

IN THE MATTER OF	*	BEFORE THE
DEVIN W. O'NEILL, R.C.P.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: L05223	*	Case Number: 2217-0024A

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On August 9, 2017, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") voted to charge **DEVIN W. O'NEILL, R.C.P.** (the "Respondent"), License Number L05223, under the Maryland Respiratory Care Practitioners Act (the "Act"), Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 14-5A-01 *et seq.* (2014 Repl. Vol.).

Panel A voted to charge the Respondent with violating the following provisions of the Act under Health Occ. II § 14-5A-17:

(a) *In general.* - Subject to the hearing provisions of §14-405 of this title, a disciplinary panel, . . . a disciplinary panel, on the affirmative vote of a majority of a 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 unprofessional or immoral conduct in the practice of respiratory care;
- (18) Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home or any other location in this State; [and]
- (27) Fails to practice under the supervision of a physician or violates a supervisory order of a supervising physician[.]

Prior to the issuance of charges, the Respondent agreed to enter into this public Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

FINDINGS OF FACT

Panel A of the Board makes the following Findings of Fact:

1. At all times relevant hereto, the Respondent was and is licensed as a respiratory care practitioner in the State of Maryland. The Respondent was initially licensed as a respiratory care practitioner in Maryland on July 8, 2009, under License Number L05223. The Respondent's Maryland respiratory care practitioner's license is current and active through May 30, 2018.

2. At all times relevant hereto, the Respondent was employed as a respiratory care practitioner at a health care facility (the "Facility")¹ that is located in Maryland.

3. On February 10, 2017, the Board received a Mandated 10-Day Report (the "Report") from the Facility, which stated that it terminated the Respondent's employment as a respiratory care practitioner, effective February 7, 2017, for "deliberate inattention to patient care, or engaging in any conduct detrimental to patient care, or the safety and security of patients, employees, or visitors." Specifically, the Facility stated that the Respondent violated Facility orders/policy in not checking and changing the tracheostomy tubes on two patients while on duty as a respiratory care practitioner on February 6, 2017.

¹ For confidentiality reasons, the names of health care facilities, complainants, patients or individuals, other than the Respondent, have not been identified in this document. The Respondent is aware of the identity of all entities and individuals referenced herein.

4. After receiving the above Report, the Board initiated an investigation of the Respondent. The Board's investigation determined that the Respondent was on duty as a respiratory care practitioner at the Facility on February 6, 2017, and failed to check on, and change the tracheotomy tubes of two patients for whom he was responsible, despite supervisory/Facility orders that required him to change those tracheostomy tubes during his shift on that date. The Respondent was aware of his responsibility to change these tracheostomy tubes through oral report at shift change, orders in the electronic medical records, and documentation on his report sheet, and pursuant to supervisory orders/Facility policy.

5. The Board requested that the Respondent provide a written response to the allegations that were referenced in the Report. In a letter dated February 24, 2017, the Respondent acknowledged responsibility for his actions, stating that on February 6, 2017, he "failed to make rounds to a trach patients (sic) room to perform an assessment on them."

6. The Respondent's failure to change the tracheostomy tubes of two patients at the Facility on February 6, 2017, despite supervisory orders/Facility policy requiring him to do so, constitutes a violation of the following provisions of the Act under Health Occ. II § 14-5A-17(a): (3) Is guilty unprofessional conduct in the practice of respiratory care; (18) Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home, or any other location in this State; and/or (27) Violates a supervisory order of a supervising physician.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent violated the following provisions of the Act under Health Occ. II § 14-5A-17(a): (3) Is guilty of unprofessional conduct in the practice of respiratory care; (18) Fails to meet appropriate standards for the delivery of respiratory care performed in any inpatient or outpatient facility, office, hospital or related institution, domiciliary care facility, patient's home, or any other location in this State; and (27) Violates a supervisory order of a supervising physician.

ORDER

It is, on the affirmative vote of a majority of the quorum of Panel A, hereby:

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

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

1. The Respondent shall enroll in the Maryland Professional Rehabilitation Program ("MPRP"). Within **five (5) business days**, the Respondent shall contact MPRP to schedule an initial consultation for enrollment. Within **fifteen (15) business days**, the Respondent shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP. The Respondent shall fully and timely cooperate and comply with all of 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 into with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and toxicology screenings as directed by MPRP;

2. The Respondent shall sign and update the written release/consent forms requested by the Board and MPRP. The Respondent shall sign the release/consent forms to authorize MPRP to make verbal and written disclosures to the Board, including disclosure of any and all MPRP records and files possessed by MPRP. 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 treatment records.

AND IT IS FURTHER ORDERED that if the Respondent allegedly fails to comply with any term or condition of this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If 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 there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board or Panel A; and it is further

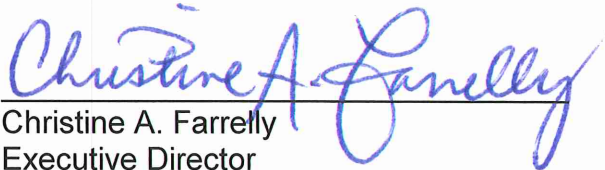
ORDERED that after the appropriate hearing, if the Board or Panel A determines that the Respondent has failed to comply with any term or condition of this Consent Order, the Board or Panel A may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice respiratory care therapy in Maryland. The Board or Panel A 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 unless stated otherwise in the order, any time period prescribed in this order begins when the Consent Order goes into effect. The Consent Order goes into effect upon the signature of the Board's Executive Director, who signs on behalf of Panel A; 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 this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions §§ 4-101 *et seq.* (2014).

09/01/2017
Date


Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Devin W. O'Neill, R.C.P., acknowledge that I have been apprised of my right to counsel and have knowingly and voluntarily agreed to proceed without counsel before entering into this Consent Order. By this Consent, I agree and accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact, Conclusions of Law and Order.

I acknowledge the validity of this Consent Order as if entered into 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 own behalf, and to all other substantive and procedural protections provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of Panel A to initiate these proceedings and to issue and enforce this

Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of Disciplinary Panel B of the Board that might have followed after any such hearing.

I sign this Consent Order, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

8/30/17
Date

[Signature]
Devin W. O'Neill, R.C.P.
Respondent

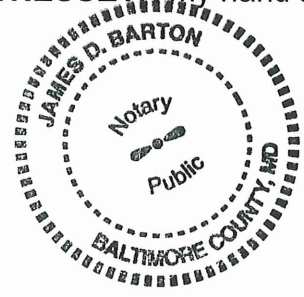
NOTARY

STATE OF MARYLAND

CITY/COUNTY OF BALTIMORE

I HEREBY CERTIFY that on this 31st day of AUGUST, 2017, before me, a Notary Public of the foregoing State and City/County personally appear Devin W. O'Neill, R.C.P. 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 notary seal.



[Signature]
Notary Public

My commission expires: 11/20/2019