kleese, D.O., License Number H0073248, to practice medicine in Maryland is **REVOKED**; and it is further

ORDERED that this order is a public document.

Signature on file

05/16/2025
Date

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

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Health Occ. § 14-408, the Respondent has the right to seek judicial review of this Order of Default. Any petition for judicial review shall be filed within thirty (30) days from the date of the mailing of this Order of Default. The cover letter accompanying this order indicates the date the order is mailed. Any petition for judicial

² The ALJ cited the language from Health-Gen. § 4403(f), which was not in effect at the time of the violation. The Panel corrects this error and cites to the statute in effect at the time of the Respondent's violation. Health Gen. § 4-403(e) (Repl. Vol. 2023).

review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondent files a petition for judicial review, the Board is a party and should be served with the court's process at the following address:

Maryland State Board of Physicians
Christine A. Farrelly, Executive Director
4201 Patterson Avenue, 4th Floor
Baltimore, Maryland 21215

Notice of any petition should also be sent to the Board's counsel at the following address:

Noreen Rubin
Assistant Attorney General
Maryland Department of Health
300 West Preston Street, Suite 302
Baltimore, Maryland 21201