

IN THE MATTER OF	*	BEFORE THE
VICKEY K. MANNING, PA-C	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: C01603	*	Case Numbers: 2015-0890B

\* \* \* \* \*

CONSENT ORDER

On September 21, 2016, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board"), charged **VICKEY K. MANNING, PA-C** (the "Respondent"), under the Maryland Physician Assistant Act (the "Act"), Md. Code Ann., Health Occ. ("H.O.") §§ 15-101 *et seq.* The pertinent provisions of the Act provide the following:

§ 15-314. Reprimand, probation, suspension, revocations.

(a) Subject to the hearing provisions of § 15-315 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum, may reprimand any physician assistant, place any physician assistant on probation, or suspend or revoke a license if the physician assistant:

(3) Is guilty of:

(ii) Unprofessional conduct in the practice of medicine; [and]

(42) Performs delegated medical acts without the supervision of a physician[.]

On December 21, 2016, a conference with regard to this matter was held before Panel B of the Board's Disciplinary Committee for Case Resolution ("DCCR"). As a result of the DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

I. **BACKGROUND**

1. At all relevant times, the Respondent was and is a physician assistant licensed in the State of Maryland. She was initially licensed in Maryland on June 30, 1994. Her Maryland license is current and is scheduled to expire on June 30, 2017.
2. At all times relevant, the Respondent was employed as a physician assistant at Practice A.

**Self-Prescribing Allegations**

3. On or about July 7, 2015, the Board received the Respondent's Physician Assistant License Renewal Application ("renewal application") on which the Respondent answered "yes" to the question, "Has your employment by any health care employer been affected by disciplinary actions including probation, suspension, loss or limitation of privileges, reprimand, transfers to other duties or termination of employment or contract?" On her application, the Respondent stated "personality conflict" as the explanation.
4. Thereafter, the Board initiated an investigation.
5. On or about June 26, 2015, the Board requested that the Respondent provide a detailed explanation for the "yes" answer on her renewal application. The Board received the Respondent's explanation on or about July 7, 2015.
6. According to the Respondent, on August 8, 2014 she was suspended and later terminated from her employment at Practice A for self-prescribing controlled dangerous substances ("CDS"). The Respondent explained that she was "re-filling" two to three non-CDS medications that were in her electronic medical record ("EMR") profile when she inadvertently renewed a schedule IV CDS. She further explained that when she

realized her error, she asked a medical assistant<sup>1</sup> to destroy the prescription and made a note in her EMR indicating her mistake. The Respondent stated that on the following day she was approached by Practice A administration and suspended pending the outcome of an investigation. Ultimately, Practice A terminated the Respondent's employment.

7. On or about December 7, 2015, a member of the Board's staff interviewed the Respondent under oath. A member of the Board's staff conducted a follow-up interview of the Respondent on July 6, 2016.

8. During her investigative interview with Board staff, the Respondent stated that she refilled the prescription by mistake and immediately realized that "you can't write that for yourself." The Respondent stated that she made a note in her medical record documenting her mistake.

9. The Respondent further stated that she did not self-prescribe, but rather, she refilled existing medications that had been previously prescribed by her treating physicians. The Respondent denied that she refilled CDS prescriptions but admitted that she would "sometimes" make a note in her medical record.

10. The Respondent further stated that she never retrieved the printed schedule IV CDS prescription and therefore never filled it.

11. A review of the schedule IV CDS prescription revealed that the Respondent is listed as the prescriber. The Respondent stated that Physician A originally prescribed

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<sup>1</sup> The Respondent could not recall the medical assistant's name, but the medical assistant was later identified by a staff member at Practice A.

the schedule IV CDS to her on one occasion, prior to a surgical procedure in January 2014.<sup>2</sup>

12. In furtherance of the Board's investigation, the Board issued a subpoena *duces tecum* for the Respondent's medical record from Physician A. A review of the Respondent's medical record revealed that Physician A documented that on December 18, 2013, he gave the Respondent a prescription for schedule IV CDS, as well as other medications related to her surgery.

13. On or about March 4, 2016, a member of the Board's staff interviewed Witness A, the human resources director for Practice A. Witness A provided the name of the medical assistant who was working with the Respondent on August 7, 2014. The medical assistant denied that the Respondent or anyone else asked her to destroy the schedule IV CDS prescription. The medical assistant found the schedule IV CDS prescription on August 8, 2014 and brought it to her manager's attention.

14. Witness A further stated that the Respondent could have asked any of the providers at Practice A to examine her and prescribe the necessary medications.

15. The Board also issued a subpoena *duces tecum* to Practice B, where the Respondent received primary care services, for her medical record and a list of any and all medications prescribed to the Respondent.

16. A review of Patient A's medical record from Practice B did not reveal any note or addendum documenting the Respondent's allegedly erroneous prescription for the schedule IV CDS on August 7, 2014.

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<sup>2</sup> Based on pharmacy records, it appears that Physician A prescribed the schedule IV CDS with one refill, which the Respondent used on March 30, 2014.

17. A review of the Respondent's prescriptions from three different pharmacies revealed that from approximately August 2011 until August 7, 2014, the Respondent regularly self-prescribed medications.

18. According to the Respondent, when she ran out of refills for chronic medications, if she was unable to reach the original prescribing physician, she called in new prescriptions for those medications. When the Respondent called in new prescriptions for her chronic medications, the Respondent's name, rather than the original prescriber's name, appeared as the prescriber.

19. A review of the Respondent's prescriptions revealed that the Respondent self-prescribed myriad medications on a monthly basis. For each drug, the Respondent was listed as the prescriber.

20. The Respondent self-prescribed a medication (the "Medication")<sup>3</sup> on August 3, 2011 (with three refills), June 19, 2012 (with four refills), June 7, 2013 (with three refills), March 10, 2014 and on August 7, 2014. All of the prescriptions were for 60 tablets, except for the August 7, 2014 prescription which was for 90 tablets. In total, the Respondent's pharmacy records revealed 15 prescriptions of the Medication in a three-year period.

21. During the Respondent's interview with Board staff, the Respondent stated that she gets the Medication "twice a year."

22. The Respondent stated that she changed the prescription of the Medication from 60 to 90 tablets, but did not do so under the direction of a physician. The Respondent

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<sup>3</sup> At the time, the Medication was unscheduled, but was a known drug of abuse. The Drug Enforcement Administration classified the Medication as a schedule IV CDS, effective August 18, 2014.

further stated that she did not make a note in her medication record documenting the change in her prescription.

23. The Respondent stated that her delegating physician, Physician B, was aware of that she filled her own prescriptions when she ran out of re-fills.

24. On or about June 20, 2016, a member of the Board's staff spoke to Physician B regarding the Respondent's termination. Physician B stated that he was not aware that the Respondent was self-prescribing until she was terminated from Practice A. Physician B further stated that self-prescribing (even non-CDS medications) is strictly prohibited at Practice A and that the Respondent could have asked another provider to renew her medication.

25. Physician B stated that the Respondent did not have his permission to self-prescribe medications.

26. Physician B further stated that he had previously treated the Respondent for urgent care issues and prescribed medications to her.

### **Delegation Agreement Allegations**

27. In furtherance of the Board's investigation, the Board issued a subpoena *duces tecum* for the Respondent's personnel file at Practice A, which did not contain a copy of the Respondent's Delegation Agreement.

28. The Respondent stated that Physician C was her delegating physician at the time of her hire, until he retired in July 2012.<sup>4</sup> Physician B then became her delegating

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<sup>4</sup> On or about March 2, 2016, the Board issued an advisory letter to Physician B for failing to terminate the Delegation Agreement with the Respondent.

physician. However, the Respondent did not submit a new Delegation Agreement to the Board listing Physician B as her new delegating physician.<sup>5</sup>

29. The Respondent practiced medicine without an approved Delegation Agreement from July 2012 until August 8, 2014.

30. The Respondent's conduct, as set forth above, constitutes a violation of H.O. §§ 15-314(a)(3)(ii) and (42).

### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel B concludes as a matter of law that the Respondent violated H.O. §§ 15-314(a)(3)(ii) (Unprofessional conduct in the practice of medicine) and (42) (Performing delegated medical acts without the supervision of a physician). Panel B dismisses the charge under H.O. § 15-314(a)(2) (Fraudulently or deceptively uses a license).

### ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel B, hereby:

**ORDERED** that the Respondent's license is **SUSPENDED** for a period of **THIRTY (30) DAYS**; and it is further

**ORDERED** that Panel B will administratively terminate the suspension at the end of the 30 day suspension period. The administrative termination of suspension will be issued through an order of the Board or Board panel; and it is further

**ORDERED** that upon the termination of the 30 day suspension, the Respondent will be placed on **PROBATION** for a minimum period of **TWO (2) YEARS**.<sup>6</sup> During the

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<sup>5</sup> On or about March 2, 2016, the Board issued an advisory letter to Physician C for serving as the Respondent's supervising physician without a Board-approved Delegation Agreement.

probationary period, the Respondent shall comply with all of the following probationary terms and conditions:

1. Within six (6) months, the Respondent shall successfully complete a Board disciplinary panel-approved course in ethics, with emphasis on self-prescribing;

2. The Board disciplinary panel will not accept a course taken over the Internet. The course may not be used to fulfill the continuing medical education credits required for license renewal. The Respondent must provide documentation to the Board that the Respondent has successfully completed the course;

3. The Respondent shall provide a copy of this Consent Order to her delegating physician within five (5) business days of commencing any employment. The Respondent shall ensure that her delegating physician send confirmation of his/her receipt of the Consent Order to the Board; and it is further

**ORDERED** that if the Board or Panel B determines, after notice and an opportunity for a hearing before an Administrative Law Judge of the Office of Administrative Hearings if there is a genuine dispute as to a material fact or a show cause hearing before the Board or Panel B if there is no genuine dispute as to a material fact, that the Respondent has failed to comply with any term or condition of probation or this Consent Order, the Board or Panel B may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice medicine in Maryland. The Board or Panel B may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine upon the Respondent; and it is further

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<sup>6</sup> If the Respondent's license expires while the Respondent is on probation, the probationary period and any probationary conditions will be tolled.



**ORDERED** that, after a minimum period of **two (2) years**, the Respondent may submit a written petition to Panel B requesting termination of probation. After consideration of the petition, the probation may be terminated through an order of the Board or Panel B. The Respondent may be required to appear before the Board or Panel B to discuss her petition for termination. The Board or Panel B will grant the petition to terminate the probation if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions and there are no pending complaints related to the charges; and it is further

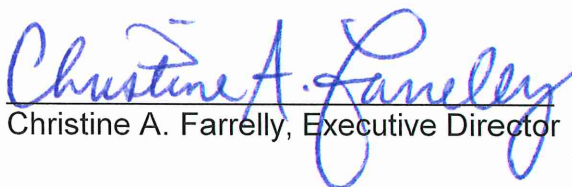
**ORDERED** that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

**ORDERED** that, unless stated otherwise in the order, any time period prescribed in this order begins when the Consent Order goes into effect. The Consent Order goes into effect upon the signature of the Board's Executive Director, who signs on behalf of Panel B; and it is further

**ORDERED** that this Consent Order is a public document pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.*

01/24/2017

Date

  
Christine A. Farrelly, Executive Director

**CONSENT**

I, Vickey K. Manning, PA-C, acknowledge that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for the sole purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into 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 own behalf, and to all other substantive and procedural protections provided by law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of a disciplinary panel of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of a disciplinary panel of the Board that I might have filed after any such hearing.

I sign this Consent Order after having an opportunity to consult with counsel, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of the Consent Order.

1/18/17  
Date

Vickey K. Manning  
Vickey K. Manning, PA-C.

Read and approved by:

W Wilder  
Whitney Wilder, Esq.  
Attorney for Ms. Manning

NOTARY

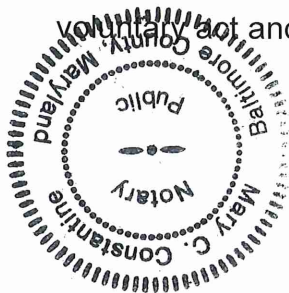
STATE OF MARYLAND  
CITY/COUNTY OF Baltimore :

I HEREBY CERTIFY that on this 18<sup>th</sup> day of January, 2017 before me, a Notary Public of the foregoing State personally appeared Vickey K. Manning, PA-C, and made oath in due form of law that signing the foregoing Consent Order was her

and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Mary C. Constantine  
Notary Public



My Commission Expires: 2/11/20