

IN THE MATTER OF

OLUBAYO OLUDARA-FADARE, M.D.

Respondent

License Number: D70459

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BEFORE THE

MARYLAND STATE

BOARD OF PHYSICIANS

Case Number: 2016-0017B

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### CONSENT ORDER

#### PROCEDURAL BACKGROUND

On December 16, 2015, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") voted to charge **OLUBAYO OLUDARA-FADARE, M.D.** (the "Respondent"), License Number D70459, with violating the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 14-101 *et seq.* (2014 Repl. Vol.); and Md. Code Regs. ("COMAR") 10.32.03.01 *et seq.*

Specifically, Panel B voted to charge the Respondent with violating the following provisions of the Act and COMAR:

#### **Health Occ. II § 14-404. Denials, reprimands, probations, suspensions, and revocations -- Grounds.**

(a) *In general.* -- Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspended or revoke a license if the licensee:

(3) Is guilty of:

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

(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine[.]

**Health Occ. II § 15-301. Scope of practice; required certification; practice without certificate.**

(a) *In general.* -- A physician may delegate medical acts to a physician assistant only after:

(1) A delegation agreement has been executed and filed with the Board[.]

**Health Occ. II § 15-402.1. Employment or supervision of unlicensed physician assistant.**

(a) *Prohibition -- Licensed physician.* -- Except as otherwise provided in this subtitle, a licensed physician may not employ or supervise an individual practicing as a physician assistant who does not have a license.

**COMAR 10.32.03**

**.05**

A. Before a physician may delegate medical acts and before a physician assistant may perform medical acts, the physician assistant and primary supervising physician shall file with the Board:

(1) A delegation agreement on the Board-approved form[.]

**.07**

A. A primary supervising physician shall:

(1) File a delegation agreement with the Board, as required under Regulations .05 and .06 of this chapter[.]

**.11**

C. Unprofessional conduct in the practice of medicine, Health Occupations Article, § 14-404(a)(3), Annotated Code of Maryland, includes the failure of a physician to comply with the statute and regulations governing the physician's duty to supervise the physician assistant.

Prior to the issuance of charges, the Respondent agreed to enter into this public Consent Order consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

### **FINDINGS OF FACT**

Panel B of the Board makes the following Findings of Fact:

#### **BACKGROUND**

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on or about March 16, 2010, under License Number D70459. The Respondent's license is active and current through September 30, 2017.

2. The Respondent is board-certified in family medicine and at all times relevant hereto, owned and operated a medical office located in Greenbelt, Maryland the ("Practice").

3. At all times relevant hereto, the Respondent was the supervising physician for a physician assistant (the "PA").<sup>1</sup> The Respondent hired the PA in or around December 2012, who thereafter began working as a physician assistant in the Practice.

4. On or about June 15, 2015, the Respondent and the PA submitted a Delegation Agreement to the Board. The Delegation Agreement identified the Respondent as the PA's supervising physician. The Board notified the PA on July 1, 2015, that it received the Delegation Agreement. Prior to on or about June 15, 2015,

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<sup>1</sup> For confidentiality reasons, the name of the PA, the Patient, and all other individuals referenced herein, other than the Respondent, are not identified by name in this document. The Respondent is aware of the identity of all individuals referenced herein.

the Board had no record of any delegation agreement filed by the Respondent or the PA.

## **THE COMPLAINT**

5. On or about April 6, 2015, the Board received a complaint from a patient (the "Patient") who stated that on April 3, 2014, she presented to the Practice for an office visit, whereupon she observed the PA take a patient back for treatment. The Patient went online to the Board's website and found that the PA's license had expired in 2013. The Patient then questioned the PA, who stated that he was in the process of renewing his Maryland physician assistant's license. The Patient left the Practice without being treated.

## **BOARD INVESTIGATIVE FINDINGS**

6. As a result of this complaint, the Board initiated an investigation into the PA's licensure status and his activities at the Practice. The Board's investigation determined that the PA initially obtained a license to practice as a physician assistant in Maryland on May 27, 2010, and retained continuous licensure until June 30, 2013, when his license expired. The PA did not renew his license at that time.

7. The Board's investigation determined that although the PA's license expired on June 30, 2013, he continued to practice as a physician assistant, represented himself as a physician assistant to patients and provided medical care to patients at the Practice. The PA applied for reinstatement of his license in or around January 2015, and the Board granted his reinstatement, effective April 7, 2015.

8. Pursuant to the Board's investigation, Board staff requested that the Respondent provide the Delegation Agreement he purportedly filed with the Board in



December 2012 for the PA. The Respondent was unable to produce a copy of the Delegation Agreement and admitted that he did not receive a confirmation email from the Board that it received the Delegation Agreement.

9. The Board's investigation determined that it had no record of the Delegation Agreement on file or that the Respondent submitted the Delegation Agreement to the Board for approval.

10. The Board's investigation determined that beginning in or around December 2012, and continuing onward until July 1, 2015, the Respondent delegated medical acts to the PA without a Board-approved Delegation Agreement.

11. The Board's investigation also determined that from on or about July 1, 2013, until on or about April 7, 2015, the Respondent permitted the PA, who was then not licensed to practice as a physician assistant, to practice as a physician assistant, represent himself as a physician assistant, and provide medical care to patients at the Practice.

12. Board investigators interviewed the Respondent on November 2, 2015. The Respondent stated that he was unaware that the PA's license had lapsed during the period July 1, 2013, through the first quarter of 2015. The Respondent stated that once he became aware that the PA's license had lapsed, he took immediate steps to rectify the situation.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, Panel B concludes as a matter of law that the Respondent's actions, as set forth above, violated the following provisions of the Act and COMAR: Health Occ. II § 14-404(a)(3), Is guilty of: (ii) Unprofessional

conduct in the practice of medicine; Health Occ. II § 14-404(a)(18), Practicing medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine; and COMAR 10.32.03.01 *et seq.*

### **ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by a majority of the quorum of Panel B considering this case:

**ORDERED** that the Respondent is hereby **REPRIMANDED**; and it is further

**ORDERED** that within **SIX (6) MONTHS** of the date Panel B executes this Consent Order, the Respondent shall pay a monetary fine in the amount of **FIVE THOUSAND DOLLARS (\$5,000.00)** by bank certified check or money order, made payable to the Maryland Board of Physicians, P.O. Box 37217, Baltimore, Maryland 21297; and it is further

**ORDERED** that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions §§ 4-101 *et seq.* (2014).

01/19/2016  
Date

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


### **CONSENT**

I, Olubayo Oludara-Fadare, M.D., acknowledge that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

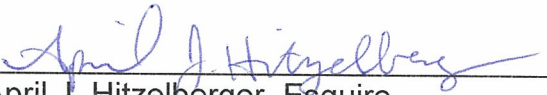
I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of Disciplinary Panel B 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 Disciplinary Panel A of the Board that might have followed after any such hearing.

I sign this Consent Order, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

1/12/16  
Date

  
Olubayo Oludara-Fadare, M.D.  
Respondent

Read and approved:

  
April J. Hitzelberger, Esquire  
Counsel for Dr. Oludara-Fadare

**NOTARY**

**STATE OF MARYLAND**

**CITY/COUNTY OF** Hartford

**I HEREBY CERTIFY** that on this 12th day of January,  
2016, before me, a Notary Public of the foregoing State and City/County personally  
appear Olubayo Oludara-Fadare, M.D. and made oath in due form of law that signing  
the foregoing Consent Order was his voluntary act and deed.

**AS WITNESSETH** my hand and notary seal.

Virginia M. Bui  
Notary Public

My commission expires: 12/31/17