

**IN THE MATTER OF**  
**JOSEPH R. EPSTEIN, A.T.**  
  
**Respondent.**

**\* BEFORE THE MARYLAND**  
**\* STATE BOARD OF PHYSICIANS**  
  
**\* Case Number 7716-0006**

**License Number A00685**

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**ORDER AFTER SHOW CAUSE HEARING**

On July 15, 2015, Joseph Epstein, an Athletic Trainer (“A.T.”) licensed by the Maryland State Board of Physicians (the “Board”) since September 30, 2014, entered into a Consent Order with Disciplinary Panel B of the Board (“Panel B”) wherein he agreed to remain in the Maryland Professional Rehabilitation Program (“MPRP”) for the length of time recommended by the MPRP and comply with all of the MPRP’s recommendations. On October 28, 2016, following notification by the MPRP that Mr. Epstein tested positive for tramadol in contravention of his Participant Rehabilitation Agreement, Panel B issued a Violation of Consent Order and Notice to Show Cause alleging a violation of the terms and conditions of the July 15, 2015 Consent Order. On December 21, 2016, Panel B held a hearing where Mr. Epstein had the opportunity to argue why his license should not be subject to further discipline.

**FINDINGS OF FACT**

**Background**

On or about June 17, 2014, Mr. Epstein submitted an application for licensure as an Athletic Trainer to the Board. In his application, he answered “yes” to the question: “Have you ever been convicted or received probation before judgment for driving while intoxicated?” As a result of Mr. Epstein’s answer and explanation provided, the Board gave Mr. Epstein the opportunity to enter into a non-public Disposition Agreement with the Board as a condition of licensure. Mr. Epstein signed the Disposition Agreement with the Board on September 23, 2014

and was licensed on September 30, 2014. The Disposition Agreement required Mr. Epstein to enroll in the MPRP within ten (10) business days, enter into a Board-monitored Participant Rehabilitation Agreement, and to comply with the Participant Rehabilitation Agreement and fulfill all conditions of the Participant Rehabilitation Agreement. The Agreement also provided that “if the Applicant fails to comply with any term or condition of this Agreement, the Board or Board panel, after notice and an opportunity to be heard, may take any action prescribed under Section 14-5D-14 of the Act.”

On April 30, 2015, Panel B charged Mr. Epstein with a violation of the September 23, 2014 Disposition Agreement. On July 15, 2015, Mr. Epstein agreed to enter into a Consent Order with Panel B to resolve the charges.

#### **July 15, 2015 Consent Order**

In the Consent Order, Panel B concluded that Mr. Epstein failed to comply with his Rehabilitation Agreement and Addendum Agreements based on a positive PEth<sup>1</sup> blood toxicology screening and Mr. Epstein’s admission that he drank alcohol four days prior to the blood test. The Panel found that Mr. Epstein’s failure to comply with his Addendum Agreement that required Mr. Epstein to “completely abstain from all mood-altering substances, including alcohol unless prescribed for legitimate medical purposes” was a violation of the September 23, 2014 Disposition Agreement. The Panel reprimanded Mr. Epstein and ordered that he shall remain in the MPRP and continue in his Board-monitored Rehabilitation Agreement for the length of time recommended by the MPRP. The Order also:

**ORDERED** that if Respondent violates any of the terms of this Consent Order, a disciplinary panel of the Board, in its discretion, after notice and an opportunity for a show cause hearing before a Board disciplinary panel, or an opportunity for

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<sup>1</sup> PEth stands for phosphatidyl ethanol which is a phospholipid that is formed only in the presence of alcohol. The PEth test is a blood test which has a detection window for the presence of alcohol up to several weeks after the consumption of alcohol.

an evidentiary hearing before an Administrative Law Judge at the Office of Administrative Hearings if there is a genuine dispute as to the underlying material facts, may impose any sanction which the Board may have imposed in this case under § 14-5D-14 of the Athletic Trainers Act, including a probationary term and conditions of probation, reprimand, suspension, revocation and/or a monetary penalty, said violation of the conditions being proved by a preponderance of the evidence[.]

The Consent Order also included the following provision: **“ORDERED** that any violation of the conditions of this Order shall constitute unprofessional conduct[.]” Mr. Epstein signed the Consent Order, agreeing and accepting to be bound by the Consent Order and all of its terms and conditions.

#### **Violation of July 15, 2015 Consent Order**

On June 15, 2016, the MPRP notified the Board that Mr. Epstein tested positive for Tramadol<sup>2</sup> on June 10, 2016. The toxicology report noted: “Positive Tramadol with no current RX and no receipt of promised old RX. Although this result cannot be used forensically to verify his history of only taking one tablet, it is unlikely that only one tablet caused this result.” In an interview with Board Staff on July 26, 2016, Mr. Epstein admitted to taking one 50 mg tablet of Tramadol in May of 2016 to help him sleep.

#### **Show Cause Hearing**

On October 28, 2016, Panel B issued a Violation of Consent Order and Notice to Show Cause, alleging a violation of the terms and conditions of the July 15, 2015 Consent Order and the Participant Rehabilitation Agreement. Specifically, Mr. Epstein was alleged to have violated a term in his MPRP Addendum Agreement that required him to “completely abstain from all mood-altering substances, including alcohol unless prescribed for legitimate medical purposes.”

On December 21, 2016, Mr. Epstein appeared with counsel at a show cause hearing before Panel B. The State was represented by Administrative Prosecutor, Janet Klein Brown.

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<sup>2</sup> Tramadol is a Schedule IV opioid (narcotic) analgesic used to relieve moderate to moderately severe pain.

Mr. Epstein admitted that he took Tramadol, which he was not prescribed at the time, in violation of the Addendum Agreement that he entered into with the MPRP and the July 15, 2015 Consent Order. Mr. Epstein informed the Panel that he moved to Florida for school and that the MPRP had transferred his monitoring to the Florida Professionals Resource Network (“PRN”) for impaired practitioners in Florida.<sup>3</sup> Mr. Epstein informed the Panel that he signed a five-year contract for continued monitoring with the Florida PRN.

### **CONCLUSIONS OF LAW**

Panel B finds that Mr. Epstein violated the terms and conditions of the July 15, 2015 Consent Order by failing to comply with his MPRP Participant Rehabilitation agreement and related Addendum agreements, which required him to “completely abstain from all mood-altering substances, including alcohol unless prescribed for legitimate medical purposes.” Pursuant to the Consent Order, upon finding that Mr. Epstein violated the Consent Order, Panel B is authorized to impose any sanction which the Board may have imposed in this case under §14-5D-14 of the Athletic Trainers Act.<sup>4</sup>

### **ORDER**

On an affirmative vote of a majority of a quorum of Disciplinary Panel B, it is hereby:

**ORDERED** that the July 15, 2015 Consent Order is terminated; and it is further

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<sup>3</sup> On November 9, 2016, the MPRP notified the Board that Mr. Epstein had been discharged from the MPRP and that Mr. Epstein would be monitored by the Florida PRN.

<sup>4</sup> The Panel also finds, pursuant to the terms of the Consent Order, that the violation of the Consent Order constitutes unprofessional conduct.

**ORDERED** that Mr. Epstein is placed on **PROBATION** for a minimum of one (1) year.<sup>5</sup> During the probationary period, Mr. Epstein shall comply with all of the following probationary terms and conditions:

1. Mr. Epstein shall continue in the Florida PRN and fully and timely cooperate and comply with all of the PRN's referrals, rules, and requirements, and shall fully participate and comply with all therapy, treatment, evaluations, and toxicology screening as directed by the PRN;
2. Mr. Epstein shall ensure that his Florida PRN compliance manager submits to the Board quarterly reports from the PRN documenting his compliance with any and all treatment evaluations and recommendations;
3. Mr. Epstein shall sign any written release/consent forms requested or required by the Board, including, but not limited to, mental health and drug or alcohol treatment records;
4. Mr. Epstein shall comply with the Maryland Athletic Trainers Act and all laws, statutes, and regulations pertaining to practice as an athletic trainer; and it is further

**ORDERED** that any violation or noncompliance reported by the Florida PRN will constitute a violation of this Order; and it is further

**ORDERED** that, after a minimum of one (1) year, Mr. Epstein may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated through an order of the Board or Panel B. The Board or Panel B will grant the petition to terminate the probation if Mr. Epstein has complied with all of the probationary terms and conditions, received four (4) satisfactory quarterly reports from the Florida PRN, and there are no pending complaints related to the charges; 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

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<sup>5</sup> If Mr. Epstein's license expires while he is on probation, the probationary period and any probationary conditions will be tolled. COMAR 10.32.02.05C(3).

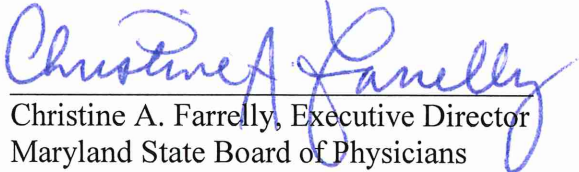
a genuine dispute as to a material fact or a show cause hearing before the Board or Panel B if there is no genuine dispute as to a material fact, that Mr. Epstein has failed to comply with any term or condition of probation or this Order, the Board or Panel B may reprimand Mr. Epstein, place Mr. Epstein on probation with appropriate terms and conditions, suspend or revoke Mr. Epstein's license to practice athletic training in Maryland, or impose a civil monetary fine upon Mr. Epstein in addition to a sanction; and it is further

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

**ORDERED** that, unless stated otherwise in the order, any time period prescribed in this Order begins when the Order goes into effect. The 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 Order is a public document pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.*

01/09/2017  
Date

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