

IN THE MATTER OF	*	BEFORE THE
MICHAEL H. COHEN, R.T.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: O00931	*	Case Number: 2221-0079B
* * * * *	*	* * * * *

CONSENT ORDER

On November 16, 2021, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) charged **MICHAEL H. COHEN, R.T.** (the “Respondent”), License Number O00931, 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.* (2021 Repl. Vol.).

The pertinent provisions of the Act provide:

Health Occ. § 14-5B-14. Denial of license.

- (a) *In general.* -- Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may . . . reprimand any licensee, place any licensee on probation, or suspend or revoke a license, if the . . . licensee:
- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensed individual, or for another;
 - ...
 - (3) Is guilty of unprofessional or immoral conduct in the practice of radiation therapy, radiology, 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; [and/or]

...

(10) Willfully makes or files a false report or record in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance[.]

On February 23, 2022, Panel B was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of the DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

Panel B finds:

I. BACKGROUND/LICENSING INFORMATION

1. At all relevant times, the Respondent was and is licensed to practice as a radiation therapist in the State of Maryland. The Respondent was originally issued a license to practice radiation therapy in Maryland on April 13, 2018, under License Number O00931. The Respondent has retained continuous licensure in Maryland since that time. The Respondent’s license is scheduled for renewal on or before April 30, 2023.

2. At all relevant times, the Respondent was employed as a radiation therapist at a health care facility (“Facility A”)¹ in Maryland.

II. BOARD INVESTIGATION

3. The Board initiated an investigation of the Respondent during the course of its investigation of another radiation therapist.

4. Pursuant to this investigation, the Board, on or about September 10, 2020, issued a *subpoena duces tecum* (“SDT”) to Facility A for the Respondent’s personnel file. On or about October 5, 2020, Facility A provided the responsive information to the Board.

5. On or about February 23, 2021, the Board issued a SDT to Facility A for the Respondent’s Employee Health file. On or about March 5, 2021, Facility A provided the responsive information to the Board.

6. The Board also interviewed various supervisors and radiation therapy staff members from Facility A.

7. The Board subpoenaed the Respondent’s employment file from the *locum tenens* agency (the “Agency”) that employed the Respondent after Facility A terminated him for gross misconduct. The Agency’s file documents that it placed the Respondent at another radiation therapy facility on or about October 12, 2020. Although the Agency did

¹ For confidentiality reasons, the names of any health care facilities will not be identified in this document. The Respondent may obtain the name of any health care facility referenced herein upon request.

not inquire why the Respondent left Facility A, the file contained an employer reference from Facility A that was provided by an individual who was later identified as having a relationship to the Respondent. This individual is listed as the Respondent's supervisor with the title "Lead Radiation Therapist" and described the Respondent as "excellent" in all categories and eligible for rehire.

8. The Board's investigation determined that the Respondent was terminated from Facility A for violating its controlled substance policy. The investigation also determined that the Respondent engaged in unprofessional conduct and disruptive behavior while employed at Facility A. Staff members from Facility A variously described the Respondent as being disruptive, intimidating, threatening and creating a hostile work environment. The Board's investigation also determined that the Respondent made one or more material misrepresentations on a licensure renewal application he submitted to the Board in 2021.

Termination from Facility A

9. On or about April 23, 2018, Facility A hired the Respondent to work as a radiation therapist. The Respondent continued to work for Facility A until on or about January 29, 2020, when Facility A involuntarily terminated him for "gross misconduct."

10. During the course of the Respondent's employment, a Facility A employee reported that the Respondent possibly used a controlled dangerous substance ("CDS") while on duty and may be storing CDS in a refrigerator at or around his worksite.

11. After receiving this information, Facility A supervisors, on or about January 17, 2020, directed the Respondent to report immediately to the Employee Health unit for a for-cause drug test.

12. Facility A records state that the Respondent arrived at Employee Health “exhibiting confrontational and argumentative behaviors” and that he “curtly” presented a prescription card.

13. The Respondent’s Employee Health file confirmed that he tested positive for a CDS and on January 29, 2020, Facility A terminated his employment for violating its substance abuse policy.

14. Board interviews with Facility A personnel determined that on the date the Respondent was sent to Employee Health, he had provided radiation therapy services to several patients prior to undergoing testing.

15. Facility A records revealed that Facility A employees stated that the Respondent had admitted to using a CDS during breaks.

16. Board staff interviewed the Respondent, who admitted that prior to undergoing drug testing, he had seen five-to-ten patients.

Unprofessional/disruptive behaviors at Facility A

17. The Board’s investigation determined that the Respondent engaged in unprofessional and disruptive behaviors while on duty as a radiation therapist at Facility A. Facility A’s personnel file states that Facility A verbally counseled the Respondent on

December 12, 2018 for behavioral issues and that on September 26, 2019, issued him a written warning for “disruptive behavior.” As a result of this written warning, the Respondent was required to attend “bi-weekly meetings with . . . [supervisors] . . . to review if disruptive behavior has ceased.” The Respondent signed the written warning but at the bottom of the form wrote, “I dispute this as not factual.”

18. The Respondent’s personnel file noted numerous instances where the Respondent’s co-workers reported that he engaged in unprofessional and disruptive behaviors and created a toxic and hostile work environment.

19. Board staff interviewed the Respondent’s supervisors (“Supervisors 1, 2, 3 and 4”)² and staff members (“Radiation Therapists 1, 2 and 3”) from Facility A’s radiation therapy department. These individuals stated that the Respondent engaged in loud outbursts, bullying and confrontational behaviors with them, such that they were uncomfortable working with him. Staff members expressed concern about the Respondent after his termination, stating that they were afraid to walk out to their cars after work due to fear that he would retaliate against them.

Supervisor 1

20. Supervisor 1 stated that based on reports from staff, the Respondent was referred to Employee Health for a for-cause drug test. Supervisor 1 confirmed that the

² For confidentiality reasons, the names of any supervisors or staff members will not be identified by name in this document. The Respondent may obtain the identity of any individual referenced herein upon request.

Respondent had a positive CDS test. Supervisor 1 stated that before the positive drug test, the Respondent had “some HR issues with disruptive behavior and code of conduct.” Supervisor 1 described the Respondent as being “very angry,” “threatening,” and “manipulative.” Supervisor 1 reported verbally counseling the Respondent for arguing with another therapist in front of a patient and later gave him a written warning after multiple complaints from other therapists about his disruptive behavior. Supervisor 1 stated that the Respondent had ongoing personal issues with another radiation therapist. Supervisor 1 reported asking the Respondent if he had any personal issues that were causing his behavior after which he “actually became more aggressive” during this discussion. Supervisor 1 instructed the Respondent to refrain from using sarcastic comments, that he/she had received numerous comments about his disruptive behavior in the clinic, and that his actions were “affecting patient care.” Supervisor 1 stated that after Facility A terminated the Respondent’s employment, it changed the office locks because staff was “fearful of retaliation from him.”

Supervisor 2

21. Supervisor 2 stated that the Respondent had “behavior issues,” did not get along with most of the other radiation therapists, was a verbal bully, and that some of his co-workers were afraid of him. Supervisor 2 stated that the Respondent was sent for counseling but his behavior did not change.

Supervisor 3

22. Supervisor 3 stated that the Respondent could be “inappropriate” with the other therapists and counseled him about appropriate interactions with his co-workers. Supervisor 3 stated that if the Respondent “had a good personal relationship [his] communication was fine, but if that personal relationship was strained, then the communication suffered.” Supervisor 3 stated that this was “not good for patient care” and the Respondent’s behavioral issues made Supervisor 3’s job more difficult.

Supervisor 4

23. Supervisor 4 reported working and interacting with the Respondent on a daily basis during which time the Respondent reacted poorly to constructive criticism, particularly when those criticisms came from co-workers. Supervisor 4 described the Respondent’s demeanor as argumentative and that he had questionable relationships with some patients that Supervisor 4 felt were “odd.”

Radiation Therapist 1

24. Radiation Therapist 1 stated that the Respondent spoke in a condescending manner to fellow staff members and that female staff were afraid of the Respondent. Radiation Therapist 1 stated that the Respondent’s actions made the workplace “toxic” and thought the Respondent was “unstable.” Radiation Therapist 1 stated that the Respondent never took criticism well and did not take ownership of any of his actions.

Radiation Therapist 1 also stated that the Respondent made unfounded accusations against him/her.

Radiation Therapist 2

25. Radiation Therapist 2 described the Respondent as “toxic” and “hostile” who was “verbally abusive” to him/her while at work. Radiation Therapist 2 described the Respondent as a “dangerous guy” with whom no one wanted to work. Radiation Therapist 2 reported witnessing the Respondent in a “full blown argument” with the female employee training him in front of a patient. Radiation Therapist 2 stated that the Respondent disclosed that he “smokes weed all the time.” Radiation Therapist 2 stated that the Respondent caused a lot of tension at work and was aggressive toward female co-workers. Radiation Therapist 2 reported being “in constant fear if he’s waiting outside by my car.”

Radiation Therapist 3

26. Radiation Therapist 3 stated that the Respondent created a “toxic and hostile” work environment. Radiation Therapist 3 stated that at one time they were assigned to work together but due to his behavior, Radiation Therapist 3 requested to be moved. Radiation Therapist 3 stated he/she could no longer work directly with the Respondent because his demeanor was aggressive, condescending, belittling and bullying. Radiation Therapist 3 stated that the Respondent raised his voice to co-workers and believed patients could hear him. Radiation Therapist 3 stated that the Respondent

was especially aggressive with women and that he openly mocked Radiation Therapist 3 for a medical condition. Radiation 3 observed that the Respondent “knew exactly . . . how to hurt somebody.” Radiation Therapist 3 stated that the Respondent could be very close with patients or very short and rude with them. Radiation Therapist 3 stated that the Respondent disclosed that he used marijuana and recalled that there was at least one occasion that he/she believed the Respondent smelled of marijuana while at work. Radiation Therapist 3 stated that after the Respondent was terminated, he/she was fearful that the Respondent would retaliate against him/her.

Misrepresentations on 2021 renewal application

27. On or about March 19, 2021, the Respondent filed an application (the “Application”) with the Board to renew his radiation therapy license. On this Application, the Board asked the Respondent to answer “YES” or “NO” to a series of “Character and Fitness” questions for the period since April 30, 2019.

28. The Respondent responded “NO” to Questions 5 and 14, which ask:

QUESTION 5: Has a hospital, related health care institution, HMO, or alternative health care system investigated you or brought charges against you?

QUESTION 14: 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?

29. The Respondent affirmed at the conclusion of his Application that he personally reviewed all responses to the items in the Application and that the information he gave was true and correct.

30. The Respondent made misrepresentations on his Application when he failed to disclose that Facility A investigated him and subsequently terminated his employment on January 29, 2020, for gross misconduct after he tested positive for a CDS, in violation of Facility A policy.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel B concludes as a matter of law that the Respondent fraudulently or deceptively obtained or attempted to obtain a license for the applicant, licensed individual, or for another, in violation of Health Occ. § 14-5B-14(a)(1); is guilty of unprofessional or immoral conduct in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance, in violation of Health Occ. § 14-5B-14(a)(3); provides professional services while 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, in violation of Health Occ. § 14-5B-14(a)(8)(ii); and willfully made or filed a false report or record in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance, in violation of Health Occ. § 14-5B-14(a)(10).

ORDER

It is thus by Disciplinary Panel B of the Board, hereby:

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

ORDERED that the Respondent agrees that he will not renew his Maryland Respiratory Therapist license, License Number O00931, which is scheduled to expire on April 30, 2023; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum of **ONE (1) YEAR**.³ During probation, the Respondent shall comply with the following terms and conditions of probation:

(1) Within **SIX (6) MONTHS**, the Respondent is required to take and successfully complete a Board-approved course in appropriate workplace behavior. The following terms apply:

(a) it is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the course before the course is begun;

(b) the disciplinary panel will not accept a course taken over the internet;

(c) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;

(d) the course may not be used to fulfill the continuing medical education credits required for license renewal;

(e) the Respondent is responsible for the cost of the course.

³ If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

(2) Within **ONE (1) YEAR**, the Respondent shall pay a civil fine of \$1,000.00. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297. The Board will not renew or reinstate the Respondent's license if the Respondent fails to timely pay the fine to the Board; and it is further

ORDERED that the Respondent shall not apply for early termination of probation; and it is further

ORDERED that, after the Respondent has complied with all terms and conditions of probation and the minimum period of probation imposed by the Consent Order has passed, the Respondent may submit to the Board a written petition for termination of probation. After consideration of the petition, the probation may be terminated through an order of the disciplinary panel. The Respondent may be required to appear before the disciplinary panel to discuss his or her petition for termination. The disciplinary panel may grant the petition to terminate the probation, through an order of the disciplinary panel, if the Respondent has complied with all probationary terms and conditions and there are no pending complaints relating to the charges; and it is further

ORDERED that a violation of probation constitutes a violation of the Consent Order; 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 this Consent Order is a public document. *See* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

03/23/2022
Date

Signature on File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Michael Cohen, R.T., 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

3.19.22
Date

Michael Cohen, R.T.
Respondent

NOTARY

STATE OF Kentucky
CITY/COUNTY OF Pike

I HEREBY CERTIFY that on this 19 day of March 2022, before me, a Notary Public of the foregoing State and City/County, personally appeared Michael Cohen, R.T., and made an oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

Kayla Justice KYNP10589
Notary Public

My Commission expires: July 16, 2024

