

IN THE MATTER OF
RODNEY DAILEY, RCP
Respondent

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2219-0167

License Number: L01419

* * * * *

CONSENT ORDER

On October 4, 2019, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) charged Rodney Dailey, RCP (the “Respondent”), License Number L01419, under the Maryland Respiratory Care Practitioner’s Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-5A-01 *et seq.* (2014 Repl. Vol. and 2018 Supp.).

The pertinent provisions of the Act provide:

Health Occ. § 14-5A-17. Denials, reprimands, probations, suspensions, and revocations – In general.

- (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 deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:
- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or another;
 - ...
 - (3) Is guilty of unprofessional or immoral conduct in the practice of respiratory care;
 - ...
 - (10) Willfully makes or files a false report or record in the practice of respiratory care[.]

Health Occ. § 14-5A-13. Expiration, renewal and reinstatement.

...

(g) *Criminal history records check.* –

(1) Beginning October 1, 2016, the Board shall require a criminal history records check in accordance with § 14-308.1 of this title for:

- (i) Annual renewal applicants as determined by regulations adopted by the Board; and
- (ii) Each former licensee who files for reinstatement under subsection (f) of this section.

On November 20, 2019, Panel B was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of the DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

Panel A finds:

Background and Investigation

1. At all times relevant, the Respondent has been licensed to practice as a respirator care practitioner in the State of Maryland. The Respondent was initially licensed on November 17, 1992 under License Number L01419. The Respondent allowed his license to lapse one time which resulted in his submission of an application for reinstatement which was granted on November 13, 2008. The Respondent has renewed his license nine times; the most recent renewal was submitted on April 18, 2018, and expires on May 30, 2020.

2. On or about March 9, 1992, the Respondent submitted as part of his application for certification as a respiratory care practitioner a completed questionnaire containing the following question: "Have you been addicted to the use of drugs or alcohol with the result that your ability to practice your profession may be presently affected or impaired?" The Respondent answered "No." The questionnaire also contained the following question: "Have you pled guilty, nolo contendere, or been convicted of or received probation before judgment of any criminal act (excluding traffic violations)?" The Respondent answered "No."
3. The Respondent signed an attestation of accuracy as part of the original application for certification on March 9, 1992 which read as follows:

I affirm that the information I have given in this application is true and correct to the best of my knowledge and belief, and that I am thoroughly familiar with the Statute and Regulations which govern the practice of Respiratory Care in the State of Maryland.

4. On or about October 10, 2008, the Respondent submitted an application for reinstatement after having allowed his license to expire on May 30, 2008. On November 13, 2008, the Board approved the Respondent's application for reinstatement.
5. On or about December 6, 2018, the Board received the results of the Respondent's criminal history records check indicating reportable events that had not been disclosed on the Respondent's initial application for

licensure in 1992, nor in subsequent renewal applications.¹ Board staff then mailed a letter to the Respondent referencing the reportable events on the criminal history records check and requesting an explanation.

6. On or about December 13, 2018, Board staff received the Respondent's written response. In his response, the Respondent acknowledged his prior problem with a controlled dangerous substance, as well as a robbery charge. The Respondent stated that these events are all in his past, and he has since participated in a recovery group, and become active in his religious community.
7. On or about January 31, 2019, Board staff received court documents from the District Court for Baltimore City. The docket entries under the Respondent's name indicate that the Respondent was found guilty of theft greater than \$300 on March 22, 1991, under case number 00810183B3. The Respondent was given a two-year suspended sentence with one year of probation and ordered to pay restitution. Board staff also received a certified copy of a conviction for Robbery from the Circuit Court for Baltimore City dated April 21, 1994, under case number 294040004. Under this case, the Respondent was sentenced to four years of incarceration with three years and six months suspended, and was placed on three years of probation.

¹ In his 2008 application for reinstatement, as well as subsequent license renewal applications between 2010 and 2018, the Respondent was asked about his criminal history during the time since his last disclosure. In a substantially similar question to that on the original license application. In all cases, the Respondent answered in the negative.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel B concludes that the Respondent fraudulently or deceptively obtained a license to practice respiratory care, is guilty of unprofessional or immoral conduct the practice of respiratory care, and willfully made or filed a false report in the practice of respiratory care, in violation of Md. Code Ann., Health Occ. §§ 14-5A-17(a)(1), (3), and (10), respectively.

ORDER

It is thus by Disciplinary Panel B of the Board, hereby:

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED that, upon the effective date of this Consent Order, the Respondent is placed on **PROBATION**² for a minimum period of **THIRTY (30) BUSINESS DAYS**, and until: (1) the Respondent has been evaluated by the Maryland Professional Rehabilitation Program ("MPRP") as set forth below; and (2) MPRP determines and notifies the Board that the Respondent has no need of further services or monitoring provided by MPRP; and it is further

ORDERED that during the probation, the Respondent shall comply with the following terms and conditions:

(1) The Respondent shall consult with the Maryland Professional Rehabilitation Program ("MPRP") as follows:

(a) Within **FIVE (5) BUSINESS DAYS** of the effective date of this Consent Order, the Respondent shall contact MPRP to schedule an initial evaluation.

² If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

- (b) If MPRP determines that enrollment is indicated, the Respondent shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP, as determined by MPRP, within **FIFTEEN (15) BUSINESS DAYS** of the effective date of this Consent Order;
- (c) The Respondent shall fully and timely cooperate and comply with all MPRP referrals, rules, and requirements, including, but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by MPRP;
- (d) The Respondent's failure to comply with any term or condition of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s) shall constitute a violation of this Consent Order;
- (e) The Respondent shall sign and update the written release/consent forms requested by the Board and MPRP, including release/consent forms to authorize MPRP to make verbal and written disclosures to the Board and to authorize the Board to disclose relevant information from MPRP records and files in a public order. A failure to, or withdrawal of, consent, is a violation of this Consent Order;
- (f) The Respondent shall also sign any written release/consent forms to authorize MPRP to exchange with (i.e., disclose to and receive from) outside entities (including all of the Respondent's current therapists and treatment providers) verbal and written information concerning the Respondent and to ensure that MPRP is authorized to receive the medical records of the Respondent, including, but not limited to, mental health and drug or alcohol evaluation and treatment records.

It is further

ORDERED that a violation of probation constitutes a violation of this Order; and

it is further

ORDERED that after a minimum period of **THIRTY (30) BUSINESS DAYS**, and after notification from MPRP to the Board that the Respondent has fully and satisfactorily complied with the terms and conditions above, and that the Respondent has

no further need of further services or monitoring by MPRP, the Respondent may submit a written petition to Panel B for termination of probation. After consideration of the petition, and a determination that the Respondent has complied with the probationary conditions, the Respondent's probation may be administratively terminated through an order of the panel if there are no complaints related to the charges; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition imposed by this Order, the Respondent shall be given notice and an opportunity for a hearing. If the disciplinary panel determines that there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings. If the disciplinary panel determines that there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that, after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice respiratory care in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon the Respondent; and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Order; and it is further

ORDERED that the effective date of this Order is the date the Order is signed by the Executive Director of the Board. The Executive Director signs the Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Order, and it is further

ORDERED this Consent Order is a public document. *See* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

01/06/2020
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Rodney Dailey, assert that I am aware of my right to consult with and be represented by counsel in considering this Consent Order and in any proceedings that would otherwise result from the charges currently pending. I have chosen to proceed without counsel and I acknowledge that the decision to proceed without counsel is freely and voluntarily made.

By this 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

12/30/19
Date

Rodney Danley, RCP
Respondent

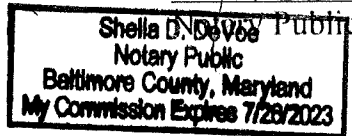
NOTARY

STATE OF Maryland
CITY/COUNTY OF Baltimore County

I HEREBY CERTIFY that on this 20 day of December 2019, before me, a Notary Public of the foregoing State and City/County, personally appeared Rodney Dailey, RCP, 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.

Sheila DeVoe



My Commission expires: _____