

IN THE MATTER OF

ROBERT D. SLATE, JR., Radiographer

Respondent

License Number: R05911

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BEFORE THE

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MARYLAND STATE

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BOARD OF PHYSICIANS

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Case Number: 2220-0252

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ORDER OF DEFAULT

On February 4, 2021, Disciplinary Panel B of the Maryland State Board of Physicians (“Board”) charged **ROBERT D. SLATE, JR.**, with unprofessional or immoral conduct in the practice of radiography, willfully making or filing a false report or record in the practice of radiography, and failing to cooperate with a lawful investigation. *See* Md. Code Ann., Health Occ. § 14-5B-14(a)(3), (10), (26) (2014 Repl. Vol. & 2020 Supp.). The charges alleged that Mr. Slate submitted a fraudulent Basic Life Support card to gain employment, failed to comply with a Board subpoena requesting documents, and failed to participate in a Board interview, thereby impeding the Board’s investigation. On April 28, 2021, the case was referred to the Office of Administrative Hearings (“OAH”) for an evidentiary hearing.

On May 4, 2021, OAH mailed a Notice of Telephone Scheduling Conference to Mr. Slate at his address of record and to the State, notifying the parties that a scheduling conference would be held on May 24, 2021, at 1:00 p.m. The notice was not returned as undeliverable by the United States Postal Service (United States mail). OAH did not receive any request for postponement from Mr. Slate.

On May 24, 2021, at 1:00 p.m., the Administrative Law Judge (“ALJ”) convened the scheduling conference. The administrative prosecutor appeared telephonically on behalf of the

State. The ALJ called Mr. Slate's telephone number on record with the Board several times and Mr. Slate failed to answer. The ALJ held the scheduling conference in Mr. Slate's absence.

On May 25, 2021, a Scheduling Order was issued, scheduling the telephone prehearing conference for July 6, 2021, at 9:30 a.m. The Scheduling Order notified the parties of the date, time, and location of the Prehearing Conference and requested that the parties submit a *curriculum vitae* for any expert witnesses and expert report, any prehearing motions, and a prehearing statement by June 22, 2021. The Scheduling Order was mailed by United States mail to Mr. Slate's address of record and was not returned to OAH as undeliverable. The State submitted a Prehearing Conference Statement, but Mr. Slate did not submit one.

On June 8, 2021, OAH sent to Mr. Slate, via United States mail, a Notice of Telephone Prehearing Conference to his address of record. The notice informed the parties of the date, time, and telephone numbers that OAH would call at the prehearing conference and enclosed instructions directing each party to prepare and submit a prehearing statement and a list of witnesses and exhibits in advance of the prehearing conference. The notice stated that the Prehearing Conference would take place telephonically at July 6, 2021, at 9:30 a.m. and that failure to appear or give timely notice of inability appear for the telephone prehearing conference may result in a decision against the party. The Notice stated that if that telephone number was incorrect, that party must provide the OAH with a telephone number, in writing, no later than five calendar days prior to the prehearing conference. The Notice was not returned to OAH as undeliverable by the United States mail.

On July 6, 2021, at 9:30 a.m., the ALJ convened the Prehearing Conference as scheduled. The ALJ called Mr. Slate's telephone number twice between 9:30 and 9:50 a.m., but Mr. Slate's phone went to voicemail. The State moved for a proposed default order against Mr. Slate.

Under OAH's rules of procedure, "[i]f, after receiving proper notice in Regulation .05C of this chapter, a party fails to attend or participate, either personally or through a representative, in a prehearing conference, hearing, or other stage of a proceeding, the ALJ may proceed in that party's absence or may, in accordance with the hearing authority delegated by the agency, issue a final or proposed default order against the defaulting party." COMAR 28.02.01.23A. The method of giving notice under regulation .05C includes notice "sent to the parties by United States mail." COMAR 28.02.01.05C.

On July 14, 2021, the ALJ issued a Proposed Default Order. The ALJ found that Mr. Slate had proper notice of the July 6, 2021 prehearing conference and that he failed to attend or participate in the prehearing conference without good cause. The ALJ proposed that the Panel find Mr. Slate in default, adopt as findings of fact the statements set out in the allegations of fact section of the charging document, conclude as a matter of law that Mr. Slate violated Health Occ. § 14-5B-14(a)(3), (10), and (26) in the manner set forth in the charges, and recommended as a sanction that Mr. Slate's license be revoked.

Also, on July 14, 2021, the ALJ mailed copies of the Proposed Default Order to Mr. Slate, the administrative prosecutor, and the Board at the parties' respective addresses of record. The Proposed Default Order notified the parties that they may file written exceptions to the proposed order but must do so within 15 days of the date of the Proposed Default Order. The Proposed Default Order stated that any exceptions and request for a hearing must be sent to the Board with attention to the Board's Executive Director. The Board sent further information about filing exceptions on July 20, 2021. Mr. Slate did not file exceptions. On November 3, 2021, this case came before Disciplinary Panel A ("Panel A") of the Board for final disposition.

FINDINGS OF FACT

Because Panel A concludes that Mr. Slate has defaulted, the following findings of fact are adopted from the allegations of fact set forth in the February 4, 2021 Charges Under the Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Act and are deemed proven by the preponderance of the evidence:

At all times relevant, the Respondent was licensed to practice radiography in the State of Maryland. The Respondent was originally licensed to practice radiography in Maryland on January 4, 2001, under License Number R05911.¹

The Board initiated an investigation of the Respondent after receiving a report, dated March 6, 2020, from the American Registry of Radiologic Technologists (“ARRT”) stating that it had reprimanded the Respondent’s certification and registration with ARRT due to his unprofessional conduct in submitting a fraudulent Basic Life Support (“BLS”) card to gain employment. As part of its investigation, the Board requested that the Respondent provide a written response to the ARRT report. By letter dated May 21, 2020, the Respondent stated that he was unaware that the BLS card was fraudulent. The Respondent stated that he paid \$100 for a five-minute tutorial demonstration at a person’s house and took an online test to obtain the BLS card. He stated that he did not know the person was not a legitimate BLS instructor.

On or about June 9, 2020, the Board issued a subpoena to the Respondent for documents relating to the online course he took, including the registration form, the name of the online course instructor, receipt of payment for the online course, the website for the online course and

¹ Mr. Slate’s license was set to expire on April 30, 2021. Mr. Slate’s license did not expire because of his non-renewal, however. A license may not lapse by operation of law “while the individual is under investigation or while charges are pending.” Health Occ. § 14-5B-13; *see also Salerian v. Board of Physicians*, 176 Md. App. 231, 247 (2007). Because the charges against Mr. Slate were still “pending” as that term is used in the statute in April 2021, his license did not lapse or expire and remained active for disciplinary purposes throughout the Board’s charging and administrative proceedings.

the online course instructor's street address. The subpoena required that the Respondent provide the documents to the Board within ten business days of the date of the subpoena, which would have been June 23, 2020. The Respondent failed to produce the documents or otherwise respond by June 23, 2020.

On or about August 5, 2020, the Respondent emailed Board staff attaching his current BLS card, which he subsequently obtained, and stating that he threw away his old BLS card and had no other information to provide to the Board. The Respondent stated that the tutorial demonstration took place in Ashburn, Virginia.

On or about September 10, 2020, the Board issued a subpoena to the Respondent compelling him to participate in a videoconference interview scheduled for September 24, 2020, at 10:00 a.m. On or about September 23, 2020, the Respondent emailed Board staff stating that he was unavailable to participate in the scheduled interview and that he did not have access to videoconference. The next day, on or about September 24, 2020, Board staff emailed the Respondent rescheduling the videoconference interview to September 29, 2020, at 11:30 a.m. Board staff also offered to assist the Respondent in setting up the videoconference. On or about September 29, 2020, at 8:59 a.m., the Respondent emailed Board staff stating that he would not be able to attend the videoconference interview and reiterated what he stated in his written response. Board staff then emailed the Respondent at 9:41 a.m. stating that if the Respondent did not have access to videoconference, he could participate in the interview by telephone. Board staff provided the telephone number for the Respondent to call. On or about September 29, 2020, at 11:30 a.m., Board staff logged onto the videoconference and waited for approximately twenty minutes. The Respondent failed to participate in the videoconference interview or the teleconference interview.

CONCLUSIONS OF LAW

Panel A finds Mr. Slate in default based upon his failure to appear at the Office of Administrative Hearings for the prehearing conference scheduled for July 6, 2021. *See* State Gov't § 10-210(4). Based upon the foregoing findings of fact, Panel A concludes that Mr. Slate is guilty of unprofessional or immoral conduct in the practice of radiography, willfully making or filing a false report or record in the practice of radiography, and failing to cooperate with a lawful investigation conducted by the Board. Health Occ. §§ 14-5B-14(a)(3), (10), and (26).

SANCTION

Panel A adopts the sanction recommended by the ALJ, which is to revoke Mr. Slate's license to practice as a radiographer.

ORDER

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

ORDERED that **Robert D. Slate, Jr.'s** license to practice radiography in Maryland (License No. R05911) is **REVOKED**; and it is further

ORDERED that this Default Order goes into effect and is filed upon the signature of the Executive Director of the Board or her designee. The Executive Director or her designee signs and files the Default Order on behalf of the disciplinary panel; and it is further

ORDERED that this is a public document.

02/10/2022
Date

Signature On File

Christine A. Farrelly, Executive Director
Maryland Board of Physicians

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Md. Code Ann., Health Occ. § 14-5B-14.1(a), Mr. Slate has the right to seek judicial review of this Order of Default. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Order of Default. The cover letter accompanying this Order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Mr. Slate files a petition for judicial review, the Board is a party and should be served with the court's process at the following address:

**Maryland State Board of Physicians
Christine A. Farrelly, Executive Director
4201 Patterson Avenue
Baltimore, Maryland 21215**

Notice of any petition should also be sent to the Board's counsel at the following address:

**David S. Finkler
Assistant Attorney General
Maryland Department of Health
300 West Preston Street, Suite 302
Baltimore, Maryland 21201**