

IN THE MATTER OF
RADAMERICA II, L.L.C.

The Respondent

* BEFORE THE MARYLAND
* STATE BOARD
* OF PHYSICIANS
* Case Number: 2220-0108A

* * * * *

FINAL ORDER ON FAILURE TO FILE A REPORT

On or about December 10, 2019, the Maryland State Board of Physicians (the “Board”) issued a *Notice of Failure to File a Report* (the “Notice”) notifying RadAmerica II, L.L.C. (a.k.a. Medstar RadAmerica) (the “Respondent”) of its failure to comply with the provisions of the Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology, and Radiology Assistance Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) § 14-5B-15. (2019 Repl. Vol.).

The pertinent provisions of the Act are as follows:

Health Occ. § 14-5B-15 Report.

(a) In general. -- Except as provided in subsections (b) and (d) of this section, hospitals, related institutions, alternative health systems as defined in Section 1-401 of this article, and employers shall file with the Board a report that the hospital, related institution, alternative health system, or employer limited, reduced, otherwise changed, or terminated any licensee for any reason that might be grounds for disciplinary action under Section 14-5B-14 of this subtitle.

...

(e) Time for filing report. -- The hospital, related institution, alternative health system, or employer shall submit the report within 10 days of any action described in this section.

...

(g) Penalties. --

- (1) The Board may impose a civil penalty of up to \$1,000 for failure to report under this section.

The pertinent regulations adopted by the Board are as follows:

COMAR 10.32.22.06 Enforcement.

M. It is not a defense to the allegation of a failure to report that:

- (1) An employee of the reporting entity was not aware of:
 - (a) The change made by the reporting entity; or
 - (b) The obligation to report[.]

...

O. If the Board finds after a hearing that a reporting entity failed to file any report required by this chapter, the Board shall issue a final disposition with findings of fact, conclusions of law, and civil penalty. In its final disposition, the Board may impose a civil penalty as follows:

...

- (2) With respect to reports concerning allied health providers:
 - (a) \$500 for the first occurrence in a calendar year[.]

The Notice informed the Respondent that if the Respondent did not request a hearing on the Notice within 30 days, the Board would issue a Final Order imposing a fine of up to \$1,000. On or about December 23, 2019, a representative of the Respondent notified the Administrative Prosecutor by telephone that the Respondent was not going to contest the Notice.

More than 30 days have passed since the Notice was mailed, and the Respondent has not requested a hearing. Therefore, as indicated in the Notice, the Board issues this

Final Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board finds the following facts:

1. On or about April 30, 2019, the Board received a renewal application for a Maryland licensed radiographer (the "Radiographer").¹ In the renewal application, the Radiographer revealed that within the last two years, she had been terminated for disciplinary reasons.

2. In subsequent correspondence, the Radiographer explained: "I was fired on May 21 [2018] by [the Respondent] for gross misconduct for falsifying a medical record." The Radiographer further explained: "I worked at [a hospital in] Baltimore filled out a patient's assessment and falsely said the patient's consent was in the chart but it wasn't."

3. Based on the information in the Radiographer's renewal application (the "Complaint") and the subsequent explanation, the Board initiated an investigation.

4. In furtherance of its investigation, the Board's investigator obtained written responses from the Respondent and relevant personnel records. The records revealed the following:

5. Effective May 21, 2018, the Respondent, a Maryland medical diagnostic imaging firm, terminated the Radiographer, who it had been employing since at least 2003.

¹ To ensure privacy, the names of individuals involved in this case are not identified in this Final Order.

6. According to the Respondent, the Radiographer was terminated based on “concerns for unsatisfactory performance for the period May 2, 2018 to May 17, 2018.

The concerns/issues for the unsatisfactory performance with [the Radiographer] were:

1. Lack of communication Patient Safety
2. Disrespect of staff and physicians
3. Lack of integrity
4. Unsatisfactory Performance
5. Integrity/Falsification of Medical Record.”

7. Regarding its failure to report the Radiographer’s termination to the Board, the Respondent stated in a letter dated September 24, 2019 that “we were unaware that the facts and circumstances surrounding [the Radiographer’s] termination may have triggered a reportable event to the Board of Physicians.”

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent failed to report to the Board within ten (10) days that effective May 21, 2018, it terminated the Radiographer’s employment, for reasons that might be grounds for disciplinary action under Health Occ. § 14-5B-14(a): (3) (“Is guilty of unprofessional or immoral conduct in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance”); (4) (“Is professionally, physically, or mentally incompetent”); (10) (“Willfully makes or files a false report or record in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance”); and/or (18) (“Fails to meet appropriate standards for the delivery of quality radiation therapy, radiography, nuclear medicine technology, or radiology assistance care performed in any outpatient surgical facility, office, hospital or related

institution, or any other location in this State”). The Respondent’s failure to timely report the termination of the Radiographer to the Board, for reasons that might be grounds for disciplinary action under Health Occ. § 14-5B-14, as described above, constitutes a violation of Health Occ. §14-5B-15.

ORDER

It is thus, by the Board, hereby:

ORDERED that within **THIRTY (30) DAYS** of the effective date of this Final Order, the Respondent shall pay to the Board a civil penalty of **FIVE HUNDRED DOLLARS (\$500.00)**. 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; and it is further

ORDERED that the effective date of this Final Order is the date that the Final Order is signed by the Executive Director of the Board or her designee. The Executive Director or her designee signs the Final Order on behalf of the Board which has imposed the terms and conditions of this Final Order; and it is further

ORDERED that this Final Order is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

07/06/2020
Date

Signature on File

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

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Md. Code Ann., Health Occ. § 14-408, the Respondent has the right to seek judicial review of this Final Order. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Final Order. The cover letter accompanying this final 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 the Respondent 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:

Noreen Rubin
Assistant Attorney General
Maryland Department of Health
300 West Preston Street, Suite 302
Baltimore, Maryland 21201