

IN THE MATTER OF	*	BEFORE THE
CHRISTOPHER WILSON, Radiographer	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: R07234	*	Case Number: 2218-0224B

* * * * *

ORDER OF DEFAULT

On January 9, 2019, Disciplinary Panel B of the Maryland State Board of Physicians (“Board”) charged Christopher Wilson, Radiographer, with fraudulently or deceptively obtaining a license, unprofessional conduct in the practice of radiography, willfully making a false representation when seeking or making application for licensure or any other application related to the practice of radiography, and failure to cooperate with a lawful investigation conducted by the Board or a disciplinary panel. *See* Md. Code Ann., Health Occ. § 14-5B-14(a) (1), (3), (10), and (26) (2014 Repl. Vol. 2018 Supp.). The charges alleged that Mr. Wilson made material misstatements on his reinstatement application when he wrote that he had not been criminally convicted and failed to respond to the Board when it attempted to investigate this misstatement. On April 24, 2019, the case was referred to the Office of Administrative Hearings (“OAH”) for an evidentiary hearing.

On May 1, 2019, OAH mailed a Notice of Scheduling Conference to Mr. Wilson and the State, at their respective addresses of record, notifying the parties that a scheduling conference would be held on May 16, 2019, at 9:30 a.m., at OAH in Hunt Valley, Maryland. At the scheduling conference, the administrative prosecutor was present on behalf of the State. Mr. Wilson did not appear for the scheduling conference, and no one appeared on his behalf. The Administrative Law Judge (“ALJ”) held the scheduling conference in Mr. Wilson’s absence. On

May 22, 2019, a scheduling order was issued, scheduling the prehearing conference for August 1, 2019, at 10:00 a.m., at OAH and requiring Prehearing Conference statements be submitted by July 17, 2019. On July 3, 2019, the Administrative Prosecutor submitted the State's Prehearing Conference Statement and Exhibit List and requested a modification due to a travel conflict. On July 11, 2019, the ALJ informed the parties by email that if the ALJ did not receive a response to the postponement request by July 18, she would grant the request and reschedule the Prehearing Conference for July 29, 2019. Mr. Wilson did not timely submit a Prehearing Conference Statement and did not respond to the Administrative Prosecutor's postponement request or the ALJ's email, thus, on July 22, 2019, the ALJ rescheduled the Prehearing Conference for July 29, 2019, at 1:00 p.m., at OAH.

On July 23, 2019, OAH mailed a Notice of In-Person Prehearing Conference to each party at their respective addresses of record. The notice mailed to Mr. Wilson was not returned to OAH by the United States Postal Service. The notice informed the parties of the date, time, and location 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 informed the parties that failure to attend the July 29, 2019 Prehearing Conference could result in a decision against the party for failing to appear. The notice was stamped "RESCHEDULED" in large letters at the bottom.

On July 29, 2019, the ALJ convened the Prehearing Conference as scheduled. Mr. Wilson did not appear, and no one appeared on his behalf. After waiting more than fifteen minutes for Mr. Wilson to appear, the ALJ commenced the prehearing conference in his absence. The State moved for a default judgment against Mr. Wilson. The State also requested that the exhibits be admitted into evidence and made part of the record. The ALJ admitted the exhibits

into the record. The State also requested that the ALJ enter a proposed order of default and that the ALJ recommend to the disciplinary panel that Mr. Wilson's license to practice as a radiographer be revoked.

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.

On August 1, 2019, the ALJ issued a Proposed Default Order. The ALJ found that Mr. Wilson had proper notice of the July 29, 2019 prehearing conference and that he failed to attend or participate in the prehearing conference. The ALJ proposed that the Panel find Mr. Wilson in default, adopt as findings of fact the statements set out in the allegations of fact section of the charges, conclude as a matter of law that Mr. Wilson violated Health Occ. § 14-5B-14(a)(1), (3), (10), and (26) in the manner set forth in the charges, and revoke his license to practice as a Radiographer.

On August 1, 2019, the ALJ mailed copies of the Proposed Default Order to Mr. Wilson, 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. Neither party filed exceptions. On September 11, 2019, this case came before Disciplinary Panel A ("Panel A") of the Board for final disposition.

FINDINGS OF FACT

Because Panel A concludes that Mr. Wilson has defaulted, the following findings of fact are adopted from the allegations of fact set forth in the January 9, 2019 Charges Under the Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Act and are deemed proven by the preponderance of the evidence:

Mr. Wilson was initially licensed to practice radiography in the State of Maryland on August 24, 2004. Mr. Wilson allowed his license to lapse in 2013 and subsequently submitted an application for reinstatement. Mr. Wilson's license was reinstated effective October 18, 2013.¹

On or about April 5, 2017, Mr. Wilson submitted an online application (the "Application") for the renewal of Mr. Wilson's license using the Board's online renewal application process. When a licensee applies online to renew his or her license, a notice appears that informs the licensee that the Board may not renew a license if it has not received the licensee's Criminal History Record Check ("CHRC") information, which includes the licensee's submission of his or her fingerprints to the Criminal Justice Information Services ("CJIS") before attempting to complete the renewal application.

Mr. Wilson's signed Application states, "Failure to submit to a [CHRC] may result in disciplinary action." When submitting the online Application, Mr. Wilson checked a box attesting to completing the CHRC.

¹ Mr. Wilson's license expired on April 30, 2019. Pursuant to section 14-5B-13 of the Health Occupations Article, the license of an licensed radiographer may not "lapse by operation of law while the licensee is under investigation or while charges are pending against a the licensee." The Board's investigation began before the expiration of Mr. Wilson's license. Therefore, by operation of law, Mr. Wilson's license did not expire during these proceedings.

By letter dated September 18, 2017,² the Board informed Mr. Wilson that the Board had opened a preliminary investigation based upon the failure to obtain a CHRC for license renewal and the attestation that Mr. Wilson submitted to a CHRC. The Board directed that Mr. Wilson provide documentation of obtaining a CHRC to the Board within ten days of receipt of the Board's letter. By letter dated October 17, 2017, the Board informed Mr. Wilson that it had received Mr. Wilson's CHRC and directed Mr. Wilson to transmit to the Board within ten days: 1) court documents including copies of any relevant charges, pleas, convictions or other applicable documentation showing completion of term of sentence; and 2) a specific written explanation of any charges, pleas, convictions or other dispositions. By letter dated November 8, 2017, the Board notified Mr. Wilson that the Board had not received Mr. Wilson's response to the Board's October 17, 2017 letter. Mr. Wilson was advised that failure to submit the requested information within five business days of the date of the letter could be construed as failure to cooperate with a lawful investigation conducted by the Board. By letter dated November 21, 2017, transmitted to Mr. Wilson by first-class mail, certified mail and email,³ the Board once again notified Mr. Wilson to submit to the Board within ten business days copies of any and all court documents and a detailed written explanation regarding his criminal history.

On January 22, 2018, having received no communication from Mr. Wilson, the Board issued to him a *Subpoena Ad Testificandum* that directed him to be interviewed by Board staff by telephone on February 12, 2019. The subpoena further directed Mr. Wilson to contact a specifically identified Board staff member upon receipt to the subpoena and provide a contact telephone number. Mr. Wilson failed to contact the Board as directed. Board staff was unable to interview Mr. Wilson.

² The Board sent all the correspondence discussed herein to Mr. Wilson's non-public address of record.

³ The certified letter was returned to the Board as unclaimed. Neither the letter sent by first class mail nor the email were returned as undeliverable.

The Board conducted an investigation and discovered that Mr. Wilson pleaded guilty in Indiana in December 2006 for Operating a Vehicle While Intoxicated (a Class A Misdemeanor) and Resisting Law Enforcement (a Class A Misdemeanor). The Court imposed a fine of \$500.00 (suspended) and sentenced Mr. Wilson to 365 days incarceration (all but 60 days under house arrest suspended).

Misrepresentation of criminal history on Board 2013 Reinstatement Application

Mr. Wilson's license expired on or around June 30, 2009. On or about September 9, 2013, Mr. Wilson electronically submitted to the Board an Application for Reinstatement. On the Reinstatement Application there are a series of Character and Fitness Questions. The instructions to the questions read:

Answer "YES" or "NO" to the following items. If you answered "YES" to any question, on a separate piece of paper, please provide a detailed explanation and attach any supporting documentation. Examples of documentation is *(sic)* next to the question. Please note that these examples are not all inclusive. ***Failure to provide documentation and an explanation will delay the processing of your application. These questions apply since your last registration in Maryland.***

(emphasis in original)

Mr. Wilson answered "NO" to Character and Fitness Question E that reads:

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? **(e.g. police reports, orders of probation, and/or letters of completion of any mandatory program(s), termination of probation, orders of dismissal, orders of expungement)**

(emphasis in original)

On the Reinstatement Application, Mr. Wilson signed the following Affirmation:

I affirm that the information I have given in this application is true and correct and that I am thoroughly familiar with the Maryland Statute (Health Occupations Article § 14-5B-01 et seq.) and Regulations

(COMAR 10.32.10) which govern the practice of Radiation Therapy, Radiography and Nuclear Medicine Technology. I also understand that any false information provided as part of my application may be cause for denial of my application.

Mr. Wilson's license to practice radiography was reinstated effective October 18, 2013.

Mr. Wilson failed to respond truthfully and accurately to Question E on his reinstatement application. He failed to inform the Board of his 2006 criminal conviction.⁴

CONCLUSIONS OF LAW

Panel A finds Mr. Wilson in default based upon his failure to appear at the Office of Administrative Hearings for the prehearing conference scheduled for July 29, 2019. *See* State Gov't § 10-210(4). Based upon the foregoing findings of fact, Panel A concludes that Mr. Wilson is guilty of fraudulently or deceptively obtaining a license, in violation of Health Occ. § 14-5B-14(a)(1), unprofessional conduct in the practice of radiation therapy, radiography, nuclear medicine technology or radiology assistance, in violation of Health Occ. § 14-5B-14(a)(3), willfully making a false representation when seeking or making application for licensure or any other application related to the practice of radiation therapy, radiography, nuclear medicine technology or radiology assistance, in violation of Health Occ. § 14-5B-14(a)(10), and failure 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

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

ORDER

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

⁴ Mr. Wilson completed two renewal applications after his license was reinstated. He did not correct his false responses regarding his criminal history on either of the renewal applications.

ORDERED that Christopher Wilson's license to practice radiography in Maryland (License No. R07234) is **REVOKED**; and it is further

ORDERED that this is a public document.

Signature on File

Date

10/08/2019

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, Mr. Wilson 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. Wilson 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**