

IN THE MATTER OF
CHERYL L. MAGNESS

Respondent

License Number: R00461

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BEFORE THE
MARYLAND STATE
BOARD OF PHYSICIANS
Case Number: 2020-0131; 2220-0286

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CONSENT ORDER

On July 20, 2020, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) charged **CHERYL L. MAGNESS, RADIOGRAPHER** (the “Respondent”), License Number R00461, under the Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Act (the “Act”), codified at Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-5B-01 *et seq.* (2014 Repl. Vol. & 2019 Supp.)

The relevant provisions of the Act under Health Occ. § 14-5B-14 provide the following:

- (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 applicant or licensee:
 - (3) Is guilty of unprofessional or immoral conduct in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance;
 - (6) Is habitually intoxicated; [and]
 - (8) Provides professional services while:
 - (i) Under the influence of alcohol[.]

On September 23, 2020, Panel B 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 B finds the following:

1. At all times relevant, the Respondent was, and is, licensed to practice radiography in the State of Maryland. The Respondent was originally licensed to practice radiography in Maryland on May 22, 1991, under License Number R00461. The Respondent’s license is current through April 30, 2021.

2. All times relevant, the Respondent practiced radiography at a health care facility (the “Facility A”)¹ located in Baltimore, Maryland.

3. The Board initiated an investigation of the Respondent after receiving a self-report, on or about August 14, 2019, from the Respondent stating that she was found under the influence of alcohol at work on July 26, 2019. The Respondent stated that she was serious about maintaining sobriety since then.²

4. The Board’s investigation revealed that on or about July 26, 2019, the Respondent appeared for work at Facility A, where staff members identified her as being

¹ To ensure confidentiality, the names of individuals, hospitals and healthcare facilities involved in this case are not disclosed in this document. The Respondent may obtain the identity of the referenced individuals or entities in this document by contacting the administrative prosecutor.

² On or about August 16, 2019, the Facility reported the same incident to the Board as in the Respondent’s self-report.

potentially impaired with smell of alcohol and slurred speech. The Respondent was instructed to report for an immediate evaluation during which she tested positive for alcohol.

5. The Board's investigation further revealed that the Respondent was habitually intoxicated.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel B 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, radiography, nuclear medicine technology, or radiology assistance, in violation of Health Occ. § 14-5B-14(a)(3); is habitually intoxicated, in violation of Health Occ. § 14-5B-14(a)(6); and provided professional services while under the influence of alcohol, in violation of Health Occ. § 14-5B-14(a)(8)(i).

ORDER

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

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

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

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

(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
- (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 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 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

11/06/2020

Date

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

CONSENT

I, Cheryl Magness, Radiographer, acknowledge that I have consulted with counsel before signing this document.

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

11-4-20
Date

Cheryl Magness, Radiographer

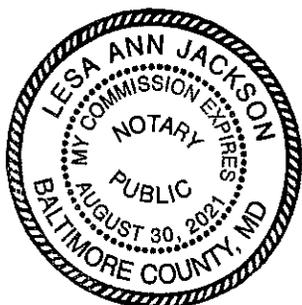
NOTARY

STATE OF: Maryland

CITY/COUNTY OF: Baltimore

I HEREBY CERTIFY that on this 4 day of November, 2020, before me, a Notary Public of the State and City/County aforesaid, personally appeared Cheryl Magness, Radiographer 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.



Les Ann Jackson
Notary Public

My commission expires: 8/30/2021