

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE</b>
<b>DANIEL SZUBA, Radiographer</b>	*	<b>MARYLAND STATE</b>
<b>Respondent</b>	*	<b>BOARD OF PHYSICIANS</b>
<b>License Number: R09840</b>	*	<b>Case Number: 2221-0063 A</b>
* * * * *		

**CONSENT ORDER**

On March 3, 2021, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged **DANIEL SZUBA, Radiographer** (the "Respondent"), License Number R09840, 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.* (2014 Repl. Vol. and 2020 Supp).

Panel A charged the Respondent with violating the following provisions of Health Occ. § 14-5B-14:

- (a) 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;
  - (7) Is addicted to or habitually abuses any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article; [and]

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- (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[.]

On May 12, 2021, Panel A was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on the 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 A finds the following:

#### **I. BACKGROUND**

1. The Respondent was originally issued a license to practice radiography in Maryland on September 9, 2010, under License Number R09840.
2. From 2013 until September 3, 2020, the Respondent was employed as a radiographer at a health care facility (the “Facility”)<sup>1</sup> that operates several locations in Maryland.
3. The Respondent is not currently employed.

#### **II. THE COMPLAINT**

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<sup>1</sup> To maintain confidentiality, the names of individuals and health care facilities will not be identified in this document.

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4. On September 24, 2020, the Board received an anonymous complaint (the “Complaint”) regarding the Respondent, dated September 20, 2020, from an individual (the “Complainant”) who worked at the Facility. The Complainant stated that he/she witnessed the Respondent “under the influence” at work several weeks prior and called security due to his erratic and concerning behavior. The Complainant stated that he/she believed the Facility terminated the Respondent’s employment and the Complainant had “significant concerns that [the Respondent] will seek employment elsewhere and exhibit the same behavior, possibly endangering patients and staff.”

### **III. BOARD INVESTIGATION**

5. As part of the Board’s investigation, Board investigators subpoenaed the Respondent’s records from the Facility, conducted under-oath interviews of Facility employees, reviewed surveillance footage of the Respondent and obtained the Respondent’s medical records. Board investigators also notified the Respondent of its investigation of his termination from the Facility, requested a written response and conducted an under-oath interview of the Respondent.

#### **The Respondent’s Personnel File**

6. On or around November 25, 2020, Board investigators subpoenaed and subsequently received the Respondent’s human resources/personnel file from the Facility (the “Personnel File”). The Personnel File revealed the following:

- a. On August 18, 2020, employees at the Facility found the Respondent to “not appear to be himself” and observed that the Respondent had “glassy eyes,” “slurred speech” and a “lack of concentration.”

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- b. The Respondent was also captured on the Facility security camera falling over, stumbling and bumping into a wall (the “Facility Surveillance Video”) on the Mother Baby Unit.
- c. On August 18, 2020, the Respondent was sent for a Fitness for Duty Evaluation and underwent testing.<sup>2</sup>

7. On or around December 9, 2020, Board investigators received additional information from the Facility that based on the results of the testing, it terminated the Respondent’s employment on or around September 3, 2020.

8. On or about December 14, 2020, Board investigators subpoenaed and subsequently reviewed the Facility Surveillance Video, which confirmed that the Respondent stumbled and bumped into a wall while on duty.

### **Interviews**

9. Board investigators conducted under-oath interviews of three Facility employees who interacted with the Respondent on August 18, 2020.

10. On January 7, 2021, Board investigators conducted an under-oath interview of a nurse at the Facility (the “Nurse”) who worked closely with the Respondent since 2008.

11. The Nurse stated that on the morning of August 18, 2020, the Respondent was treating a patient and another physician observed that the Respondent was not paying

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<sup>2</sup> In order to maintain confidentiality, the test results will not be disclosed in this document.

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attention. The Nurse stated that she observed the Respondent as the day progressed and began to have concerns about the Respondent's sobriety.

12. The Nurse told Board investigators that around 1:00 p.m., the Respondent entered the break room and asked to speak to a technician at the Facility (the "Technician"). Shortly thereafter, the Technician<sup>3</sup> came to get her and upon seeing the Respondent the Nurse thought the Respondent "didn't quite look right."

13. The Nurse and the Technician took the Respondent to an area for him to lie down and talked to him to determine the cause of his condition. The Respondent stated he had taken allergy/cold medications.

14. While speaking with the Respondent, the Nurse observed that the Respondent had pale skin, a slumped posture, difficulty keeping his eyes open and speech that drifted off. The Respondent also "drifted off" while drinking a soda, called the Nurse by his girlfriend's name and referred to his supervisor at the Facility (the "Supervisor") as "Babe."

15. On January 6, 2021, Board investigators conducted an under-oath interview with the Respondent's Supervisor.

16. The Supervisor stated that when she interacted with the Respondent, the Respondent nodded off while she was talking with him, had difficulty conversing with her

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<sup>3</sup> Board investigators conducted an under-oath interview with the Technician who stated that when she met with the Respondent outside the break room, the Respondent looked "exhausted" and stated to her that he "felt funny."

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and was unsteady on his feet. The Supervisor also stated that the Respondent referred to her as “Babe” and called the Nurse by his girlfriend’s name.

17. Based on these observations, the Respondent was referred for the Fitness for Duty Evaluation that led to his termination from the Facility based on the testing results.

**Respondent’s Statements to the Board**

18. The Respondent provided a written response to the Board, dated December 10, 2020, in which he stated, “I can assure you this is an isolated incident.”

19. On January 29, 2021, Board investigators conducted an under-oath interview of the Respondent.

20. In this interview, the Respondent made admissions that were contrary to statements he provided in his written response. For example, the Respondent stated that he ingested a CDS pill from his neighbor “maybe two times” prior to August, in March or April.<sup>4</sup> The Respondent further stated that he sought medical treatment in December of 2020 to address his medical condition.<sup>5</sup>

21. Shortly after the interview concluded, the Respondent sent Board investigators an email which caused Board investigators to conduct a follow-up interview of the Respondent. In the Respondent’s follow-up interview, the Respondent further

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<sup>4</sup> To maintain confidentiality, the CDS will not be disclosed in this document.

<sup>5</sup> To maintain confidentiality, the medical condition will not be disclosed in this document.

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disclosed that after the Facility terminated his employment, he bought and took CDS “five to six times” in November and December of 2020, prior to seeking medical treatment.

### CONCLUSIONS OF LAW

Based on the Findings of Fact, Disciplinary Panel A of the Board concludes as a matter of law that the Respondent: Is guilty of unprofessional or immoral conduct in the practice of radiography, in violation of Health Occ. § 14-5B-14(a)(3); Is addicted to or habitually abused any narcotic or controlled dangerous substance as defined in § 5-101 of the Criminal Law Article, in violation of Health Occ. § 14-5B-14(a)(7); and Provided 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).

### ORDER

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

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

**ORDERED** that, under this Consent Order, the Respondent’s license to practice radiography in Maryland is **SUSPENDED for a minimum of ONE (1) YEAR**, beginning on the effective date of this Consent Order.<sup>6</sup> During the suspension, the Respondent shall comply with the following conditions of suspension:

- (1) The Respondent shall enroll in the **Maryland Professional Rehabilitation Program (MPRP)** as follows:

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<sup>6</sup> If the Respondent’s license expires during the period of suspension, the suspension and any conditions will be tolled.

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- (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 his 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 his/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;
- (2) During the suspension period, the Respondent shall not:
- (a) practice radiography;
  - (b) take any actions to hold himself out to the public as a current provider of radiography services;
  - (c) authorize, allow or condone the use of the Respondent's name or provider number by any health care practice or any other licensee or health care provider;
  - (d) function as a peer reviewer for the Board or for any hospital or other medical care facility in the State; or
  - (e) perform any other act that requires an active radiography license; and it is further



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**ORDERED** that the Order for Summary Suspension, issued on February 24, 2021, is terminated as moot; and it is further

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

**ORDERED** that a violation of suspension constitutes a violation of the Consent Order; and it is further

**ORDERED** that, after the minimum period of suspension imposed by the Consent Order has passed and the Respondent has fully and satisfactorily complied with all terms and conditions for the suspension and, if MPRP finds, and notifies the Board, that the Respondent is safe to return to the practice of radiography, the Respondent may submit a written petition to the disciplinary panel to terminate the suspension of the Respondent's license. The Respondent may be required to appear before the disciplinary panel to discuss his petition for termination. If the disciplinary panel determines that it is safe for the Respondent to return to the practice of radiography, the suspension will be terminated through an order of the disciplinary panel, and the disciplinary panel may impose any terms and conditions it deems appropriate on the Respondent's return to practice, including, but not limited to, probation and continuation of the Respondent's enrollment in MPRP. If the disciplinary panel determines that it is not safe for the Respondent to return to the practice of radiography, the suspension shall be continued through an order of the disciplinary panel for a length of time determined by the disciplinary panel, and the disciplinary panel may impose any additional terms and conditions it deems appropriate; 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 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 the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this 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 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 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

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**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 or revoke the Respondent's license to practice radiography 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 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).

## *Signature on File*

05/19/2021  
Date

Christine A. Farrelly  
Executive Director  
Maryland State Board of Physicians

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**CONSENT**

I, Daniel Szuba, 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***

5/16/21  
Date

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Respondent

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**NOTARY**

STATE OF Maryland

CITY/COUNTY OF Anne Arundel

I HEREBY CERTIFY that on this 16<sup>th</sup> day of May, 2021, before me, a Notary Public of the foregoing State and City/County, did personally appear Daniel Szuba and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSTH my hand and seal.

Guyell Howard  
Notary Public

My commission expires: June 19, 2022