

IN THE MATTER OF
ABIGAIL O. AIYEPOLA, N.D.
Respondent

* BEFORE THE
* MARYLAND STATE BOARD
* OF PHYSICIANS
* Case Number 2218-0277

* * * * *

FINAL DECISION AND ORDER

Procedural History

On January 8, 2019, Disciplinary Panel A of the Maryland State Board of Physicians (the “Board”) issued a Notice of Intent to Revoke License to Practice Naturopathic Medicine against Respondent Abigail Aiyopola, N.D., under the Maryland Naturopathic Medicine Act, Md. Code Ann., Health Occ. §§ 14-5F-01—14-5F-32, with willfully making or filing a false report in the practice of naturopathic medicine, Health Occ. § 14-5F-18(a)(9); unprofessional or immoral conduct in the practice of naturopathic medicine, Health Occ. § 14-5F-18(a)(19); and failing to cooperate with a lawful investigation of the Board, Health Occ. § 14-5F-18(a)(24). The notice alleged that the Respondent failed to comply with section 14-5F-15(c)(5) of the Health Occupations Article, which states, “[t]he Board shall renew the license of a licensee who . . . [p]rovides evidence of biennial cardiopulmonary resuscitation [“CPR”] certification.” The notice further alleged that the Respondent misrepresented to the Board that she would timely submit her CPR certificate and that the Respondent failed to respond to the Board’s investigative correspondence. The notice also notified the Respondent that, if a disciplinary panel concluded that the Respondent violated any Health Occ. § 14-5F-18 grounds, disciplinary sanctions could be imposed against her. The case was referred to the Office of Administrative Hearings (“OAH”) for an evidentiary hearing.

After written notice, issued August 9, 2019, to the Respondent and the State, OAH held a Scheduling Conference on August 27, 2019, at 9:30 a.m., at OAH, in Hunt Valley, Maryland. The Respondent did not appear for the Scheduling Conference, and no one appeared on her behalf. The State was represented by the Administrative Prosecutor from the Maryland Office of the Attorney General, who appeared at the conference. After waiting approximately twenty minutes for the Respondent to appear, the State moved for entry of a default judgment.

Under OAH's Rules of Procedure, "[i]f, after receiving proper notice, a party fails to attend or participate in a prehearing conference, hearing, or other stage of a proceeding, the judge 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, the Health Occupations Article provides, in pertinent part:

(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 (Supp. 2018). The language "may hear" in subsection (d) and "*any* necessary hearing" in subsection (e) clearly contemplate situations such as defaults where no hearing on the merits is required.

Upon consideration of the record, the Administrative Law Judge found that the Respondent had proper notice of the August 27, 2019, Scheduling Conference and failed to appear and participate in the Scheduling Conference. Panel B adopts these ALJ findings.

On September 12, 2019, the ALJ issued a Revised Proposed Default Order,¹ based upon the OAH proceedings described above, which the ALJ recounted in the proposed decision. The ALJ also proposed that the Panel:

1. Find the Respondent in default;
2. Adopt as fact the statements set out in the Investigative Findings section of the Notice of Intent to Revoke License to Practice Naturopathic Medicine;
3. Conclude as a matter of law that the Respondent violated subsections 14-5F-18(a)(9), (19) and (24) of the Health Occupations Article, Annotated Code of Maryland, in the manner set forth in the Notice of Intent to Revoke License; and
4. Impose any disciplinary sanction against the Respondent the Panel deems appropriate.

On September 12, 2019, copies of the ALJ's Revised Proposed Default Order were mailed to the Respondent, the administrative prosecutor, and the Board. The proposed decision notified the parties that they may file written exceptions to the proposed decision but must do so within 15 days of the date of the proposed order. The proposed order stated that any exceptions must be sent to the Board disciplinary panel with attention to the Board's Executive Director. Neither party filed exceptions.

On October 30, 2019, the case came before Board Disciplinary Panel B for the final disposition.

¹ The initial Proposed Default Order, issued on September 6, 2019, misspelled the Respondent's name. The Revised Proposed Default Order was issued, pursuant to COMAR 28.02.01.27C, to correct that clerical mistake.

FINDINGS OF FACT

Because Panel B concludes that the Respondent has defaulted, the following findings of fact are adopted from the Investigative Findings set forth in the January 2, 2019, Notice of Intent to Revoke License to Practice Naturopathic Medicine and are deemed proven by the preponderance of the evidence:

The Respondent was initially licensed to practice naturopathic medicine in the State of Maryland on July 7, 2017 (License Number J00031). The Respondent's renewed license had the expiration date of March 31, 2020.

On or about February 27, 2018, the Respondent submitted an online application (the "Application") for the renewal of the Respondent's license using the Board's online renewal application process.

The Respondent attested on her Application that she possessed a current, valid CPR certificate and that she would send a copy to the Board within fifteen days after the expiration date of her license, i.e. March 31, 2018.

By email, dated April 30, 2018, Board staff informed the Respondent that the Board had not received a copy of the Respondent's CPR certificate. Board staff further informed the Respondent that the Respondent had ten business days to submit the CPR certificate. As of the date of the Notice of Intent to Revoke, the Respondent had not replied to the email.

By letter dated May 21, 2018, the Board informed the Respondent that the Board had opened a preliminary investigation based upon her failure to provide the CPR certificate for license renewal despite her attestation that the Respondent would do so.

As of the date of the Notice of Intent to Revoke, the Respondent had not responded to the letter nor did the Respondent submit the required CPR certificate.

CONCLUSIONS OF LAW

Panel B adopts the ALJ's revised proposed finding, pursuant to COMAR 28.02.01.23A, that the Respondent defaulted based upon the Respondent's failure to appear at OAH for the Scheduling Conference on August 27, 2019. *See* State Gov't § 10-210(4). Based upon the findings of fact, Panel B concludes that the Respondent willfully made or filed a false report or record in the practice of naturopathic medicine, in violation of Health Occ. § 14-5F-18(a)(9); is guilty of unprofessional or immoral conduct in the practice of naturopathic medicine, in violation of Health Occ. § 14-5F-18(a)(19); and failed to cooperate with a lawful investigation conducted by the Board, in violation of Health Occ. § 14-5F-18(a)(24).

Sanction

As a sanction, the ALJ proposed that the Board impose any disciplinary action against the Respondent it finds appropriate. A Notice of Intent to Revoke License to Practice Naturopathic Medicine was issued against the Respondent, because the Respondent failed to submit her CPR certificate as required by the license renewal process, misrepresented to the Board in her renewal application that she would do so, and failed to respond to the Board's investigative correspondence. Based upon the Respondent's disregard for the requirements of licensure and the renewal process, Panel B finds that the appropriate sanction is the revocation of the Respondent's license to practice naturopathic medicine in Maryland.

ORDER

Based upon the findings of fact and conclusions of law, it is, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel B, hereby

ORDERED that the license of Abigail O. Aiyepola, N.D. (License Number J00031) to practice naturopathic medicine in the State of Maryland is **REVOKED**; and it is further

ORDERED that this is a public document.

Signature on File

12/23/2019
Date

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

NOTICE OF RIGHT TO APPEAL

Pursuant to § 14-5F-23(a) of the Health Occupations Article, the Respondent has the right to seek judicial review of this Final Decision and Order. Any petition for judicial review shall be filed within 30 days from the date this Final Decision and Order is mailed. The date of the cover letter accompanying this Final Decision and Order is the date the decision is mailed. The petition for judicial review must be made as directed in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222, and Maryland Rules 7-201 *et seq.*

If the Respondent petitions for judicial review, the Board is a party and should be served with the court's process. In addition, the Respondent should send a copy of her petition for judicial review to the Board's counsel, David Wagner, Assistant Attorney General, Office of the Attorney General, 300 W. Preston Street, Suite 302, Baltimore, Maryland 21201. The administrative prosecutor is not involved in the circuit court process and does not need to be served or copied on pleadings filed in circuit court.