

**IN THE MATTER OF**

**NILAY B. THAKER, D.O.**

**Respondent**

**License Number: H70147 (Surrendered)**

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**BEFORE THE**

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**MARYLAND STATE**

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**BOARD OF PHYSICIANS**

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**Case Number: 2222-0025A**

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### **CONSENT ORDER**

On July 15, 2022, Disciplinary Panel A of the Maryland State Board of Physicians (the "Board") charged **NILAY B. THAKER, D.O.** (the "Respondent"), unlicensed in Maryland, under the Maryland Medical Practice Act (the "Act"), codified at Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2021 Repl. Vol.). Panel A charged the Respondent under the following pertinent provisions of the Act:

#### **§ 14-101. Definitions.**

(o) *Practice medicine.* — (1) "Practice medicine" means to engage, with or without compensation, in medical:

- (i) Diagnosis;
- (ii) Healing;
- (iii) Treatment;
- (iv) Surgery.

(2) "Practice medicine" includes doing, undertaking, professing to do, and attempting any of the following:

(i) Diagnosing, healing, treating, preventing, prescribing for, or removing any physical, mental, or emotional ailment or supposed ailment of an individual:

- 1. By physical, mental, emotional, or other process that is exercised or invoked by the practitioner, the patient, or both; or
- 2. By appliance, test, drug, operation, or treatment[.]

**§ 14-206. Judicial Powers.**

...

- (e) *Cease and desist orders; injunctions.* – A disciplinary panel may issue a cease and desist order or obtain injunctive relief against an individual for:
  - (1) Practicing a profession regulated under this title or Title 15 of this article without a license[.]

**§ 14-601. Practicing without license.**

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice medicine in this State unless licensed by the Board.

The pertinent provision of the State of Maryland, Executive Department, Order of the Governor of the State of Maryland Relating to Various Health Care Matters, effective March 16, 2020, provides:

**XI. Additional Regulatory Flexibility**

- a. After notice to the Governor, the Maryland Board of Physicians (the “BoP”) may suspend any provision of Title 14 and 15 of the Health Occupations Article and their implementing regulations in COMAR 10.32 if the BoP finds that the suspension will not endanger the public health, welfare, or safety and will augment the healthcare workforce and allow it to respond to the catastrophic health emergency.<sup>1</sup>

The pertinent provision of the Board’s notice to the Governor, which was also posted on the Board’s website for public notice, provides:

- 5. The Board is suspending the requirement in COMAR 10.32.05.03 that requires a provider of telehealth services to have a Maryland license if the individual practicing telehealth is in Maryland or the patient is in Maryland for health care practitioners in adjoining states to see *existing patients* in Maryland who cannot travel to the office during

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<sup>1</sup> On June 15, 2021, the Governor of the State of Maryland issued an executive order ending the temporary suspension of certain statutes, rules and regulations related to licensing and credentialing of health care practitioners.

the state of emergency. A physician or allied health practitioner who holds a valid, unexpired license issued by an adjoining state may practice telehealth to the extent authorized by the home state license without obtaining a Maryland license to *treat existing Maryland patients to provide continuity of care* during the state of emergency. (Emphasis added).

On October 12, 2022, Panel A was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on 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**

Disciplinary Panel A finds:

#### **I. BACKGROUND**

1. The Respondent was originally issued a license to practice medicine in the State of Maryland on January 8, 2010, under License Number H70147.
2. On March 24, 2020, Panel A summarily suspended the Respondent’s medical license based on investigative findings that the Respondent prescribed Controlled Dangerous Substances and provided cash to a female patient in exchange for videos of her having sex.
3. On April 6, 2020, the Respondent surrendered his Maryland medical license, which Panel A accepted.
4. On October 29, 2020, the West Virginia Board of Osteopathic Medicine granted the Respondent a license to practice osteopathic medicine in the State of West Virginia on a probationary basis under License Number 3634.

## **II. Complaint**

5. On or about August 3, 2021, the Board received a referral from the Maryland State Board of Pharmacy reporting that during an investigation of a mail-order pharmacy it discovered that the Respondent was writing prescriptions for patients in Maryland without having a valid Maryland medical license.

6. After receiving the complaint, the Board initiated an investigation of the Respondent.

## **III. BOARD INVESTIGATION**

7. As part of its investigation, the Board obtained documents relating to the Respondent's employment with a telemedicine company (the "Company"), dispensing report and all prescriptions the Respondent wrote to patients in Maryland from February to April 2021, medical records of Maryland patients who received prescriptions from the Respondent, and the Respondent's written response to the complaint.

8. The Board's investigation revealed that on or about February 15, 2021, the Respondent accepted a position with the Company to practice telemedicine out of West Virginia.

9. From February to April 2021, the Respondent provided medical consultation through telemedicine and wrote prescriptions for prescription-only medications to nine (9) patients in Maryland. All nine Maryland patients were new patients whom the Respondent never treated and were not existing patients.

10. In his written response to the Board dated September 22, 2021, the Respondent identified the nine Maryland patients and confirmed that he refilled their

existing prescriptions after reviewing their medical history and conducting a telephone consultation with them.

### **CONCLUSIONS OF LAW**

Based on the foregoing findings of fact, Disciplinary Panel A concludes as a matter of law that the Respondent practiced, attempted to practice, or offered to practice medicine in Maryland without being licensed in Maryland, in violation of Health Occ. § 14-601.

### **ORDER**

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

**ORDERED** that the July 13, 2022 **CEASE AND DESIST** Order issued by Disciplinary Panel A shall remain in full force and effect; and it is further

**ORDERED** that within **ONE (1) YEAR** of the effective date of this Consent Order, the Respondent shall pay a civil fine of **SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$7,500.00)**. 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; 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 Health Occ. §§ 1-

607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

10/26/2022  
Date

***Signature On File***

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

## CONSENT

I, Nilay B. Thaker, D.O., acknowledge that I have consulted with counsel before signing this document.

By the 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.

*Signature On File*

10/24/2022  
Date

Nilay B. Thaker, D.O.  
Respondent

**NOTARY**

**STATE OF** Maryland

**CITY/COUNTY OF** Howard

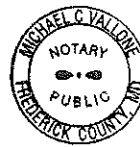
**I HEREBY CERTIFY** that on this 24<sup>th</sup> day of October 2022, before me, a Notary Public of the foregoing State and City/County, personally appeared Nilay B. Thaker, D.O., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

**AS WITNESSETH** my hand and notarial seal.



**Notary Public**

**My Commission expires:** 04/26/2025



Michael C Vallone  
NOTARY PUBLIC  
Frederick County  
State of Maryland  
My Commission Expires  
April 26, 2025