

IN THE MATTER OF	*	BEFORE THE
DEVIN W. O'NEILL, R.C.P.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: L05223	*	Case Number: 7718-0027
* * * * *	*	* * * * *

**ORDER FOR SUMMARY SUSPENSION OF LICENSE TO PRACTICE  
RESPIRATORY CARE**

Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** the license of **DEVIN W. O'NEILL, R.C.P.** (the "Respondent"), License Number L05223, to practice respiratory care in the State of Maryland.

Panel A takes such action pursuant to its authority under Md. Code Ann., State Gov't II ("State Gov't II") § 10-226(c)(2) (2014 Repl. Vol. and 2016 Supp.) and Md. Code Regs. ("COMAR") 10.32.02.08B(7), concluding that the public health, safety or welfare imperatively requires emergency action.

**INVESTIGATIVE FINDINGS**

Based on information received by, and made known to Panel A, and the investigatory information obtained by, received by and made known to and available to Panel A, including the instances described below, Panel A has reason to believe that the following facts are true:<sup>1</sup>

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<sup>1</sup> The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the basis of the summary suspension. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

1. At all times relevant hereto, the Respondent was and is licensed to practice respiratory care 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. In or around February 2017, the Board initiated an investigation of the Respondent under Case Number 2217-0024A after receiving a Mandated 10-Day Report (the "Report") from a health care facility (the "Facility")<sup>2</sup> where the Respondent was formerly employed, 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.

3. After the Board conducted its investigation, Panel A voted to charge the Respondent with a series of violations of 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.).

4. Prior to the issuance of disciplinary charges, the Respondent agreed to enter into a Consent Order, effective September 1, 2017, in which Panel A found as a matter of law that the Respondent violated the following provisions of the Act under

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<sup>2</sup> For confidentiality reasons, the names of health care facilities will not be identified by name in this document. The Respondent may obtain the name of any health care facility referenced herein by contacting the assigned administrative prosecutor.

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.

5. Pursuant to the Consent Order, Panel A reprimanded the Respondent and ordered him to enroll in the Maryland Professional Rehabilitation Program ("MPRP") and "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."

6. On or about September 21, 2017, the Respondent enrolled in the MPRP and pursuant thereto, executed a Participant Rehabilitation Agreement where he agreed, *inter alia*, not to use illicit substances, consume controlled substances or mood-altering substances, obtained through prescription or otherwise, unless prescribed in an appropriate manner for a legitimate medical purpose; and to undergo random toxicology screens.

7. MPRP reported to the Board that on multiple occasions in October 2017, the Respondent underwent random toxicology screens and had positive test findings, in violation of his Participant Rehabilitation Agreement. MPRP also reported that the Respondent failed to undergo random toxicology screening on one occasion and also admitted to engaging in acts that violated his Participant Rehabilitation Agreement.

8. On October 26, 2017, MPRP notified the Board that based on the above findings, it discharged the Respondent for cause.

9. Based on the above investigative facts, the Respondent presents a substantial likelihood of a risk of serious harm to the public health, safety and welfare. The Respondent recently underwent toxicology testing in which on multiple occasions, he tested positive for substances that are detrimental to providing safe and competent care to patients.

### **CONCLUSIONS OF LAW**

Based upon the foregoing Investigative Findings, Panel A of the Board concludes that the public health, safety, or welfare imperatively requires emergency action, and that pursuant to State Gov't II § 10-226(c)(2) and COMAR 10.32.02.08B(7), the Respondent's license is immediately suspended.

### **ORDER**

**IT IS** thus by a vote of Panel A of the Board, hereby:

**ORDERED** that pursuant to the authority vested in Panel A by State Govt. II § 10-226(c)(2)(2014 Repl. Vol. and 2016 Supp.) and COMAR 10.32.02.08B(7), the Respondent's license to practice respiratory care in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is further

**ORDERED** that in accordance with Md. Code Regs. 10.32.02.08B(7) and E, a post-deprivation initial hearing on the summary suspension will be held on **Wednesday, November 15, 2017, at 11:30 a.m.** at the Board's offices, located at 4201 Patterson Avenue, Baltimore, Maryland, 21215-0095; and it is further

**ORDERED** that after the **SUMMARY SUSPENSION** hearing before Panel A,

the Respondent, if dissatisfied with the result of the hearing, may request, within ten (10) days, an evidentiary hearing, such hearing to be set within thirty (30) days of the request, before an Administrative Law Judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and it is further

**ORDERED** that upon receipt of this Order, the Respondent **SHALL SURRENDER** to Board staff the following items:

- (1) his original Maryland license L05223; and
- (2) Any renewal, wallet card or wall certificate.

**AND IT IS FURTHER ORDERED** that a copy of the Order for Summary Suspension shall be filed with Panel A immediately in accordance with Health Occ. II § 14-407 (2014 Repl. Vol.); and it is further

**ORDERED** that this is an Order of Panel A, and as such, is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann. Gen Prov. §§ 4-101 *et seq.* (2014).

11/06/2017  
Date

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