

IN THE MATTER OF
UNIVERSITY OF MARYLAND
MEDICAL CENTER (“UMMC”)

* BEFORE THE MARYLAND
* STATE BOARD
* OF PHYSICIANS

The Respondent

* Case Numbers: 2017-0232
2017-0243
* 2017-0356

* * * * *

CONSENT ORDER

On or about October 26, 2017, the Maryland State Board of Physicians (the “Board”) notified the University of Maryland Medical Center (the “Respondent”) of its violation of provisions of the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. II (“Health Occ. II”) §§ 14-101 *et seq.* (2014 Repl. Vol.).

The pertinent provisions of the Act are as follows:

Health Occ. II § 14-413. Reports to be made to Board.

(a) *Hospitals and related institutions.* –

(1) Every 6 months, each hospital and related institution shall file with the Board a report that:

...

(ii) States whether, as to each licensed physician, during the 6 months preceding the report:

...

2. The hospital or related institution took any disciplinary action against an individual in a postgraduate medical training program, including removal from the training program, suspension, or probation for reasons that might be grounds for disciplinary action under § 14-404 of this subtitle;

...

(2) The hospital or related institution shall:

- (l) Submit the report within 10 days of any action described in paragraph (1)(ii) of this subsection; and

...

(e) *Penalty for failure to report.* –

- (1) The Board may impose a civil penalty of up to \$ 5,000 for failure to report under this section.¹

On or about January 10, 2018, Disciplinary Panel A of the Board and the Respondent participated in a settlement conference at the Board. Following the settlement conference, the Board and the Respondent agreed to enter into this Consent Order to resolve the cases described below.

FINDINGS OF FACT

The Board finds the following facts:

Case No. 2017-0232

1. Effective August 31, 2016, the Respondent, a Maryland Hospital, terminated its contract with an unlicensed medical practitioner (“UMP A”)², a physician who was then a resident in the Respondent’s postgraduate medical training program, specifically, the Family Medicine Resident Training Program (the “Program”).

2. The Respondent terminated UMP A based on UMP A’s deficient performance in the Program, and his subsequent failure to improve after concerns were brought to his attention.

¹ The Maryland Medical Practice Act no longer requires such reporting for individuals in postgraduate medical training programs.

² To ensure privacy, the names of certain individuals involved in this case are not disclosed in this document. The Respondent may obtain the identity of the referenced individuals or entities in this document by contacting the administrative prosecutor.

3. On or about March 14, 2016, the Program initially sent UMP A a Letter of Deficiency that informed UMP A that the Program's faculty had concerns about his competency in five areas, including the following:

- a. Patient Care
- b. Medical Knowledge
- c. Systems-Based Practice (i.e. coordinating with other healthcare team members)
- d. Professionalism (i.e. punctuality, truthfully representing that duties have been completed)
- e. Interpersonal and Communication Skills

4. UMP A also had unsatisfactory evaluations in several of his rotations. The Letter of Deficiency notified UMP A that he would be required to repeat these, as well as complete a six-month individualized remediation program before advancing in the Program.

5. On or about August 15, 2016, the Program sent UMP A a Letter of Termination, which terminated UMP A effective August 31, 2016.

6. According to the Letter of Termination, UMP A had demonstrated deficiencies in five of the six Program competency/milestones (named above), and described UMP A's inability to perform at the expected level in a multitude of areas, and stated that, "...allowing you to continue in the Program with these performance deficits creates a potential risk to patient[s]."

7. On or about August 24, 2016, UMP A requested a grievance hearing

under the Program's appeal process to appeal the termination.³

8. The grievance hearing occurred on or about September 15, 2016.

9. On or about October 5, 2016, following the grievance hearing, the Program sent UMP A a letter upholding his termination. This letter stated that UMP A, "did not adequately perform at his PGY level and was not making satisfactory progress in his training and that given the extensive amount of remediation the Program had already provided to [UMP A], his continued participation in the Program may compromise the Program and patient care."

10. Subsequently, the Respondent reported UMP A's termination to the Board, using the Board's form for mandated reporting.

11. The report stated, that UMP A "was presented with a letter of termination on 8/15/2016 and was verbally told that the termination would be effective 8/31/2016 and that he could resign in lieu of accepting this termination letter. ... A final decision was rendered on 10/5/2016 upholding the termination from the program."

Case No. 2017-0243

12. On or about August 12, 2016, the Respondent terminated its contract with an unlicensed medical practitioner ("UMP B"), a physician who was then a resident in the Respondent's postgraduate medical training program, specifically, the Family Medicine Resident Training Program (the "Program").

13. The Respondent terminated UMP B based on UMP B's deficient

³ On August 18, 2016, following the Letter of Termination, UMP A submitted a letter stating that he would be resigning from the Program "in lieu of termination." However, this was never made effective, because of his subsequent request to appeal the termination, and the final order upholding the termination.

performance in the Program, and her subsequent failure to improve after concerns were brought to her attention.

14. On or about March 8, 2016, the Program initially sent UMP B a Letter of Deficiency that informed UMP B that her performance in the area of professionalism was unsatisfactory because UMP B had:

- a. Left campus, leaving interns unsupervised;
- b. Failed to attend morning sign out to appropriately transition care of patients;
- c. Demonstrated lack of honesty about her attendance;
- d. Failed to follow the documented call-out procedures for an absence;
- e. Been unavailable during a snow emergency after she had been expressly asked to remain close to campus.

15. Following the Letter of Deficiency, UMP B was placed under close supervision by the faculty and required to meet certain professionalism requirements. However, UMP B's performance did not improve, and her failure to improve affected patient care.

16. On or about August 12, 2016, the Program sent UMP B a Letter of Termination, terminating UMP B effective immediately.

17. According to the Letter of Termination, UMP B had demonstrated "serious lapses in the areas of professionalism and patient care." In addition, the letter cites reports by supervising faculty, resident colleagues, and an intern under UMP B's supervision that included "multiple incidents of unprofessional behavior and potentially unsafe behavior" including patient-care issues. These included:

- a. Refusal on numerous occasions to follow instructions of supervising

attending physician;

- b. Failing to provide adequate supervision for a first year resident;
- c. Failing to arrive to morning sign-out on time;
- d. Failing to have insight into her performance issues.

18. Following the Letter of Termination, UMP B requested a grievance hearing under the Program's appeal process. In her written request for the grievance hearing, UMP B wrote to the Program's chief medical officer that her "anxiety and depression were progressively getting worse, and ultimately affected my performance." UMP B also wrote that because of her mental and emotional difficulties, in 2016, she "recognized potentially unsafe situations for patient care...and requested help to manage busy services." However, her requests were denied, "which resulted in compromised patient care."

19. Following the grievance hearing, the Program sent UMP B a letter upholding her termination on or about October 12, 2016. This letter cited "multiple instances of unprofessional behavior on the part of [UMP B] that were unresponsive to feedback and remediation."

20. On or about October 13, 2016, the Respondent reported UMP B's termination to the Board, using the Board's form for mandated reporting.

21. The report stated, "On August 12, 2016 [UMP B] was terminated from the Family Medicine program."

Case No. 2107-0356

22. On or about September 4, 2014, the Respondent terminated its contract

with an unlicensed medical practitioner (“UMP C”), who was then a resident in the Respondent’s postgraduate medical training program, specifically, the Oral Maxillofacial Surgery Resident Training Program (the “Program”).

23. The Respondent terminated UMP C based on the UMP C’s “unprofessional conduct” in the Program, and her subsequent failure to improve after concerns were repeatedly brought to her attention.

24. On or about June 17, 2013, the Program sent UMP C a Letter of Deficiency that informed UMP C that her performance in the area of professionalism was unsatisfactory and of serious concern and outlined several disturbing incidents that had prompted complaints about her conduct, including: verbal mistreatment of medical students and berating and yelling at a nurse within earshot of patients.

25. The Letter of Deficiency required UMP C to enroll in counseling through the Employee Assistance Program as a condition on her continued participation in the Program.

26. Then, on or about November 15, 2013, the Program sent UMP C a “Final Warning” letter reiterating the concerns about UMP C’s professionalism raised in the Letter of Deficiency and stating that she would be terminated from the Program immediately if she were the subject of any additional complaints about her behavior.

27. Following these Letters of Deficiency, UMP C was the subject of numerous additional complaints regarding her professionalism. These included complaints that her behavior toward co-residents and interns under her supervision was abusive, belittling and humiliating.

28. For example, as the Chief Resident, UMP C reportedly ordered residents

under her supervision to deliver her shoes and coat to her at different locations of the hospital, to deliver her lunch to her. Further, UMP C instituted a “new rule” that the interns under her supervision were required to assure that plastic utensils were available on site to use for lunch.

29. On or about September 4, 2014, the Program sent UMP C a Letter of Termination, terminating UMP C effective immediately.

30. According to the Letter of Termination, UMP C’s continued unprofessional behavior was viewed as impacting resident morale and was considered detrimental to resident training.

31. Following the Letter of Termination, UMP C requested a grievance hearing under the Program’s appeal process.

32. On or about November 24, 2014, following the grievance hearing, the Program sent UMP C a letter reinstating her in the Program.

33. The Respondent never reported UMP C’s termination to the Board.

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 10 days that effective August 31, 2016, it terminated UMP A, a resident in its Family Medicine Resident Training Program.

The Respondent failed to report to the Board within 10 days that on August 12, 2016, it terminated UMP B, a resident in its Family Medicine Resident Training Program.

The Respondent failed to report to the Board within 10 days that on September

4, 2014, it terminated UMP C, a resident in its Oral Maxillofacial Surgery Resident Training Program.

The Respondent terminated UMP A, B, and C at least in part for reasons that might be grounds for disciplinary action under Health Occ. II § 14-404, specifically, § 14-404(a)(3)(ii) (“Unprofessional conduct in the practice of medicine”).

The Respondent’s failure to timely report UMP A, B, & C’s termination to the Board, as described above, constitutes violations of Health Occ. II §14-413(a)(2)(i).⁴

ORDER

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

ORDERED that the Respondent shall pay to the Board a civil penalty of \$2000 (two thousand dollars) for each case number referenced above, for a total of \$6000 (six thousand dollars), due within 30 (thirty) days of the effective date of this Consent Order; and it is further

ORDERED that this Consent Order shall be a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., General Provisions, § 4-101 through 4-601 (2014).

⁴ The Maryland Medical Practice Act no longer requires such reporting for individuals in postgraduate medical training programs.

02/01/2018

Date

Christine A. Farrelly

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

CONSENT

I, Michael Jablonov [Agent for the Respondent], acknowledge that the Respondent has had the opportunity to consult with counsel at this and all stages of this matter. I understand that this Consent Order will resolve the Notice issued against Respondent in the above referenced cases. By this Consent and for the sole purpose of resolving the issues raised by the Board, the Respondent agrees and accepts to be bound by the foregoing Consent Order. Respondent acknowledges that the Findings of Fact and the Conclusions of Law contained in this Consent Order will be treated as proven as if entered into 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 its own behalf, and to all other substantive and procedural protections provided by the law. The Respondent agrees to forego its opportunity to challenge these Findings of Fact and Conclusions of Law. Respondent acknowledges the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. The Respondent affirms that it waives its right to any appeal in this matter. The Respondent affirms that it has asked and received satisfactory answers to its questions regarding the language, meaning, and terms of this Consent Order. On behalf of the Respondent, I sign this Consent Order, voluntarily and without reservation, and I fully understand and comprehend the language, meaning, and terms of this Consent Order.

January 29, 2018

Date

Michael Jablonove

Agent for the Respondent (printed name)

Michael Jablonove SVP/CMO

Agent for the Respondent (signature)

NOTARY

STATE OF Maryland

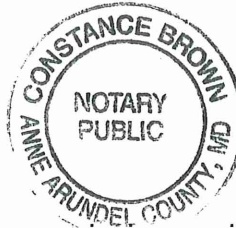
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 29th day of January, 2018,
before me, a Notary Public of the foregoing State and City/County personally appeared
Michael Jablonove [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 notary seal.

Constance Brown

Notary Public



CONSTANCE BROWN
Notary Public, State of Maryland
My Commission Expires 08/29/2018

My commission expires: 8/29/2018