

NILAY B. THAKER, D.O.

Date: April 2, 2020

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
Nilay B. Thaker, D.O. License Number: H70147
Case Number: 2219-0181A

Dear Dr. Bhandari and Members of the Disciplinary Panel A,

Please be advised that, pursuant to Md. Code Ann., Health Occ. § 14-403 (2014 Repl. Vol. & 2019 Supp.), I have decided to **SURRENDER** my license to practice medicine in the State of Maryland, License Number H70147, 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"), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2014 Repl. Vol.) 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 received a complaint alleging that I prescribed excessive amounts of Adderall to a female patient and provided cash to her in exchange for videos of her having sex with her boyfriend. The Board initiated an investigation into the allegations and further determined that I wrote a prescription in the name of one of my family members and later provided the medication to the patient. I further acknowledge that as a result of the Board's investigation, on March 24, 2020, Panel A issued an Order for Summary Suspension of my license to practice in Maryland, a copy of which is attached hereto and incorporated herein as Attachment 1.¹ I have decided to surrender my license to practice medicine in the State of Maryland to avoid further investigation and prosecution of these allegations. I recognize that for all purposes relevant to medical licensure that these allegations shall be treated as proven and that these allegations support a conclusion that I violated Health Occ. § 14-404(a)(3)(i) (is guilty of immoral conduct in the practice

¹ Upon Panel A's acceptance of this Letter of Surrender, I understand that the Order for Summary Suspension issued on March 24, 2020, is terminated as moot.

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of medicine); § 14-404(a)(3)(ii) (is guilty of unprofessional conduct in the practice of medicine); § 14-404(a)(11) (willfully makes or files a false report or record in the practice of medicine); § 14-404(a)(27) (sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purpose); § 1-212 (Sexual misconduct prohibited; regulations; discipline); and the Board's sexual misconduct regulations under COMAR 10.32.17.01 *et al.* (2018).

I wish to make it clear that I have voluntarily, knowingly and freely chosen to submit this Letter of Surrender to avoid the issuance of charges and prosecution of the aforementioned allegations. I do not wish to contest these allegations. I understand that by executing this Letter of Surrender I am waiving my right to contest any charges that would issue from Panel A's investigative findings in a formal evidentiary hearing at which I would have had the right to counsel, 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.* (2019 Repl. Vol), 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 also agree to surrender my Controlled Dangerous Substances Registration to the Office of Controlled Dangerous Substances Administration.

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 ever 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 counsel 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

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Panel A's actions and this Letter of Surrender fully. I acknowledge that I understand and 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

Nilay B. Thaker, D.O.

NOTARY

STATE OF Maryland
CITY/COUNTY OF Montgomery

I HEREBY CERTIFY that on this 2nd day of April, 2020 before me, a Notary Public of the City/County aforesaid, personally appeared Nilay B. Thaker, D.O., and declared and affirmed under the penalties of perjury that the signing of this Letter of Surrender was his voluntary act and deed.

AS WITNESS my hand and Notarial seal.

Sham Z. Bunn
Notary Public

My commission expires: 3/26/2022

ACCEPTANCE

On behalf of Disciplinary Panel A, on this 6th day of April, 2020, I, Christine A. Farrelly, accept Nilay B. Thaker, D.O.'s **PUBLIC SURRENDER** of his license to practice medicine in the State of Maryland.

Signature on File

Christine A. Farrelly, Executive Director
Maryland Board of Physicians

ATTACHMENT # 1

IN THE MATTER OF	*	BEFORE THE
NILAY B. THAKER, D.O.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: H70147	*	Case Number: 2219-0181A
* * * * *	*	* * * * *

**ORDER FOR SUMMARY SUSPENSION
OF LICENSE TO PRACTICE MEDICINE**

Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) hereby **SUMMARILY SUSPENDS** the license of **NILAY B. THAKER, D.O.** (the “Respondent”), License Number H70147, to practice medicine in the State of Maryland.

Panel A takes such action pursuant to its authority under Md. Code Ann., State Gov’t § 10-226(c) (2014 Repl. Vol. & 2019 Supp.), concluding that the public health, safety or welfare imperatively requires emergency action.

INVESTIGATIVE FINDINGS

Based on information received by, and made known to Panel A, and the investigatory information obtained by, received by and made known to and available to Panel A, including the instances described below, Panel A has reason to believe that the following facts are true:¹

¹ The statements regarding Panel A’s investigative findings are intended to provide the Respondent with notice of the basis of the suspension. 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 this matter.

I. BACKGROUND

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was originally licensed to practice medicine in Maryland on January 8, 2010, under License Number H70147. The Respondent's license is current through September 30, 2021.

2. The Respondent is board-certified in family medicine.

3. At all times relevant hereto, the Respondent was employed as a family medicine physician with a health care provider (the "Health Care Group") located in Frederick, Maryland.

4. On or about April 15, 2019, the Board opened an investigation of the Respondent after receiving a complaint from a family member (the "Complainant")² of a patient (the "Patient"). The Complainant alleged that the Respondent, who was the Patient's family physician, prescribed excessive amounts of Adderall to the Patient. The Complainant further provided copies of social media message exchanges between the Respondent and the Patient in which the Respondent agreed to provide cash for the Patient to pay her telephone bill in exchange for videos of her having sex with her boyfriend.

II. BOARD INVESTIGATION

5. As part of its investigation, the Board requested that the Respondent provide a written response to the complaint. In a letter date October 8, 2019, the

² 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.

Respondent explained his medical rationale for increasing or decreasing the Patient's Adderall dosage. The Respondent further denied engaging in an inappropriate relationship with the Patient.

6. The Board's investigation revealed that the Respondent began treating the Patient, then in her early 20s, in or around April 2015 for Attention Deficit Hyperactivity Disorder ("ADHD"). On or about June 20, 2016, the Complainant filed a complaint with the Health Care Group alleging that the Respondent prescribed excessive amounts of Adderall to the Patient. In furtherance of the investigation, the Board issued a subpoena to the Prescription Drug Monitoring Program ("PDMP"). The Board also obtained and reviewed the Respondent's pharmacy records. The information obtained revealed that the Respondent prescribed several controlled dangerous substances to the Patient in or around February 2017, which the Respondent admitted was done without any office visits with the Patient. Pharmacy drug surveys further revealed that the Respondent wrote two prescriptions on or about August 7, 2018, for an antibiotic medication in his family member's name and later provided the medications to the Patient pursuant to the Patient's request.

7. The Board's investigation further revealed that in a series of social media message exchanges between July 2018 and February 2019, the Respondent continued to provide medical advice and a prescription-only medication to the Patient during that time period. The message exchanges further revealed that the Respondent periodically provided cash to the Patient in order that she could pay her telephone bills in exchange

for videos of the Patient having sex with her partners. The message exchanges included sexually explicit discussions of the videos.

8. On or about February 27, 2020, the Respondent was interviewed under oath at the Board's offices. The Respondent stated that he initially treated the Patient for ADHD beginning April 2015. The Respondent stated that he stopped providing care to the Patient in December 2016 after her family member filed a complaint with the Health Care Group. The Respondent stated that in August of 2016, he began exchanging sexually explicit electronic communications with the Patient, which led to their having sexual intercourse at a parking lot in the winter of late 2016/early 2017. The Respondent further stated that between August 2018 and March 2019, he continued to provide medical advice to the Patient regarding urinary tract infections, reviewed her laboratory report and prescribed an antibiotic medication to her. The Respondent admitted that during this time period, he provided a total of approximately \$1,000 in cash to the Patient in exchange for approximately ten videos of the Patient having sex with her partners.

CONCLUSIONS OF LAW

Based upon the foregoing Investigative Findings, Panel A concludes as a matter of law that the public health, safety, or welfare imperatively requires emergency action, pursuant to Md. Code Ann., State Gov't § 10-226(c)(2) (2014 Repl. Vol. and 2019 Supp.) and Md. Code Regs. ("COMAR") 10.32.02.08B(7)(a).

ORDER

It is, by a majority of the quorum of Panel A, hereby:

ORDERED that pursuant to the authority vested in Panel A by Md. Code Ann., State Gov't § 10-226(c)(2) and COMAR10.32.02.08B(7)(a), the Respondent's license to practice medicine in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that a post-deprivation hearing in accordance with COMAR10.32.02.05B(7) on the summary suspension will be held on **Wednesday, April 8, 2020, at 11:15 a.m.** before Panel A at the Maryland State Board of Physicians, 4201 Patterson Avenue, Baltimore, Maryland 21215-0095; and it is further

ORDERED that at the conclusion of the post-deprivation hearing before Panel A, the Respondent, if dissatisfied with the result of the hearing, may request within ten (10) days an evidentiary hearing, such hearing to be set within thirty (30) days of the request, before an Administrative Law Judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and it is further

ORDERED that a copy of this Order for Summary Suspension shall be filed with the Board in accordance with Health Occ. § 14-407 (2014 Repl. Vol. and 2019 Supp.); and it is further

ORDERED that this is an Order of Disciplinary Panel A, and as such, is a **PUBLIC DOCUMENT**. See Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Provisions § 4-333(b)(6).

03/24/2020
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians