

IN THE MATTER OF
SUBURBAN HOSPITAL

*** BEFORE THE MARYLAND**
*** STATE BOARD OF PHYSICIANS**

Respondent

*** Case Numbers: 2221-0138**
2221-0139

*** * * * ***

PRE-NOTICE CONSENT ORDER

On June 9, 2021, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) voted to notify Suburban Hospital (the “Respondent”) of its failure to comply with 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-01 *et seq.* (2020 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 § 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 § 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 under COMAR 10.32.22.01 *et seq.*

(2016) are as follows:

COMAR 10.32.22.02 Definitions.

B. Terms Defined.

.....

(7) "Change" means any of the following actions by a reporting entity;

- (a) Terminating or failing to renew a health care provider's staff privileges or employment or contract with the reporting entity[.]

COMAR 10.32.22.03 Mandated Reports.

B. A reporting entity shall inform the Board of any change that has been made, in whole or in part, because the reporting entity had reason to believe that the health care provider:

.....

- (3) Disrupted the workplace;
- (4) Committed unethical or unprofessional conduct; [and/or]

.....

(9) Provided care while under the influence of alcohol or while abusing any controlled dangerous substance or mood-altering substance[.]

COMAR 10.32.22.06 Enforcement.

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; or
- (b) \$1000 for any subsequent occurrence in a calendar year.

Prior to the issuance of a Notice of Failure to File a Report, the Respondent agreed to enter into the following Pre-Notice Consent Order, consisting of Findings of Fact, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

Panel A finds the following facts:

1. On January 17, 2020, the Respondent's radiation therapy supervisor had a reasonable suspicion to believe that two Radiographers had reported for duty after having used marijuana during their break.

2. In or around 2020, the Board received a complaint from a radiographer ("Radiographer 1").¹ During a review of the complaint, the Board received information that Radiographer 1 had been terminated from a hospital located in Maryland (the "Respondent").

3. According to information obtained, Radiographer 1's employment was terminated on or about January 17, 2020, for refusing to submit to a for-cause drug test. This change in employment was not reported to the Board as required under § 14-5B-15.

4. In addition, the Board also learned that another radiographer ("Radiographer 2") was also terminated on January 17, 2020, after testing positive for marijuana during a for-cause drug test. This change in employment was not reported to the Board as required under § 14-5B-15.

¹ For confidentiality reasons, the name of the Radiographer and any health care facilities referenced herein will not be identified by name.

5. Documentation also revealed that Radiologist 2 was frequently disciplined for unprofessional and disruptive behaviors while on duty as a radiation therapist.

6. By letter dated April 20, 2021, the Board requested that the Respondent respond to allegations that they made a change in the employment of Radiographer 1 and Radiographer 2 but did not report it to the Board in compliance with Health Occ. § 14-5B-15.

7. By letter dated May 12, 2021, the Respondent acknowledged “it has a legal obligation to the Board to report any changes in the employment of its licensees under § 14-5B-15 of the Health Occupations Subtitle.” Respondent “acknowledges its failure to timely report under the mandated reporting requirements.”

8. The Board’s investigation determined that in 2020, the Respondent investigated both Radiographer 1 and Radiographer 2 for reasons involving unprofessional and disruptive conduct, possible violations of the substance abuse policy, and questionable patient care issues. The Respondent terminated both Radiographer 1 and Radiographer 2 on January 17, 2020. The Respondent failed to report this action to the Board within ten (10) days.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent failed to notify the Board within ten (10) days that it limited, reduced, otherwise changed, or terminated Radiographer 1 and Radiographer 2’s employment for reasons that might be grounds for disciplinary action under the following provisions of 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; 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 report Radiographer 1 and Radiographer 2's termination to the Board within ten (10) days 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

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by Panel A, hereby:

ORDERED that within **THIRTY (30) DAYS** of the effective date of this Consent Order, the Respondent shall pay to the Board a civil penalty of **ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00)**. 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 this Consent Order is a **PUBLIC DOCUMENT**. *See Md. Code Ann., Gen. Prov. §§ 4-101 through 4-601 (2019 Repl. Vol.)*.

09/27/2022
Date

Signature On File

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

CONSENT

I, Jessica Melton [Agent for the Respondent], acknowledge that the Respondent has had the opportunity to consult with counsel before signing this document.

By this Consent, the Respondent agrees to be bound by this Consent Order and all its terms and conditions and understand that the Board will not entertain any request for amendments or modifications to any condition.

The Respondent is aware of the right to a hearing before the Board pursuant to COMAR 10.32.22.06 concerning the Notice issued against the Respondent. The Respondent waives this right and has elected to sign this Consent Order instead.

The Respondent acknowledges the validity and enforceability of this Consent Order as if entered after the conclusion of a formal evidentiary hearing in which the Respondent would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on the Respondent's behalf, and to all other substantive and procedural protections as provided by law. The Respondent waives those substantive and procedural protections. The Respondent acknowledges the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order.

The Respondent voluntarily enters into and agrees to comply with the terms and conditions set forth in this Consent Order as a resolution of the pending disciplinary matters. The Respondent waives any right to contest the Findings of Fact and the Conclusions of Law set out in this Consent Order. The Respondent waives all rights to

appeal this Consent Order.

On behalf of the Respondent, I sign this Consent Order without reservation, and I fully understand and comprehend the language and meaning of its terms.

9/14/2022
Date

Jessica Melton, MHA President Suburban
Agent for the Respondent (printed name) Hospital

Signature On File

J
Agent for the Respondent (signature)

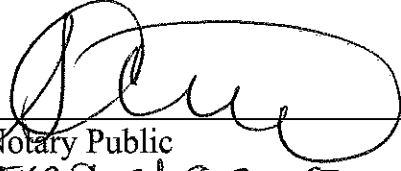
NOTARY

STATE OF Maryland

CITY / COUNTY OF Montgomery

I HEREBY CERTIFY that on this 14th day of September 2022, before me, a Notary Public of the foregoing State and City/County, personally appeared Jessica Melton [Agent for the Respondent] and made oath in due form of law that signing the foregoing Consent Order was his/her voluntary act and deed.

AS WITNESSETH my hand and notarial seal.


Notary Public
Exp Sept 8, 2025