

IN THE MATTER OF

*

BEFORE THE

**KAITLYN E. HYLER,
Radiation Therapist**

*

MARYLAND STATE

Respondent

*

BOARD OF PHYSICIANS

License Number: O00845

*

Case Number: 2220-0058

* * * * *

CONSENT ORDER

On March 26, 2020, Disciplinary Panel ("Panel A") of Maryland State Board of Physicians (the "Board"), charged **KAITLYN E. HYLER**, Radiation Therapist (the "Respondent"), License Number O00845, 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. & 2019 Supp.), with the following provisions of Health Occ. § 14-5B-14:

- (a) 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 applicant or licensee:

...

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

...

- (8) Provides professional services while:

- (ii) Using any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article or any other drug that is in excess of therapeutic amounts or without valid medical indication [.]

On August 12, 2020, Panel A 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 A finds:

I. BACKGROUND

1. At all times relevant hereto, the Respondent was licensed to practice radiation therapy in the State of Maryland. The Respondent was originally licensed to practice radiation therapy in Maryland on July 23, 2015, under license number 000845. The expiration date set forth on the license is April 30, 2021.
2. At all times relevant hereto, the Respondent was employed as a Radiation Therapist at a hospital in Maryland (the “Hospital”),¹ from approximately May 2016, through April 8, 2019, at which time the Hospital terminated her employment.
3. The Respondent is currently employed as a Circulation Assistant at a library and is no longer working as a Radiation Therapist in the State of Maryland.
4. On April 30, 2019, the Respondent filed an application for renewal (the “Renewal Application”) of her license to practice radiation therapy with the Board. In her Renewal Application, the Respondent answered “yes” to character

¹ 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.

and fitness questions (f)² and (n),³ stating that she was terminated from the Hospital for “personal reasons.”

5. Based on the Respondent’s affirmative response to the character and fitness questions, the Board opened an investigation.

II. BOARD INVESTIGATION

6. On or about July 15, 2019, Board staff sent a subpoena to the Hospital for the Respondent’s complete personnel file, which the Board received on or about July 30, 2019.
7. A review of the Respondent’s personnel file revealed that, on March 26, 2019, the Respondent’s supervisor (the “Supervisor”) was informed by another staff member that the Respondent was “nodding off at the treatment console and slurring her words.” At this point the Supervisor sent the Respondent to have a Fitness-for-Duty (“FFD”) evaluation based on these observations as well as previous instances of similar conduct. The Supervisor noted that the Respondent also nodded off during a staff meeting one day during the previous month, and on another occasion had been observed “stumbling around and being clumsy and dropping things.”

² Question (f): Has a hospital, related health care facility, HMO, or alternative health care system denied your application for privileges, or failed to renew your privileges, including your privileges as a resident; or limited, restricted, or revoked your privileges in any way?

³ Question (n): Has your employment or contractual relationship with any hospital, HMO, other health care facility, health care provider, or institution, armed services or the Veterans Administration been terminated for disciplinary reasons?

8. The FFD evaluation included laboratory testing, the results of which are available to the Respondent.
9. On April 8, 2019, the Hospital terminated the Respondent's employment.
10. On or about July 31, 2019, Board staff sent an initial contact letter notifying the Respondent that a full investigation had been opened and requesting a written response within ten business days.
11. On or about August 14, 2019, Board staff received the Respondent's written response and other materials as directed by the initial contact letter. In her written response, the Respondent stated that her termination was "a direct result of a momentary lapse in judgement." The Respondent elaborated that she "made the absolute worst decision [she] could have made, which was to self-medicate with an illicit substance..." The Respondent went on to state that she did not take the substance while she was at work but that she did go to work while it was still in her system and put herself and her patients at risk.
12. On or about November 5, 2019, Board staff conducted an interview of the Respondent under oath.
13. The Respondent stated that she was terminated because she used an illicit substance and made the mistake of going into work. She stated that on the night prior to reporting to work on the morning of March 26, 2019, she purchased what she believed to be Percocet⁴ and consumed it via insufflation sometime between

⁴ Oxycodone acetaminophen, commonly sold under the brand name Percocet *inter alia*, is an opioid pain medication that is classified as a Schedule II CDS.

approximately 10:00pm and 2:00am. The Respondent said that as soon as she took the drugs into her system she knew that something was not right with the dosage and she felt it was “much more potent than anything [she] had ever experienced.” She stated that she “passed out” around approximately 3:00am and arrived at work at 7:30am. The Respondent said that on her drive into work she felt “a little off but didn’t feel the level of impaired that [she] very clearly objectively was.”

14. Upon arriving at work, the Respondent stated that she was conducting an x-ray⁵ from the imaging seat and felt like she was having trouble operating the machine as she normally would. At this point one of the Respondent’s colleagues stepped in to assist and someone informed the Respondent’s Supervisor of the Respondent’s actions. The Supervisor informed the Respondent of her colleagues’ observations and stated that they wanted her to go to have the FFD evaluation. The Respondent stated that she understood the gravity of that request and consented. She stated that after she was sent home that day, she had no further contact from the Hospital until she was notified of her termination via phone call on April 8, 2019. In response to being asked about the FFD evaluation results the Respondent stated, “I was not fit for duty...it was not a safe environment for myself and definitely not for my patients.”

⁵ An x-ray is an image made by projecting x-rays through organs or structures of the body onto an image receptor. (*Mosby’s Medical Dictionary, 10th Ed., 2017*)

15. On or about December 9, 2019, Board staff conducted an interview under oath with the Respondent's Supervisor. The Supervisor stated that she had been supervising the Respondent for a couple of months before she began to receive reports from other staff members that the Respondent had been behaving strangely on multiple occasions. The Supervisor stated that on one occasion on or about February 27, 2019, the Respondent "nodded off" during a staff meeting. The Supervisor stated that the Respondent had been participating in the meeting and talking at a fast pace and slurring her words, but moments later nodding off. The Supervisor stated that she was not comfortable with the Respondent seeing patients while exhibiting such behavior, so she was sent home early from work that day.
16. The Supervisor stated that on March 26th, 2019, she was informed by one of the other staff members that the Respondent was slurring her words and "nodding off at the console." At this point the Supervisor began the process of sending the Respondent for the FFD evaluation, with which she complied. The Respondent was subsequently terminated and has not been to the Hospital thereafter.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel A of the Board concludes as a matter of law that the Respondent is guilty of unprofessional or immoral conduct in the practice of radiation therapy, in violation of Health Occ. § 14-5B-14(a)(3), and that the Respondent provided professional services while using a narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article, or any other drug

in excess of therapeutic amounts or without valid medical indication, in violation of Health Occ. § 14-5B-14(a)(8)(ii).

ORDER

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

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

ORDERED that this Consent Order supersedes the Order for Summary Suspension, dated March 2, 2020, and the summary suspension is hereby terminated; and it is further

ORDERED that the Respondent's license to practice radiation therapy is **SUSPENDED** for a minimum of **SIX MONTHS**.⁶ During the suspension, the Respondent shall comply with the following terms and conditions of the suspension:

- (1) The Respondent shall enroll 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;

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

- (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 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 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 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, the Respondent has fully and satisfactorily complied with all terms and conditions for the suspension, and if MPRP finds, and notifies the Board, that the Respondent is safe to return to the practice of medicine, 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 her petition for termination. If the disciplinary panel determines that it is safe for the Respondent to return to the practice of medicine, 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 medicine, 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 medicine 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

09/03/2020
Date

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

CONSENT

I, Kaitlyn Hyler, RT, 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

9/1/2020
Date

Kaitlyn Hyler, RT

NOTARY

STATE OF: MD

CITY/COUNTY OF: BAITIMORE

I HEREBY CERTIFY that on this 1st day of SEPTEMBER, 2020, before me, a Notary Public of the State and City/County aforesaid, personally appeared Kaitlyn Hyler, RT and made oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

[Signature]
Notary Public

My commission expires: 02-18-2024

