

**IN THE MATTER OF**  
**RODNEY DAILEY, RCP**

**Respondent**

**License Number: L01419**

**\* BEFORE THE**  
**\* MARYLAND STATE**  
**\* BOARD OF PHYSICIANS**  
**\* Case Number: 7720-0062**

\* \* \* \* \*

**CONSENT ORDER**

On April 28, 2020, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) charged Rodney Dailey, RCP (the “Respondent”) with violating the Maryland Respiratory Care Practitioner’s Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-5A-01 *et seq.* (2014 Repl. Vol. & 2019 Supp.).

The pertinent provisions of the Act provide:

- (a) Subject to the hearing provisions of § 14-405 of this title, a disciplinary panel, on the affirmative vote of a majority of a quorum of the disciplinary panel, may deny a license to any applicant, reprimand and licensee, place any licensee on probation, or suspend or revoke a license, if the applicant or licensee:
  - (3) Is guilty of unprofessional or immoral conduct in the practice of respiratory care;  
...
  - (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance defined in § 5-101 of the Criminal Law Article;  
...
  - (10) Willfully makes or files a false report or record in the practice of respiratory care [.]

On July 15, 2020, Panel B 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**

Panel B finds the following:

### **I. BACKGROUND**

1. At all times relevant, the Respondent has been licensed to practice as a respiratory care practitioner in the State of Maryland. The Respondent was initially licensed to practice in Maryland 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 since renewed his license nine times; the most recent renewal was submitted on April 18, 2018. In these applications the Respondent answered “No,” to all character and fitness questions related to the use of illicit substances. The Respondent’s most recently renewed license states that the expiration date is May 30, 2022.

2. At all times relevant to these charges, the Respondent has been employed as a Pulmonary Function Technician at a Hospital<sup>1</sup> in Maryland.

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<sup>1</sup> For confidentiality and privacy purposes, the names of individuals and facilities involved in this case are not disclosed in this document. The Respondent may obtain the names of all individuals and facilities referenced in this document by contacting the Administrative Prosecutor.

3. On October 4, 2019, Panel B charged the Respondent under Health Occ. § 14-5A-17(a)(1)<sup>2</sup>, (3)<sup>3</sup>, and (10)<sup>4</sup>, in case number 2219-0167, based on the Respondent's failure to report his criminal history on his prior applications for licensure.

4. On January 6, 2020, the Respondent entered a Consent Order with the Board as a resolution to the October 4, 2019 charges. The sanction agreed to in the Consent Order included a reprimand, and the Respondent was placed on probation for a minimum of thirty (30) days and was required to be evaluated by the Maryland Professional Rehabilitation Program ("MPRP").

5. On or about January 28, 2020, MPRP notified Board staff of aberrant toxicology screening results<sup>5</sup> obtained from the Respondent. Based on this notification, the Board opened an investigation.

## **II. BOARD INVESTIGATION**

6. On or about January 29, 2020, Board staff sent a letter to the Respondent notifying him of the January 2020 toxicology screening results and requesting a written response to the test results within five business days.

7. On or about February 12, 2020, Board staff received the Respondent's written response. In his response, the Respondent acknowledged that the toxicology screening results were accurate at that time. This admission and additional statements made

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<sup>2</sup> Health Occ. § 14-5A-17(a)(1) – Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another.

<sup>3</sup> Health Occ. § 14-5A-17(a)(3) – Is guilty of unprofessional or immoral conduct in the practice of respiratory care.

<sup>4</sup> Health Occ. § 14-5A-17(a)(10) – Willfully makes or files a false report or record in the practice of respiratory care.

<sup>5</sup> The results of the toxicology screenings will not be disclosed in this document but are available to the Respondent.

by the Respondent directly contradict the Respondent's previous statements to the Board during the investigation which preceded the Respondent's entry into the Consent Order.

8. On or about March 16, 2020, MPRP notified the Board of another aberrant toxicology test, the results of which are available to the Respondent.

9. On March 17, 2020, Board staff sent a letter to the Respondent requesting a response to the March 2020 toxicology results.

10. On March 26, 2020, Board staff received the Respondent's written response. In his response, the Respondent offered his explanation for the most recent toxicology screening results while denying any intentional consumption.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, Disciplinary Panel B of the Board concludes as a matter of law that the Respondent is guilty of unprofessional or immoral conduct in the practice of respiratory care, in violation of Health Occ. § 14-5A-17(a) (3), 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. § 14-5A-17(a) (7), and willfully makes or files a false report in the practice of respiratory care, in violation of Health Occ. § 14-5A-17(a) (10).

### **ORDER**

It is, thus, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel B, hereby

**ORDERED** that this Consent Order supersedes the Order for Summary Suspension, dated, April 8, 2020, and the summary suspension is hereby **TERMINATED**; and it is further

**ORDERED** that the Respondent's license to practice respiratory case is **SUSPENDED**<sup>6</sup> for a minimum period of **SIX MONTHS**; and it is further

**ORDERED** that during the suspension, the Respondent shall comply with the following terms and conditions of the suspension:

- (1) The Respondent shall continue enrollment in the Maryland Professional Rehabilitation Program (MPRP) as follows:
  - (a) Within 5 business days, the Respondent shall contact MPRP to schedule an initial consultation for enrollment;
  - (b) Within 15 business days, the Respondent shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP;
  - (c) the Respondent shall fully and timely cooperate and comply with all MPRP's 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 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. The Respondent shall not withdraw his/her release/consent;
  - (e) 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

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<sup>6</sup> If the Respondent's license expires during the period of the suspension, the suspension and any conditions will be tolled.

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. The Respondent shall not withdraw his/her release/consent;

(f) the Respondent's failure to comply with any of the above terms or conditions including terms or conditions of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s) constitutes a violation of this Consent Order; and it is further

**ORDERED** that the Respondent shall not apply for early termination of suspension; and it is further

**ORDERED** that after the minimum period of suspension imposed by the Consent Order has passed and the Respondent has fully and satisfactorily complied with all terms and conditions for the suspension, if MPRP finds, and notifies the Board, that the Respondent is safe to return to the practice of respiratory care, the Respondent may submit a written petition to the disciplinary panel to terminate the suspension of the Respondent's license. The Respondent may be required to appear before the disciplinary panel to discuss his petition for termination. If the disciplinary panel determines that it is safe for the Respondent to return to the practice of respiratory care, the suspension will be terminated through an order of the disciplinary panel, and the disciplinary panel may impose any terms and conditions it deems appropriate on the Respondent's return to practice, including, but not limited to, probation and/or continuation of the Respondent's enrollment in MPRP. If the disciplinary panel determines that it is not safe for the Respondent to return to the practice of respiratory care, the suspension shall be continued through an order of the disciplinary panel for a length of time determined by the disciplinary panel, and the

disciplinary panel may impose any additional terms and conditions it deems appropriate; and it is further

**ORDERED** that, if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If the disciplinary panel determines 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 followed by an exceptions process before a disciplinary panel; and if the disciplinary panel determines 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 Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend with appropriate terms and conditions, 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 on the Respondent; and it is further

**ORDERED** that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; 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).

## *Signature on File*

10/05/2020  
Date

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

### CONSENT

I, Rodney Dailey, RCP, 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***

7/21/20  
Date

Rodney Dailey, RCP

### **NOTARY**

STATE OF: Maryland

CITY/COUNTY OF: Baltimore

I HEREBY CERTIFY that on this 21 day of July, 2020, before me, a Notary Public of the State and City/County aforesaid, personally appeared Rodney Dailey, RCP and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

*Ellen M. Peterson*  
Notary Public  
Baltimore County, Maryland  
My Commission Expires  
May 09, 2022

*Ellen M. Peterson*  
Notary Public

My commission expires: May 09, 2022