

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

**GEORGIA COMPOSITE MEDICAL  
BOARD,**

**Petitioner,**

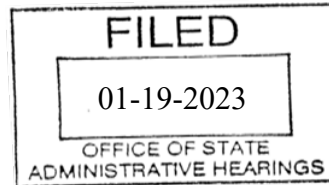
v.

**SHANNON CALHOUN, D.O.,  
Respondent.**

**Docket No.: 2305234**

**2305234-OSAH-GCMB-PHY-222-Barnes**

**Agency Reference No.: 60564**



**INITIAL DECISION**

**I. Introduction**

Petitioner, the Georgia Composite Medical Board (“Board”) brought this action seeking the imposition of sanctions against Respondent’s license to practice medicine in Georgia. The evidentiary hearing took place on December 2, 2022, before the undersigned administrative law judge. The Board was represented by Sandra Bailey, Esq., Assistant Attorney General. Respondent represented himself. After careful consideration of the evidence and the arguments of the parties, and for the reasons stated below, the Board’s decision to sanction Respondent’s license is **DENIED.**

**II. Findings of Fact**

1.

Respondent is licensed to practice medicine in the state of Georgia and was licensed as such at all times relevant to the matters stated herein. Respondent’s specialty is radiology. (Statement of Matters Asserted; Testimony of Respondent).

2.

On January 9, 2019, Respondent voluntarily entered a 90-day residential treatment program for alcohol use disorder. He was discharged on April 10, 2019, with a classification of “treatment complete,” meaning that he had completed all treatment goals set forth by his treatment team and was released to go back to work. (Testimony of Respondent; Exhibit P-10).

3.

A physician is required to report to the Board within 30 days of becoming unable to practice medicine because of alcohol use, unless the physician has reported to the Physician Health Program (PHP)<sup>1</sup> during the same time period. Ga. Comp. R. & Regs. 360-3-.02(20). Daniel Dorsey, who serves as the executive director of the Georgia Composite Medical Board, as well as its custodian of records, testified that the Board did not receive notice from Respondent within 30 days of him exiting treatment,<sup>2</sup> nor did he enroll in the Georgia PHP program within that timeframe. (Testimony of Daniel Dorsey).

4.

On September 3, 2019, the Board was notified by the Georgia PHP program that Respondent had enrolled. (Testimony of Daniel Dorsey; Exhibit P-11).

5.

In addition to Georgia, Respondent is licensed in forty-five other states, including Colorado. On September 9, 2021, the Colorado Medical Board entered an order placing

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<sup>1</sup> The Georgia Physician Health Program (PHP) is an organization that serves licensed physicians in Georgia who are struggling with a substance use issue or other impairment. Those who enroll in the program, which is voluntary, receive assistance in finding treatment options, and submit to regular monitoring to ensure compliance. It is meant to encourage physicians to seek treatment for health issues which may affect their ability to practice. (Testimony of Daniel Dorsey).

<sup>2</sup> The Board maintained that it would not have penalized Respondent for failing to report his alcohol use issue within 30 days of *entering* treatment, given that the residential treatment program entailed extremely limited contact with the outside world.

Respondent on probation for a five-year period, citing both “[h]abitual or excessive use or abuse of alcohol, a habit-forming drug, or a controlled substance,” as well as “[f]ailing to notify the board . . . of a physical illness, physical condition, or substance use disorder that impacts the licensee’s ability to perform a medical service with reasonable skill and safety to patients.” The terms of the probationary period included abstinence from addictive substances and treatment monitoring through the Colorado Physician Health Program, which would include random drug and alcohol testing approximately eight times per month. As of November 17, 2022, the status of Respondent’s Colorado license is “Active – With Conditions.” (Exhibits P-3, P-4; Testimony of Daniel Dorsey; Testimony of Respondent).

6.

Respondent is also licensed in Wisconsin. On March 16, 2022, the Wisconsin Medical Examining Board entered an order which suspended Respondent’s license, and simultaneously stayed that suspension as long as Respondent complied with the terms of the Colorado Board’s order, with the Wisconsin Board retaining the right to lift the stay of suspension if Respondent violated the Colorado order. The Wisconsin Board’s action was based entirely on the Colorado Board’s decision. The status of Respondent’s Wisconsin license is active. (Exhibits P-5, P-6; Testimony of Daniel Dorsey).

7.

Respondent is also licensed in Virginia. On April 15, 2022, the Virginia Board of Medicine entered an order suspending Respondent’s medical license indefinitely in response to the order in Wisconsin. Respondent may petition for reinstatement pursuant to Virginia Code § 54.1-2409. As of September 6, 2022, the status of Respondent’s Virginia license is suspended. (Exhibits P-7, P-8; Testimony of Daniel Dorsey).

8.

After receiving notice of the disciplinary action taken against Respondent in Virginia, the Board sent him a letter on or about April 28, 2022, informing him that it had commenced an investigation into the matter and requesting a written response. Respondent responded to the letter via email on May 9, 2022. (Exhibits P-9, P-10; Testimony of Daniel Dorsey).

9.

On or about September 7, 2022, the Board filed a Statement of Matters Asserted moving for disciplinary action against Respondent's license. Specifically, the Board seeks a \$5,000 fine and a 90-day suspension. (OSAH Form 1).

10.

Respondent testified that shortly after he left treatment, he sent a letter explaining his treatment for alcohol use disorder to the company that handles his licensing, Real Radiology, with instructions to send the letter to all of the states in which he is licensed. The letter, dated April 26, 2019, was addressed "[t]o whom it may concern," and did not specifically refer to any particular state medical board. (Exhibit J-12; Testimony of Respondent).

11.

The Board never received this letter from Respondent.<sup>3</sup> Mr. Dorsey testified that it would have been in the normal course of the Board's business to put such a letter in a physician's file upon receipt. Respondent conceded that he did not recall following up with his contact at Real

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<sup>3</sup> The Board confirmed that the letter, had it been received within the 30-day timeframe, would have satisfied the reporting requirement.

Radiology to confirm that the letter had been sent to each state's medical board. (Testimony of Daniel Dorsey; Testimony of Respondent).

12.

Respondent emailed a copy of the letter to the Board on October 28, 2022, explaining in the email that he had not been able find the correspondence showing that he had specifically requested that the letter be sent out to the state medical boards, and adding that the individual who handled his Georgia licensing issues no longer works at Real Radiology. (Exhibit J-12; Testimony of Respondent).

13.

Respondent testified that he never tried to hide anything regarding his treatment from the Georgia Board, or from the board of any other state. He had a problem that had not at that point interfered with his work in any way, and he actively sought treatment for it before it had the opportunity to negatively impact his work. He added that he voluntarily enrolled in each state's PHP program, which entailed significant time and expense. As for why he did not enroll in the Georgia PHP program until September 2019, Respondent explained that he could not start this process until after he resumed work so that he could afford the expenses involved with enrollment. (Testimony of Respondent).

14.

Respondent explained that he is now classified as in the "management stage" of his recovery because he has been 100% compliant with his treatment goals. He was released by his therapist in 2020. He added that since he left residential treatment in April 2019 he has not received any complaints from the public about his practice. (Testimony of Respondent).

15.

Additionally, Respondent pointed out that the Board was not initially aware that he had enrolled in the Georgia PHP program when it began its investigation, because, although the letter from the program confirming his enrollment was on file, the Board did not discover it until later on in the investigative process. Upon being asked whether the Board would have proceeded with its investigation had it known that Respondent was enrolled in Georgia PHP from the outset, Mr. Dorsey said the Board's actions "very well could have been different." (Testimony of Respondent; Testimony of Daniel Dorsey).

### **III. Conclusions of Law**

1.

Because this matter concerns the Board's proposed imposition of sanctions on Respondent's license to practice medicine, the Board bears the burden of proof. Ga. Comp. R. & Regs. 616-1-2-.07(1). The standard of proof is preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).

2.

Pursuant to O.C.G.A. § 43-34-8(a), the Board has the authority to revoke the license of a licensee or to discipline a licensee upon a finding by the Board that the licensee has:

(5) Had his or her license, certificate, or permit to practice pursuant to this chapter revoked, suspended, or annulled by any lawful licensing authority; had other disciplinary action taken against him or her by any lawful licensing authority; or been denied a license by any lawful licensing authority;

(7) Engaged in any unprofessional, immoral, unethical, deceptive, or deleterious conduct or practice harmful to the public, which need not have resulted in actual injury to any person. As used in this paragraph, the term "unprofessional conduct" shall include any departure from, or failure to conform to, the minimum standards of acceptable and prevailing medical practice and shall also include, but not be limited to, the prescribing or use of drugs, treatment, or diagnostic procedures which are detrimental to the patient as determined by the minimum standards of

acceptable and prevailing medical practice or by rule of the board;

(10) Violated or attempted to violate a law, rule, or regulation of this state, any other state, the board, the United States, or any other lawful authority without regard to whether the violation is criminally punishable, when such law, rule, or regulation relates to or in part regulates the practice of medicine, when the licensee or applicant knows or should know that such action violates such law, rule or regulation; or violated a lawful order of the board previously entered by the board in a disciplinary hearing;

(13)(A) Become unable to practice pursuant to this chapter with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical condition.

3.

Pursuant to Ga. Comp. R. & Regs. 360-3-.02(20), failing to report to the Board within 30 days of being unable to practice medicine due to a substance use issue, unless the physician has reported to the Physician Health Program within the same timeframe, constitute unprofessional conduct.

4.

If the Board finds cause for discipline, it is authorized to “deny, revoke, suspend, fine, reprimand or otherwise limit the license of a physician . . . for all the grounds set forth in O.C.G.A. § 43-34-8.” Ga. Comp. R. & Regs. 360-3-.01; see also O.C.G.A. § 43-34-8(b)(1). Any fine may not exceed \$3,000.00 for each violation of a law, rule, or regulation. O.C.G.A. § 43-34-8(b)(1)(G).

5.

The Board has proven the allegations contained in the Matters Asserted by a preponderance of the evidence: Respondent failed to notify the Board within 30 days of his alcohol use disorder. He has also been disciplined by other state boards, which, pursuant to O.C.G.A. § 43-34-8(a), gives the Board the authority to impose similar discipline.


6.

However, the Court finds that sanctions against Respondent would be inappropriate here. Respondent presented sufficient evidence to show that he made a good-faith effort to comply with Georgia's 30-day reporting requirement, and that the failure to notify the Board was a clerical error, rather than a deliberate concealment. And Respondent's choice to enroll in every state PHP program that he could further demonstrates that he intended to be forthright about his substance use issue. Finally, Respondent complied with all of his treatment goals since entering residential treatment four years ago, has not had any complaints from the public during this time period, and remains enrolled in the Georgia PHP program. Given the circumstances, the Court finds that disciplining Respondent is unwarranted in this instance.

#### IV. Decision

In accordance with the foregoing Findings of Fact and Conclusions of Law, the Board's decision to sanction Petitioner's medical license is **DENIED**.

**SO ORDERED**, this 19<sup>th</sup> day of January, 2023.

  
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**Shakara M. Barnes**  
**Administrative Law Judge**

