

IN THE MATTER OF	*	BEFORE THE
CLIVE WILLIAMSON, RADIOGRAPHER	*	MARYLAND STATE BOARD
Respondent	*	OF PHYSICIANS
License Number R06204	*	Case Number 2218-0131

\* \* \* \* \*

## FINAL DECISION AND ORDER

### Procedural History

On May 23, 2018, Disciplinary Panel B of the Maryland State Board of Physicians (the "Board") charged Respondent Clive Williamson, under the Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Act, Md. Code Ann., Health Occ. §§ 14-5B-01—14-5B-21, with fraudulently or deceptively obtaining a license, *see* Health Occ. § 14-5B-14(a)(1); unprofessional or immoral conduct in the practice of radiography, *see* Health Occ. § 14-5B-14(a)(3); willfully making or filing a false report, *see* Health Occ. § 14-5B-14(a)(10); and failing to cooperate with a lawful investigation, *see* Health Occ. § 14-5B-14(a)(26). The charges notified the Respondent that, if there were grounds for action under these § 14-5B-14 provisions, disciplinary sanctions could be imposed against him. The case was referred to the Office of Administrative Hearings ("OAH") for an evidentiary hearing.

After notice to the Respondent and the State, OAH held a Scheduling Conference on September 11, 2018, at 9:30 a.m., at OAH, in Hunt Valley, Maryland. The Respondent did not appear for the Scheduling Conference, and no one appeared on his behalf. The State was represented by the Administrative Prosecutor from the Maryland Office of the Attorney General, who appeared at the conference. After waiting more than 15 minutes for the Respondent to appear, the Administrative Law Judge ("ALJ") proceeded with the Scheduling Conference in the

Respondent's absence. COMAR 28.02.01.23A. During the Scheduling Conference, a Prehearing Conference was scheduled for July 6, 2017, at 9:30 a.m., at OAH, in Hunt Valley, Maryland. COMAR 28.02.01.17.

On September 14, 2018, OAH mailed a Notice of In-Person Prehearing Conference (Notice of Prehearing Conference) to each party at the party's respective address of record. The Notice of Prehearing Conference mailed to the Respondent was not returned to OAH by the postal service. The Notice of Prehearing Conference informed the parties of the date (October 9, 2018), time (9:30 a.m.), and location (OAH in Hunt Valley, Maryland) of the Prehearing Conference and enclosed instructions directing each party to prepare and submit a Prehearing Statement in advance of the Prehearing Conference. Further, the Notice of Prehearing Conference informed the parties that the failure to attend the Prehearing Conference could result in a decision against the party.

Separately, on September 12, 2018, the ALJ issued a Scheduling Order notifying the parties of the date, time, and location of the Prehearing Conference, among other things, which was mailed to each party at the party's respective address of record. The copy of the Scheduling Order mailed to the Respondent was not returned to OAH by the postal service.

The Respondent did not appear for the October 9, 2018, Prehearing Conference as scheduled, nor did anyone appear on his behalf. The Respondent did not request a postponement of the Prehearing Conference and did not submit a Prehearing Statement in advance of the prehearing Conference, as instructed. After waiting more than fifteen minutes for the Respondent to appear, the ALJ commenced the Prehearing Conference in the Respondent's absence. The State, represented by the Administrative Prosecutor, moved for a default judgment

against the Respondent and offered the exhibits that it had planned to offer into evidence if the matter had proceeded to a merits hearing. The ALJ admitted the exhibits into evidence.

Under OAH's Rules of Procedure, "[i]f, after receiving proper notice, a party fails to attend or participate in a prehearing conference, hearing, or other stage of a proceeding, the judge 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. Similarly, the Health Occupations Article provides, in pertinent part:

(d) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the hearing officer may hear and refer the matter to the Board or a disciplinary panel for disposition.

(e) After performing any necessary hearing under this section, the hearing officer shall refer proposed factual findings to the Board or a disciplinary panel for the Board's or disciplinary panel's disposition.

Md. Code Ann., Health Occ. § 14-405 (2014); *see* Health Occ. § 14-5B-14(b) (incorporates § 14-405). Read in conjunction with the OAH Rules of Procedure, subsection 14-405(d) which provides that the ALJ "may hear" the matter if the individual fails to appear, and subsection (e), which uses the language "any necessary hearing," clearly contemplate situations such as a default where no hearing is required. *See also* COMAR 28.02.01.23A.

The ALJ found the Respondent had proper notice of the October 9, 2018, Prehearing Conference and failed to appear and participate in the Prehearing Conference.

On October 10, 2018, the ALJ issued a Proposed Default Order, based upon the OAH proceedings described above, which the ALJ recounted in the proposed decision. The ALJ also proposed that the Panel:

1. Find the Respondent in default;

2. Adopt as fact the statements set out in the Allegations of Fact section of the Charges;

3. Conclude as a matter of law that the Respondent violated subsections 14-5B-14(a)(1), (3), (10) and (26) of the Health Occupations Article, Annotated Code of Maryland, in the manner set forth in the Charges; and

4. Impose, as the sanction, a reprimand, probation for two years, and a monetary fine of \$15,000.

On October 10, 2018, copies of the ALJ's Proposed Default Order were mailed to the Respondent, the administrative prosecutor, and the Board. The proposed decision notified the parties that they may file written exceptions to the proposed decision but must do so within 15 days of the date of the proposed order. The proposed order states that any exceptions must be sent to the Board disciplinary panel with attention to the Board's Executive Director. Neither party filed exceptions.

On December 5, 2018, the case came before Board Disciplinary Panel A for the final disposition.

### **FINDINGS OF FACT**

Because Panel A concludes that the Respondent has defaulted, the following findings of fact are adopted from the Allegations of Fact set forth in the May 23, 2018, 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 has been licensed to practice as a radiographer in the State of Maryland. The Respondent was originally licensed to practice radiography in

Maryland on October 18, 2001, under license Number R06204. His license was renewed on April 28, 2017, and expires on April 30, 2019.

On or about September 12, 2001, the Respondent submitted as part of his application for licensure as a radiographer a completed questionnaire containing the following question: "Have you ever been charged with or convicted of any criminal act for which you pled nolo contendere, could receive, or did receive, probation before judgment, or were sentenced to probation or confinement?" The Respondent answered, "No."

The Respondent signed an attestation of accuracy as part of the original application for certification on September 12, 2001, that reads:

I affirm that the information I have given in this application is true and correct, and that I have read and understand the Statu[t]e[s] and regulations which govern Medical Radiation Technologists and Nuclear Medical Technologists in the State of Maryland. I also understand that any false information provided as part of my application may be cause for the denial of my application.

The Respondent submitted a license renewal application on April 28, 2017. As part of the renewal process the Respondent was required to submit to a criminal history records check.

On May 1, 2017, the Board received the results of the Respondent's criminal history records check indicating a reportable event that had not been disclosed on the Respondent's initial application for licensure in 2001.

On July 12, 2017, the Board mailed a letter to the Respondent's non-public address referencing the reportable event on the Respondent's criminal history records check and requesting an explanation.

On July 28, 2017, the Respondent placed a phone call to the Board of Physicians Criminal Background Unit inquiring about the process for requesting a copy of the criminal history report that the Board received. The Respondent was instructed that upon submitting a

written request to the Board, the information would be provided to him. The Respondent did not submit a written request.

In the absence of any response to the July 12, 2017, letter requesting explanation, the Board sent another letter to the Respondent's listed address on October 11, 2017. This letter explained that the Board had received no response from the previous letter and prescribed a five (5) day response time. The Respondent failed to respond to the Board's letter of October 11, 2017.

On November 9, 2017, the Board requested information from the Superior Court of the District of Columbia regarding the Respondent's reportable criminal convictions.

On November 15, 2017, the Board received docket entries in the Respondent's name from the Superior Court of the District of Columbia. The Respondent was convicted on July 7, 1988, under case number F6458-87 D,E,F of the following offenses: D) Carrying a pistol without a license, E) Failure to register a firearm, and F) an ammunition violation. The Respondent was sentenced to 180 days suspended and a fine of \$250 for offense D; 90 days suspended and a \$50 fine for offense E; and 90 days suspended and a \$500 fine for offense F. The Respondent also received a one-year period of probation.

On or about May 25, 1989, the Superior Court of the District of Columbia extended the Respondent's probation by an additional six months.

On or about September 24, 1990, the Superior Court of the District of Columbia revoked the Respondent's probation and ordered that he be committed to the custody of the Attorney General for imprisonment of a period of 180 days for offense D, and 90 days for each of offenses E and F. The sentences of these charges were to be served concurrently but consecutive to any other offenses.

In the absence of the Respondent's response to any of the Board's previous letters, a notice was sent by regular mail and certified mail on November 9, 2017, to inform the Respondent that a preliminary investigation had been opened in this matter due to the Respondent's failure to respond to the Board. This correspondence also required an explanation of the charges and court documentation within ten (10) business days of Respondent's receipt of the letter. The Respondent failed to respond to the Board's November 9, 2017, letter within ten business days or thereafter.

Due to the Respondent's continued failure to respond, the Board issued subpoenas to the Respondent on December 20, and December 21, 2017, by regular mail, certified mail, and email. The Respondent was subpoenaed for an interview by Board staff that was to take place on January 11, 2018, at the Maryland Board of Physicians. The certified mail was delivered to the Respondent's address and "left with individual" at the location on January 6, 2018. The Respondent did not appear for the scheduled interview despite confirmed delivery of the subpoena to the Respondent's listed address.

### **CONCLUSIONS OF LAW**

Panel A adopts the ALJ's proposed default order issued pursuant to COMAR 28.02.01.23A. Panel A thus finds the Respondent in default based upon the Respondent's failure to appear at OAH for the Prehearing Conference scheduled for October 9, 2018. *See* State Gov't § 10-210(4). Based upon the findings of fact, Panel A concludes that the Respondent fraudulently or deceptively obtained or attempted to obtain a license, in violation of Health Occ. § 14-5B-14(a)(1); is guilty of unprofessional or immoral conduct in the practice of radiography, in violation of Health Occ. § 14-5B-14(a)(3); willfully made or filed a false report or record in the practice of radiography, in violation of Health Occ. § 14-5B-14(a)(10); and failed to

cooperate with a lawful investigation conducted by the Board or a disciplinary panel, in violation of Health Occ. § 14-5B-14(a)(26).

### **Sanction**

The ALJ recommended that the Board reprimand the Respondent, place him on probation for two years, and fine him \$15,000. Panel A adopts the ALJ's recommendation.

### **ORDER**

Based upon the findings of fact and conclusions of law, it is, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel A, hereby

**ORDERED** that the Respondent, Clive Williamson, Radiographer, is **REPRIMANDED**; and it is further

**ORDERED** that the Respondent is placed on **PROBATION** for a minimum period of **TWO YEARS**.<sup>1</sup> During probation, the Respondent shall comply with the following terms and conditions of probation:

1. Within **TWO YEARS**, the Respondent shall pay a civil fine of \$15,000. 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;

2. The Respondent shall comply with all laws and regulations governing the practice of radiography; and it is further

**ORDERED** that if the Respondent allegedly fails to comply with any term or condition of probation, the Respondent shall be given notice and an opportunity for a hearing. If there is a

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<sup>1</sup> If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

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 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 probation, the disciplinary panel may reprimand the Respondent, place the Respondent on further probation with appropriate terms and conditions, not renew or not reinstate or suspend or revoke the Respondent's license to practice as a radiographer in Maryland. The disciplinary panel, in addition to one or more of the sanctions set forth above, may impose a further monetary fine on the Respondent; and it is further

**ORDERED** that, after two years from the issuance of this order, if the Respondent has fully complied with the conditions of probation, the Respondent may submit a written petition for the termination of probation. The Respondent may be required to appear before the disciplinary panel to discuss his petition for termination. The disciplinary panel may grant the petition to terminate probation, through an order of the disciplinary panel, if there are no pending complaints related to the charges; and it is further

**ORDERED** that this is a public document.

02/15/2019  
Date

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

## NOTICE OF RIGHT TO APPEAL

Pursuant to § 14-5B-14.1 of the Health Occupations Article, Mr. Williamson has the right to seek judicial review of this Final Decision and Order. Any petition for judicial review shall be filed within 30 days from the date this Final Decision and Order is mailed. The cover letter accompanying this Final Decision and Order indicates the date the decision is mailed. The petition for judicial review must be made as directed in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222, and Maryland Rules 7-201 *et seq.*

If Mr. Williamson petitions for judicial review, the Board is a party and should be served with the court's process. In addition, Mr. Williamson should send a copy of his petition for judicial review to the Board's counsel, David Wagner, Assistant Attorney General, Office of the Attorney General, 300 W. Preston Street, Suite 302, Baltimore, Maryland 21201. The administrative prosecutor is not involved in the circuit court process and does not need to be served or copied on pleadings filed in circuit court.