

IN THE MATTER OF
FYSAL HENSON, NMT

Respondent

License Number: N01623

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BEFORE THE

MARYLAND STATE

BOARD OF PHYSICIANS

Case Number: 7722-0017

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ORDER AFTER SHOW CAUSE HEARING

On August 27, 2021, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians ("Board") and Fysal Henson, NMT, entered into a Disposition Agreement that required Mr. Henson to enroll in the Maryland Professional Rehabilitation Program ("MPRP") and comply with a Participant Rehabilitation Agreement. On March 14, 2022, Panel A charged Mr. Henson with violating the Participant Rehabilitation Agreement and notified him that a Show Cause hearing would be held on May 11, 2022. Mr. Henson did not appear at the Show Cause hearing on May 11, 2022 and no legal counsel appeared on his behalf. The Panel subsequently scheduled a second Show Cause hearing for August 10, 2022. On that date, Panel A held a Show Cause hearing where Mr. Henson had the opportunity to argue why his license should not be subject to further discipline. Mr. Henson appeared at the August 10, 2022 Show Cause hearing.

FINDINGS OF FACT

Panel A makes the following Findings of Fact:

Background

Mr. Henson was initially licensed as a nuclear medicine technologist in the State of Maryland on May 4, 2016. In 2021, the Board received information that Mr. Henson was convicted of Driving While Intoxicated in 2013 and in 2019. When confronted with the convictions by the Board, Mr. Henson agreed to enter into a non-public Disposition Agreement

with Panel A in lieu of further investigation and potential disciplinary charges for a violation of the Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Act.

August 27, 2021 Disposition Agreement

On August 27, 2021, Panel A and Mr. Henson agreed to a non-public Disposition Agreement wherein Mr. Henson agreed to enter into a Board-monitored Participant Rehabilitation Agreement with MPRP. Mr. Henson agreed to fulfill all conditions of the Participant Rehabilitation Agreement. The Agreement also stated that it was

AGREED, that if the MPRP discharges [Mr. Henson] for unsuccessful completion of the Participant Rehabilitation Agreement or rehabilitation plan, or if [Mr. Henson] fails to comply with any term or condition of this Agreement, this Agreement shall be treated as a public Consent Order, the violation of which authorizes the Board or a Board panel, after notice and an opportunity to be heard, to take any action prescribed under § 14-5B-14(a) of the Maryland [Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Act], including a reprimand, probation, suspension or revocation of [Mr. Henson's Nuclear Medicine Technologist] license; and/or fine.

On or about September 21, 2021, Mr. Henson enrolled in MPRP and signed a Participant Rehabilitation Agreement.

Violation of August 27, 2021 Disposition Agreement

On October 8, 2021, MPRP notified the Board that Mr. Henson had failed to return certain documentation requested by MPRP in violation of the terms of his Participant Rehabilitation Agreement. In a letter, dated October 12, 2021, the Board notified Mr. Henson that the failure to cooperate and comply with MPRP may result in disciplinary action against his license up to and including revocation. On December 7, 2021, MPRP notified the Board that Mr. Henson violated his Participant Rehabilitation Agreement on five occasions between October 29, 2021 and December 1, 2021.¹ On December 23, 2021, MPRP notified the Board that they had

¹ The nature of the violation is confidential.

still not received the requested paperwork from Mr. Henson that was due, at the latest, by October 6, 2021, and informed the Board that Mr. Henson was discharged from MPRP for cause.

First Show Cause Hearing May 11, 2022

On March 14, 2022, Panel A issued a Violation of Board Order and Notice to Show Cause, alleging that Mr. Henson violated the terms and conditions of the August 27, 2021 Disposition Agreement by failing to comply with the terms of the Participant Rehabilitation Agreement he entered into with MPRP. This Violation of Board Order and Notice to Show Cause was mailed to Mr. Henson at the address of record on file with the Board and informed him that a Show Cause hearing was scheduled to take place on **Wednesday May 11, 2022, at 11:15 A.M.**, at the Board's office remotely via the Zoom platform. Before and on May 11, 2022, Board staff repeatedly sent a series of emails to Mr. Henson to facilitate his participation at the scheduled hearing via Zoom. Mr. Henson did not respond to any of the emails and did not appear at his Show Cause hearing in-person or remotely via Zoom. Panel A proceeded with the Show Cause Hearing. The administrative prosecutor appeared on behalf of the State.

Second Show Cause Hearing August 10, 2022

On May 31, 2022, prior to any Order being issued, Mr. Henson contacted Board staff stating that he had just noticed the email notices sent to him. He told Board staff he moved to Virginia in October 2021 and had not received any letters or notices sent by the Board to his Maryland address of record. Mr. Henson admitted that he did not update his address with the Board when he moved.

After verifying Mr. Henson's current mail and email addresses,² Board staff sent him a notice that a second Show Cause hearing had been scheduled for **Wednesday August 10, 2022**. Panel A again granted Mr. Henson the opportunity at a hearing to show cause why the Panel

² Mr. Henson confirmed that there had been no change to his email address.

should not issue further sanctions based on his violations of the August 27, 2021 Disposition Agreement.

The second Show Cause hearing was conducted on August 10, 2022. During his presentation, Mr. Henson admitted that he had violated the terms and conditions of his Disposition Agreement and Participation Rehabilitation Agreement. The administrative prosecutor summarized the evidence in support of Mr. Henson's violation and recommended suspension of Mr. Henson's license.

CONCLUSION OF LAW

Panel A concludes that Mr. Henson violated the August 27, 2021 Disposition Agreement by failing to comply with the requirements of the Participant Rehabilitation Agreement he entered into with MPRP.

SANCTION

Pursuant to the August 27, 2021 Disposition Agreement, upon a finding of a violation, the Panel may reprimand Mr. Henson, place Mr. Henson on probation with appropriate terms and conditions, suspend, or revoke Mr. Henson's license to practice nuclear medicine technology in Maryland. Mr. Henson signed the Participant Rehabilitation Agreement on September 21, 2021, and by December, 2021, he had violated the agreement multiple times. On December 23, 2021, MPRP discharged Mr. Henson from the program for cause.

ORDER

It is, on an affirmative vote of a majority of a quorum of Disciplinary Panel A, hereby

ORDERED that the August 27, 2021 Disposition Agreement is terminated; and it is further

ORDERED that Fysal Henson, NMT, is **REPRIMANDED**; and it is further

ORDERED that the nuclear medicine technologist license of Mr. Henson, license number N01623, is **SUSPENDED**³ for a minimum of **SIX (6) MONTHS**, and until MPRP finds, and notifies the Board that Mr. Henson is safe to practice nuclear medicine technology. During the period of suspension, Mr. Henson shall comply with all of the following terms and conditions:

1. Mr. Henson shall reenroll and remain enrolled in MPRP and continue in a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP;
2. Mr. Henson 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;
3. Mr. Henson'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 Order;
4. Mr. Henson 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 Order;
5. Mr. Henson 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 Mr. Henson's current therapists and treatment providers) verbal and written information concerning Mr. Henson and to ensure that MPRP is authorized to receive the medical records of Mr. Henson, including, but not limited to, mental health and drug or alcohol evaluation and treatment records; and it is further

ORDERED that during the suspension period, Mr. Henson shall not:

- (a) practice as a nuclear medicine technologist;
- (b) take any actions to hold himself out to the public as a current provider of nuclear medicine technology services;
- (c) authorize, allow or condone the use of Mr. Henson's name or provider number by any health care practice or any other licensee or health care provider;

³ If Mr. Henson's license expires during the period of the suspension, the suspension and any conditions will be tolled.

- (d) function as a peer reviewer for the Board or for any hospital or other medical care facility in the State; or
- (e) perform any other act that requires an active nuclear medical technologist license; and it is further

ORDERED that Mr. Henson shall not apply for early termination of suspension; and it is further

ORDERED that a violation of suspension constitutes a violation of this Order; and it is further

ORDERED that, after the minimum period of suspension imposed by this Order has passed and Mr. Henson has fully and satisfactorily complied with all terms and conditions of suspension, and if MPRP finds and notifies the Board that Mr. Henson is safe to practice nuclear medicine technology and has fully complied with all of the requisite referrals, evaluations, screenings, or treatment, Mr. Henson may submit a written petition to the Board requesting termination of suspension. Mr. Henson may be required to appear before the disciplinary panel to discuss his petition for termination. After consideration of the petition, and if the disciplinary panel determines that it is safe for Mr. Henson to return to the practice of nuclear medicine technology, 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 Mr. Henson's return to the practice, including, but not limited to, probation and/or continuation of Mr. Henson's enrollment in MPRP. If the disciplinary panel determines that it is not safe for Mr. Henson to return to practice of nuclear medicine technology, 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 Mr. Henson allegedly fails to comply with any term or condition imposed by this Order, Mr. Henson 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, Mr. Henson 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 Mr. Henson has failed to comply with any term or condition imposed by this Order, the disciplinary panel may reprimand Mr. Henson, place Mr. Henson on probation with appropriate terms and conditions, or suspend or revoke Mr. Henson'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 Mr. Henson; and it is further

ORDERED that Mr. Henson 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 or her designee. The Executive Director or designee signs the Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Order, and it is further

ORDERED that this is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Health Occ. §§ 1-607 and 14-411.1, and Gen. Prov. § 4-333(b) (2021 Repl. Vol.).

08/23/2022
Date

Signature on File

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