

IN THE MATTER OF

*

BEFORE THE

**KAISER FOUNDATION HEALTH PLAN
OF THE MID-ATLANTIC STATES, INC.**

*

MARYLAND STATE

*

BOARD OF PHYSICIANS

Respondent

*

Case Number: 2223-0084A

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CONSENT ORDER

On May 18, 2023, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the "Board") sent a Notice of Employment of Unlicensed Individual to **KAISER FOUNDATION HEALTH PLAN OF THE MID-ATLANTIC STATES, INC.** (the “Respondent”) of its failure to comply with the Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Act (the “Act”), codified at Health Occ. § 14-5B-01 *et seq.* (2021 Repl. Vol. and 2022 Supp.).

The pertinent provisions of the Act are as follows:

Health Occ. § 14-5B-18.1. Employment of individuals without license prohibited.

(b) Except as otherwise provided in this subtitle, a hospital, related institution, alternative health system, or employer may not employ an individual practicing radiation therapy, radiography, nuclear medicine technology, or radiology assistance without a license.

(c) *Penalty.* – A disciplinary panel may impose a civil penalty of up to \$1,000 for employing an individual without a license under this section.

On August 9, 2023, 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 the following:

1. The Respondent, Kaiser Foundation Health Plan for the Mid-Atlantic States, Inc., is a non-profit public interest corporation that provides prepaid comprehensive medical and hospital care in the Mid-Atlantic region.

2. On or about September 14, 2022, the Board received an *Application for Reinstatement of Radiographer* (the “Reinstatement Application”) from an applicant (the “Radiographer”) who was initially licensed to practice radiography in Maryland on May 4, 1999, but failed to renew his license, which expired on June 30, 2021.¹ The Board later reinstated the Radiographer’s radiography license on October 12, 2022.

3. In the Reinstatement Application under “Employment Activities,” the Radiographer disclosed that he had been continuously employed by the Respondent at its facility as an “RT” from May 2017 to September 2022.

4. Based on that disclosure, the Board initiated an investigation of the Respondent.

¹ The Radiographer’s license was scheduled to expire on April 30, 2021. However, due to the State of Emergency during the COVID-19 pandemic, Governor Hogan issued an executive order, which tolled the expiration of health occupations licenses until June 30, 2021.

5. The Board's investigation revealed that the Respondent continued to employ the Radiographer and allowed him to practice radiography from July 1, 2021, to October 12, 2022, when his Maryland radiography license was expired.

6. In a written response to Board inquiry, the Respondent admitted to the oversight but attributed it to an administrative error that missed the Radiographer's license expiration date.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent is guilty of employing an individual practicing radiation therapy, radiography, nuclear medicine technology, or radiology assistance without a license, in violation of § 14-5B-18.1(b) of the Health Occupations Article.

ORDER

It is thus by a majority of a quorum of Disciplinary Panel A of the Board hereby:

ORDERED that within **THIRTY DAYS**, the Respondent shall pay a civil fine of **\$1,000.00 (ONE THOUSAND DOLLARS)**. 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.

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 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).

09/06/2023
Date

Signature On File

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

CONSENT

Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. (Kaiser) has consulted with counsel before signing this document.

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

Kaiser asserts that it is aware of my right to a formal evidentiary hearing concerning the pending charges. Kaiser waives this right and has elected to sign this Consent Order instead.

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

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

I sign this Consent Order, on behalf of Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., without reservation, and fully understand the language and meaning of its terms.

25 Aug 2023

Date

Signature On File

Kenneth L. Fulson

Director, Diagnostic Radiology

On behalf of Kaiser Foundation Health Plan of
the Mid-Atlantic States, Inc.

NOTARY

STATE OF Maryland

CITY/COUNTY OF Prince George's County

I HEREBY CERTIFY that on this 25 day of August,
2023, before me, a Notary Public of the State and County aforesaid, personally appeared
Kenneth L. Fulson, and gave oath in due form of law that the foregoing Consent Order was
his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Maxine K Berry
Notary Public

My Commission Expires: 6-11-2027

