

**IN THE MATTER OF** \* **BEFORE THE MARYLAND**  
**JOHNS HOPKINS BAYVIEW** \* **STATE BOARD**  
**MEDICAL CENTER** \* **OF PHYSICIANS**  
**Respondent** \* **Case Number: 2222-0121 B**  
\* \* \* \* \*

**CONSENT ORDER**

On July 1, 2022, the Maryland State Board of Physicians (the “Board”) notified **JOHNS HOPKINS BAYVIEW MEDICAL CENTER** (the “Respondent”) of its failure to comply with provisions of the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-401 *et seq.* (2021 Repl. Vol.) and regulations adopted by the Board, Md. Code Regs. (“COMAR”) 10.32.01 *et seq.*

The pertinent provisions of the Act are as follows:

**Health Occ. § 14-413 Reporting requirements; hospitals, courts**

**In general**

(a)(1) Each hospital and related institution shall submit to the Board a report within 10 days after:

- ...
- (iii) A licensed physician voluntarily resigned from the staff, employ, or training program of the hospital or related institution for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle; or
- (iv) The hospital or related institution placed any other restrictions or conditions on any of the licensed physicians as listed in items (i) through (iii) of this paragraph for any reasons that might be grounds for disciplinary action under § 14-404 of this subtitle.
- ....

## **Fines and penalties**

(e)(1) A disciplinary panel may impose a civil penalty of up to \$5,000 for failure to report under this section.

The pertinent provisions of Health Occ. § 14-404 provide the following:

## **Denials, reprimands, probations, suspensions, and revocations – Grounds.**

(a) *In general.* -- 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;
- ...  
(8) Is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article;
- ...  
(11) Willfully makes or files a false report in the practice of medicine; [and]
- (43) Except for the licensure process described under Subtitle 3A of this title, 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[.]

The pertinent COMAR regulations are as follows:

### **COMAR 10.32.22.03 Mandated Reports.**

- A. Subject to the limitations set out in §§ B, C and D of this regulation, the reporting entity shall report to the Board in writing any change made with respect to a health care provider:
  - (1) Whom the reporting entity employs;
  - (2) Who works with the reporting entity under contract; or
  - (3) To whom the reporting entity has granted privileges.
- B. A reporting entity shall inform the Board of any change that has been made, in whole or in part, because the reporting entity had reason to believe that the health care provider:

- ....
- (2) Provided patient care of questionable quality;
- (3) Disrupted the workplace;
- (4) Committed unethical or unprofessional conduct;
- ....
- (6) Used the reporting entity's employment or privileges to commit illegal or unethical business practices;
- (7) Suffers from a physical, a mental, or an emotional condition or impairment that affects the health care provider's ability to perform the individual's medical or surgical duties;
- (8) Is habitually intoxicated by alcohol or a controlled dangerous substance;
- (9) Provided care while under the influence of alcohol or while abusing or misusing any controlled dangerous substance or mood-altering substance; [and/or]
- ....
- (15) Committed any other act or suffered from any other condition which the reporting entity had reason to believe may constitute a violation of the Acts.

**COMAR 10.32.22.05 Timeframes for the Submission of Reports**

A. Physicians.

- (1) A reporting entity shall file reports required under this chapter with the Board within 10 days of any change made with regard to a physician.
- (2) Within 10 days, the reporting entity who has reported a change to the Board under this chapter shall report to the Board in writing any modifications made to, or subsequent developments in, that change.

**COMAR 10.32.22.06 Enforcement**

...

- O. If the Board finds after a hearing that a reporting entity failed to file any report required by this chapter, the Board shall issue a final disposition with findings of fact, conclusions of law, and civil penalty. In its final disposition, the Board may impose a civil penalty as follows:
  - (1) With respect to reports concerning physicians:
    - (a) \$2,500 for the first occurrence in a calendar year; or
    - (b) \$5,000 for any subsequent occurrence in a calendar year[.]

After the Board issued its Notice of Failure to File a Report, dated July 1, 2022, the Respondent agreed to enter into the following Consent Order, consisting of Findings of Fact, Conclusions of Law, Order, and Consent.

### **FINDINGS OF FACT**

The Board finds the following facts:

1. On or around September 30, 2021, the Board received a renewal application for a Maryland licensed physician (the “Physician”).<sup>1</sup>

2. In the renewal application, the Physician revealed that within the last two years, he was “investigated for [diverting medications] that arose in the last few months (April – August 2021) of my fellowship training at [the Respondent]” and that he was currently working with [a program] (the “Program”).

3. The Physician further explained that he was evaluated, and determinations were made about his condition.

4. Based on the information in the Physician’s renewal application (the “Complaint”), the Board initiated an investigation.

5. As part of the investigation of the Complaint, the Board subpoenaed reports from the investigation (the “Investigative Reports”) of the Physician and the Physician’s evaluation records (the “Evaluation Records”). The Board also notified the Respondent regarding the Board’s investigation and requested and received a written response. The Investigative Reports and Evaluation Records documented the following:

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<sup>1</sup> For confidentiality reasons, the Physician and the program referenced herein will not be identified by name. The Respondent is aware of the identity of the Physician and the program referenced herein.

6. The Respondent investigated the Physician in August 2021 and found that the Physician falsified patient medical records as part of a scheme in which he withdrew 93 vials of ketamine<sup>2</sup> from medication dispensing machines between January and August 2021.

7. Effective August 11, 2021, the Respondent, a Maryland hospital, did not clear the Physician for duty. The Respondent did not report this action to the Board.

8. On or around August 13, 2021, the Physician requested a voluntary leave of absence, and the Respondent granted this request. The Respondent did not report this action to the Board.

9. On or around August 16, 2021, the Physician personally referred himself to the Program.

10. On or around August 24, 2021, the Physician underwent an initial consultation.<sup>3</sup> Documentation from the initial consultation stated that the Physician's employer contacted the Program and shared concerns about the Physician's condition.

11. On or around October 7, 2021, the Physician was evaluated, and determinations were made about the Physician's condition.<sup>4</sup>

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<sup>2</sup> Ketamine is a schedule III controlled dangerous substance that is used primarily for induction and maintenance of anesthesia. It is a dissociative anesthetic that has some hallucinogenic effects. It distorts perceptions of sight and sound and makes the user feel disconnected and not in control.

<sup>3</sup> For confidentiality reasons, the details of the Physician's consultations and evaluations referenced herein will not be disclosed. The Respondent is aware of the details of the Physician's consultations and evaluations referenced herein.

<sup>4</sup> For confidentiality reasons, the Physician's condition referenced herein will not be disclosed. The Respondent is aware of the Physician's condition referenced herein.

## CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent failed to report to the Board within ten (10) days that, effective August, 11, 2021, it did not clear the Physician for duty and, that on August 13, 2021, the Physician took a voluntary leave of absence, at least in part, because it had reason to believe that the Physician: (2) Provided patient care of questionable quality; (3) Disrupted the workplace; (4) Committed unethical or unprofessional conduct; (6) Used the reporting entity's employment or privileges to commit illegal or unethical business practices; (7) Suffers from a physical, a mental, or an emotional condition or impairment that affects the health care provider's ability to perform the individual's medical or surgical duties; (8) Is habitually intoxicated by alcohol or a controlled dangerous substance; (9) Provided care while under the influence of alcohol or while abusing or misusing any controlled dangerous substance or mood-altering substance; and (15) Committed any other act or suffered from any other condition which the reporting entity had reason to believe may constitute a violation of the Acts.

The Respondent's failure to timely report the Physician to the Board, as described above, also constitutes a violation of Health Occ. § 14-413, because the Physician's actions as described above, constitute, in whole or in part, that the Physician is guilty of unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(ii); is addicted to, or habitually abuses, any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article, in violation of Health Occ. § 14-404(a)(8); willfully makes or files a false report in the practice of medicine, in violation

of Health Occ. § 14-404(a)(11); and except for the licensure process described under Subtitle 3A of this title, 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, in violation of Health Occ. § 14-404(a)(43).

**ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by the Board, hereby:

**ORDERED** that within **THIRTY (30) DAYS** of the effective date of this Consent Order, the Respondent shall pay to the Board a civil penalty of **TWENTY-FIVE HUNDRED DOLLARS (\$2500.00)**. 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 this Consent Order is a public document. See Md. Code Ann., Gen. Prov. §§ 4-101 through 4-601 (2021 Repl. Vol.).

08/10/2022  
Date

***Signature On File***

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

**CONSENT**

I, Karey McDonough [Agent for the Respondent], acknowledge that the Respondent has had the opportunity to consult with counsel before signing this document.

By this Consent, the Respondent agrees to be bound by this Consent Order and all its terms and conditions and understand that the Board will not entertain any request for amendments or modifications to any condition.

The Respondent is aware of the right to a hearing before the Board pursuant to COMAR 10.32.22.06 concerning the Notice issued against the Respondent. The Respondent waives this right and has elected to sign this Consent Order instead.

The Respondent acknowledges the validity and enforceability of this Consent Order as if entered after the conclusion of a formal evidentiary hearing in which the Respondent would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on the Respondent's behalf, and to all other substantive and procedural protections as provided by law. The Respondent waives those substantive and procedural protections. The Respondent acknowledges the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order.

The Respondent voluntarily enters into and agrees to comply with the terms and conditions set forth in this Consent Order as a resolution of the Notice issued against the Respondent in this case. The Respondent waives any right to contest the Findings of Fact and the Conclusions of Law set out in this Consent Order. The Respondent waives all rights to appeal this Consent Order.



