

IN THE MATTER OF	*	BEFORE THE MARYLAND
BONITA LOUISE NACE	*	STATE BOARD OF
Polysomnographic Technologist	*	PHYSICIANS
Respondent	*	Case Number: 2218-0078B
License Number: Z00492	*	

* * * * *

FINAL ORDER OF REVOCATION OF POLYSOMNOGRAPHY LICENSE

On April 9, 2018, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") notified Bonita Louise Nace, Polysomnographic Technologist (the "Respondent"), License Number Z00492, of its intent to revoke the Respondent's license to practice polysomnography in the State of Maryland. The Notice informed the Respondent that unless she requested a hearing in writing within 30 days of the date of mailing of the Notice, Panel B intended to sign this Final Order, which was enclosed. More than 30 days has elapsed and the Respondent failed to request a hearing. Therefore, Panel B hereby revokes Respondent's license to practice polysomnography.

The basis for Panel B's action was pursuant to the Maryland Polysomnography Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-5C-01 *et seq.* (2014 Repl. Vol. and 2017 Supp.), and Code of Maryland Regulations ("COMAR") 10.32.02.14(A).

The pertinent provisions of Health Occ. provide:

Health Occ. § 14-5C-17. Denial, reprimands, suspensions, and revocations — In general.

- (a) In general—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:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant, licensee, or for another;
- (3) Is guilty of unprofessional or immoral conduct in the practice of polysomnography;
- (10) Willfully makes or files a false report or record in the practice of polysomnography;
- (29) Fails to submit to a criminal history records check under § 14-308.1 of this title.

Health Occ. § 14-308.1 Criminal history records check through Central Repository.

- (a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.
- (b) Application required. -- An applicant, a licensee, or a certificate holder shall apply to the Central Repository for a State and national criminal history records check.
- (c) Required submissions. -- As part of the application required under subsection (b) of this section, an individual shall submit to the Central Repository:
 - (1) Two complete sets of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;
 - (2) The fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and
 - (3) The mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

INVESTIGATIVE FINDINGS

Based on information received by, and made known to Panel B, and the investigatory information obtained by, received by and made known to and available to Panel B and the Office of the Attorney General, including the instances described below, Panel B has reason to believe that the following facts are true:¹

1. At all times relevant hereto, the Respondent was and is licensed to practice polysomnography in the State of Maryland. The Respondent was initially licensed to practice as a polysomnographic technologist in Maryland on August 25, 2015, under License Number Z00492. The Respondent's license is active through May 30, 2019.
2. On or about May 29, 2017, the Respondent initiated the process of applying for renewal of her polysomnography license for the 2017 renewal period 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.
3. The Respondent submitted her online application (the "Application") and required renewal fee on or about May 30, 2017. The Application states, "Failure to submit to a [CHRC] may result in disciplinary action." When submitting her online Application, the Respondent checked a box attesting that she had completed her CHRC.

¹ The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the allegations. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

4. By email dated July 21, 2017, Board staff informed the Respondent that the Board had not received the CHRC she had attested to completing prior to filing the renewal application. Board staff further informed the Respondent that she had ten business days to submit the CHRC. The Board did not receive a response from the Respondent.

5. By letter dated September 18, 2017, Board staff informed the Respondent that the Board had initiated a preliminary investigation of this matter and required her to submit documentation to support that she had obtained the CHRC no later than ten business days after receipt of the letter. The Board did not receive a response from the Respondent.

6. Panel B's investigation determined that the Respondent failed to submit her fingerprints to CJIS in compliance with the CHRC process, as set forth in Health Occ. § 14-308.1, and misrepresented to the Board in her Application that she completed the CHRC.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel B concludes as a matter of law that the Respondent violated Md. Code Ann., Health Occ. § 14-5C-17(a)(1), (3), (10), and (29) (2014 Repl. Vol. & 2017 Supp.).

ORDER

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

ORDERED that the license of Bonita Louise Angelo Nace, Polysomnographic Technologist, is **REVOKED for ONE (1) YEAR**; and it is further

ORDERED that this is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014 & 2017 Supp.).

May 10, 2018
Date

Christine A. Farrelly
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 Decision and Order. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Final Decision and Order. The cover letter accompanying this Final Decision and 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, 4th Floor
Baltimore, Maryland 21215

Notice of any petition should also be sent to the Board's counsel at the following address:

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