

Harish K. Vaidya, NMT

Chair
Disciplinary Panel A
Maryland State Board of Physicians
4201 Patterson Avenue, 4th Floor
Baltimore, MD 21215-2299

Re: Surrender of License to Practice Nuclear Medicine Technology
Harish K. Vaidya, NMT. License Number: N00212
Case Number: 2220-0228A

Dear Members of Disciplinary Panel A:

Please be advised that, pursuant to Md. Code Ann., Health Occ. (“Health Occ.”) §14-5B-13 (2014 Repl. Vol. & 2020 Supp.), I have decided to **SURRENDER** my license to practice nuclear medicine technology in the State of Maryland, License Number N00212, effective immediately. I understand that upon surrender of my license, I may not engage in the practice of nuclear medicine technology, with or without compensation, in the State of Maryland as it is defined in the Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology and Radiology Assistance Act (the “Act”), Health Occ. §§ 14-5B-101 *et seq.* and other applicable laws. In other words, as of the effective date of this Letter of Surrender, I understand that the surrender of my license means that I am in the same position as an unlicensed individual in the State of Maryland.

I understand that this Letter of Surrender is a **PUBLIC DOCUMENT**, and upon Disciplinary Panel A’s (“Panel A”) acceptance, becomes a **FINAL ORDER** of Panel A of the Maryland State Board of Physicians (the “Board”).

I acknowledge that the Board initiated an investigation of my practice and on April 26, 2021, Panel A issued disciplinary charges against me under Health Occ. § 14-5B-14(a)(3) and pertinent provisions of the Board’s sexual misconduct regulations. Specifically, Panel A alleged that I engaged in unprofessional conduct in the practice of nuclear medicine technology when I inappropriately touched a female patient. A copy of the charges is attached as Attachment 1. I have decided to surrender my license to practice nuclear medicine technology in the State of Maryland to avoid further investigation and prosecution of these disciplinary charges.

I wish to make it clear that I have voluntarily, knowingly and freely chosen to submit this Letter of Surrender to avoid further prosecution of the disciplinary charges. I acknowledge that for all purposes related to nuclear medicine technology licensure, the charges will be treated as if proven.

Members of Disciplinary Panel A

RE: Harish K. Vaidya, NMT

Letter of Surrender

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I understand that by executing this Letter of Surrender I am waiving my right to a hearing to contest the disciplinary charges. In waiving my right to contest the charges, I am also waiving the right to be represented by counsel at the hearing, to confront witnesses, to give testimony, to call witnesses on my own behalf, and all other substantive and procedural protections provided by law, including the right to appeal to circuit court.

I understand that the Board will advise the Federation of State Medical Boards, the National Practitioner Data Bank, and the Healthcare Integrity and Protection Data Bank of this Letter of Surrender. I also understand that in the event I would apply for licensure in any form in any other state or jurisdiction that this Letter of Surrender may be released or published by the Board to the same extent as a final order that would result from disciplinary action, pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.*, and that this Letter of Surrender constitutes a disciplinary action by Panel A.

I further recognize and agree that by submitting this Letter of Surrender, my license will remain surrendered unless and until the Board grants reinstatement. In the event that I apply for reinstatement of my Maryland License, I understand that Panel A or its successor is not required to grant reinstatement; and, if it does grant reinstatement, may impose any terms and conditions the disciplinary panel considers appropriate for public safety and the protection of the integrity and reputation of the profession. I further understand that if I file a petition for reinstatement, I will approach Panel A or its successor in the same position as an individual whose license has been revoked.

I acknowledge that I may not rescind this Letter of Surrender in part or in its entirety for any reason whatsoever. Finally, I wish to make clear that I have been advised of my right to be represented by an attorney of my choice throughout proceedings before Panel A, including the right to consult with an attorney prior to signing this Letter of Surrender. I understand both the nature of Panel A's actions and this Letter of Surrender fully. I acknowledge that I understand and comprehend the language, meaning and terms and effect of this Letter of Surrender. I make this decision knowingly and voluntarily.

Very truly yours,
Signature on File

Members of Disciplinary Panel A

RE: Harish K. Vaidya, NMT

Letter of Surrender

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NOTARY

STATE OF Maryland
CITY/COUNTY OF Montgomery

I HEREBY CERTIFY that on this 31 day of July, 2021 before me, a Notary Public of the City/County aforesaid, personally appeared Harish K. Vaidya, NMT and declared and affirmed under the penalties of perjury that the signing of this Letter of Surrender was a voluntary act and deed.

AS WITNESS my hand and Notarial seal.



Notary Public

My commission expires:

BETTY H TORRES
NOTARY PUBLIC
MONTGOMERY COUNTY
MARYLAND
MY COMMISSION EXPIRES SEPTEMBER 11, 2023

ACCEPTANCE

On behalf of Disciplinary Panel A, on this 4th day of August, 2021, I, Christine A. Farrelly, accept the **PUBLIC SURRENDER** of Harish K. Vaidya's license to practice nuclear medicine technology in the State of Maryland.

Signature on File

Christine A. Farrelly, Executive Director
Maryland Board of Physicians

Attachment 1

IN THE MATTER OF

*

BEFORE THE

HARISH K. VAIDYA, NMT

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MARYLAND STATE

Respondent

*

BOARD OF PHYSICIANS

License Number: N00212

*

Case Number: 2220-0228A

* * * * *

**CHARGES UNDER THE MARYLAND RADIATION THERAPY,
RADIOGRAPHY, NUCLEAR MEDICINE TECHNOLOGY AND RADIOLOGY
ASSISTANCE ACT**

Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") hereby charges **HARISH K. VAIDYA, N.M.T.** (the "Respondent") License Number N00212, under the Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology and Radiology Assistance Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-5B-01 *et seq.* (2014 Repl. Vol. & 2020 Supp.).

The pertinent provisions of the Act provide as follows:

§ 14-5B-14. Denial of license.

(a) *In general.* Subject to the hearing provisions of § 14-405 of this title, 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:

...

(3) Is guilty of unprofessional or immoral conduct in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance[.]

Panel A also charges the Respondent with violating the following provisions under Health Occ. § 1-212:

§ 1-212. Sexual misconduct prohibited; regulations; discipline.

(a) *Adoption of regulations.* – Each health occupations board authorized to issue a license or certificate under this article shall adopt regulations that:

- (1) Prohibit sexual misconduct;
- (2) Provide for the discipline of a licensee or certificate holder found to be guilty of sexual misconduct.

(b) *Sexual misconduct.* – For the purposes of the regulations adopted in accordance with subsection (a) of this section, “sexual misconduct” shall be construed to include at a minimum, behavior where a health care provider:

- (1) Has engaged in sexual behavior with a client or patient in the context of a professional evaluation, treatment, procedure, or other service to the client or patient, regardless of the setting in which professional service is provided;
- (2) Has engaged in sexual behavior with a client or patient under the pretense of diagnostic or therapeutic intent or benefit; or
- (3) Has engaged in any sexual behavior that would be considered unethical or unprofessional according to the code of ethics, professional standards, or regulations of the appropriate health occupation board under this article.

The pertinent regulations promulgated by the Board provide the following:

MD. CODE REGS.10.32.17 Sexual Misconduct

01. Scope.

This chapter prohibits sexual misconduct by health care practitioners.

.02 Definitions.

B. Terms Defined.

(3) Sexual Contact.

(a) “Sexual contact” means the knowing touching directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the

health care practitioner's own prurient interest or for sexual arousal or gratification.

(b) "Sexual contact" includes, but is not limited to:

(v) Nonclinical touching of breasts, genitals, or any other sexualized body part[.]

.03 Sexual Misconduct.

A. Health care practitioners may not engage in sexual misconduct.

B. Health Occupations Article §§ ...14-5B-14(a)(3) ..., Annotated Code of Maryland, includes, but is not limited to:

...

(7) Participating in any form of sexual contact with a patient or key third party[.]

GENERAL ALLEGATIONS¹

Panel A bases its charges on the following facts that it has reason to believe are true:

1. At all relevant times, the Respondent was licensed to practice nuclear medical technology in Maryland. He was originally licensed on August 14, 1991. His license is scheduled to expire on April 30, 2021.²

2. At all relevant times, the Respondent was employed as a nuclear medical technologist at a hospital (the "Hospital")³ in Prince George's County, Maryland.

¹The statements of the Respondent's conduct with respect to the patients identified herein are intended to provide the Respondent with notice of the alleged charges. 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.

²Pursuant to Health Occ. § 14-5B-13 – Surrender of license, a license may not lapse by operation of law while the licensee is under investigation or while charges are pending against the licensee.

³ To maintain confidentiality, the names of individuals and the Hospital will not be identified in this document. The Respondent may obtain the names by contacting the administrative prosecutor.

3. On or about January 30, 2020, the Board received a complaint from the Hospital Risk Manager alleging that the Respondent “inappropriate[ly] grop[ed] the breast of an out-patient while in radiology for completion of bone scan on 1/28/20.”

4. Effective January 31, 2020, the Hospital terminated the Respondent’s employment after investigating the complaint.

5. The patient is a female in her 60s. She is hereinafter referred to as “Patient 1.”

6. The Board thereafter initiated an investigation of the complaint that included requesting from the Respondent a written response to the complaint, subpoenaing the Respondent’s Hospital personnel file, and interviewing under oath the Respondent, relevant Hospital staff, and Patient 1’s family members who had knowledge of the allegation.

7. The relevant findings of the Board’s investigation are summarized herein.

8. Patient 1’s past medical history included breast cancer and she had undergone a mastectomy of her left breast several years ago.

9. Patient 1’s native language is not English; she does not speak English well.

10. The Board’s investigation revealed that on January 28, 2020, Patient 1 underwent a brain MRI and a bone scan at the Hospital.

11. The Respondent performed Patient 1’s bone scan.

12. Patient 1 presented to the Respondent after she had undergone the MRI. She was nauseous and upset.

13. In his written response to the complaint that he inappropriately touched Patient 1's breast during the bone scan procedure, the Respondent wrote in pertinent part:

In order to calm [Patient 1] down I told her that she has overcome treatment despite her condition. That she does not have a dangerous form of ductal carcinoma. She said "where, what"?

At this point I stated that it occurs around the neeple (sic). She tried to show (sic) left side which had surgery. In order to show (sic) I helped her right breast (sic) and show area where it usually happens.

14. The Respondent's written response is inconsistent with the statements he made during the Hospital investigation during which it was reported that the Respondent admitted that he used his hand to lift Patient 1's breast and circled her nipple with his finger for a few seconds to show her where ductal carcinoma would have occurred. The Respondent did not ask Patient 1 for permission before touching her naked breast.⁴

15. During his under-oath interview with Board staff, the Respondent stated:

She was nervous, so I helped her remove the right strap [of her camisole] and showed her that, you know, with my gloved hands, that particularly ductal carcinoma happens around the nipple area.

16. The Respondent further stated that he "may" have touched Patient 1's breast during the course of trying to show Patient 1 where ductal carcinoma could occur but could not recall.

⁴ A chaperone was not present in the room where Patient 1's bone scan was performed. The procedure does not require a patient to disrobe.

17. When Board staff asked whether there was a medical necessity for him to touch Patient 1's breast, the Respondent stated, "that's a really fine point. But the patient was nervous and you're trying to appease them."

18. The Respondent admitted to hugging and kissing patients, "sometimes depending on how close you are to the patient, how insecure they feel, how sick they feel."

19. The Respondent's conduct, in whole or in part, constitute unprofessional or immoral conduct in the practice of nuclear medicine technology and violation of the Board's sexual misconduct regulations.

NOTICE OF POSSIBLE SANCTIONS

If, after a hearing, a disciplinary panel of the Board finds that there are grounds for action under Health Occ. § 14-5B-14(a)(3) and/or the Board's sexual misconduct regulations, Md. Code Regs. 10.32.17 *et seq.*, it may impose disciplinary sanctions against the Respondent's license in accordance with the Board's regulations under Md. Code Regs. 10.32.10.16, including revocation, suspension, or reprimand, and may place the Respondent on probation. The panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon the Respondent.

NOTICE OF DISCIPLINARY COMMITTEE FOR CASE RESOLUTION CONFERENCE, PREHEARING CONFERENCE AND HEARING

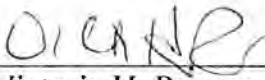
A conference before Disciplinary Panel A, sitting as the Disciplinary Committee for Case Resolution ("DCCR") in this matter, is scheduled for **Wednesday, July 14, 2021, at 9:00 a.m.**, at the Board's office, 4201 Patterson Avenue, Baltimore, Maryland 21215. The Respondent must confirm in writing his intention to attend the DCCR. The Respondent

should send written confirmation of his intention to participate in the DCCR to: Christine A. Farrelly, Executive Director, Maryland State Board of Physicians, 4201 Patterson Avenue, 4th Floor, Baltimore, Maryland 21215. The nature and purpose of the DCCR is described in the attached letter to the Respondent.

If the case cannot be resolved at the DCCR, a pre-hearing conference and a hearing in this matter will be scheduled at the Office of Administrative Hearings, 11101 Gilroy Road, Hunt Valley, Maryland 21031. The hearing will be conducted in accordance with Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* (2014 Repl. Vol. & 2020 Supp.).

BRIAN E. FROSH
ATTORNEY GENERAL OF MARYLAND

April 26, 2021
Date


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