

IN THE MATTER OF * BEFORE THE MARYLAND
ADEBAYO NAHEEM POPOOLA * BOARD OF NURSING
CERTIFICATE NOS.: A00101970 *
MT0044762 *

* * * * *
**ORDER OF TERMINATION OF PROBATION OF CERTIFIED NURSING ASSISTANT
CERTIFICATE AND MEDICATION TECHNICIAN CERTIFICATE**

On November 13, 2019, the Maryland Board of Nursing (the “Board”) executed a “Consent Order of Probation” (hereinafter “Probation Order”),¹ which placed the certificates of Adebayo Naheem Popoola (the “Certificate Holder”), to practice as a certified nursing assistant (“CNA”) (certificate number A00101970) and medication technician (“MT”) (certificate number MT0044762) in the State of Maryland, on probation for a minimum of two (2) years, subject to certain probationary terms and conditions. The Certificate Holder has satisfied all terms and conditions of probation that were imposed in the Probation Order.

It is hereby:

ORDERED that the probation imposed upon the certificate of Adebayo Naheem Popoola to practice as a CNA and MT is hereby **TERMINATED** and the Probation Order is of no further force and effect; and it is further

ORDERED that this is a Final Decision and Order is a **PUBLIC RECORD** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2019 Repl. Vol.).


Date

Karen E. B. Evans MSN, RN-BC
The Executive Director's Signature
Appears on the Original Document

¹ The Probation Order is incorporated by reference into this Order and is attached to this Order as Exhibit A.

IN THE MATTER OF * BEFORE THE MARYLAND
ADEBAYO NAHEEM POPOOLA * BOARD OF NURSING

Certificate # A00101970 *
Certificate # MT0044762 *
* * * * *

CONSENT ORDER OF PROBATION

On or about August 7, 2018, the Maryland Board of Nursing (the “Board”) received a complaint regarding the practice of **ADEBAYO NAHEEM POPOOLA**, (the “Respondent”), Certified Nursing Assistant (“CNA”), Certificate Number **A00101970**, and Medication Technician (“MT”), Certificate Number **MT0044762**. Based on information provided in the complaint, the Board conducted an investigation.

As a result of that investigation, on July 29, 2019, the Board issued “Charges Under the Maryland Nurse Practice Act” notifying the Respondent that the Board was charging his certificates with violations of the Maryland Nurse Practice Act, specifically Md. Code Ann., Health Occupations (“Health Occ.”):

§ 8-6A-10(a) *Penalties.* – Subject to the hearing provisions of § 8-317 of this title and § 8-6A-10.1 of this subtitle, the Board may . . . , reprimand any certificate holder, place any certificate holder on probation, or suspend or revoke the certificate of a certificate holder, if the . . . certificate holder:

- ...
- (13) Has acted in a manner inconsistent with the health or safety of a person under the applicant or certificate holder’s care;
- (14) Has practiced as a nursing assistant or medication technician in a manner which fails to meet generally accepted standards for the practice of a nursing assistant or medication technician;
- ...
- (29) Engages in conduct that violates the code of ethics; *to wit*,
Code of Maryland Regulations (“COMAR”) 10.39.07.02
- (C) A certificate holder may not engage in the following behaviors that dishonor the practice, whether or not acting in the capacity or identity of a certificate holder, including, but not limited to:

(12) Engaging in unprofessional or immoral conduct[.]



On October 8, 2019, the Respondent attended a case resolution conference (“CRC”) with members of the Board in an effort to resolve the pending charges in lieu of an evidentiary hearing. The Assistant Attorney General – Administrative Prosecutor, also attended the CRC on behalf of the State. At that CRC, the Respondent and the State agreed to, and the Board hereby accepts, the following Findings of Fact, Conclusions of Law, and Order.

I. FINDINGS OF FACT

The Board finds:

1. On or about October 6, 2009, the Board issued the Respondent a certificate to practice in the State of Maryland as a certified nursing assistant (“CNA”). The Respondent’s CNA certificate is currently non-renewed and expired on July 28, 2019.
2. On or about April 27, 2007, the Board issued the Respondent a certificate to practice in the State of Maryland as a medication technician (“MT”). The Respondent’s MT certification is currently “Active” and is scheduled to expire on July 28, 2021.

Complaint

3. On or about August 7, 2018, the Board received a complaint from the Director of Quality and Clinical Supports for a service provider (“Provider”)¹ that provides direct support and assistance to individuals with intellectual and developmental disabilities and their families based in Maryland. The complaint alleged that a resident reported that the Respondent was sleeping during his awake overnight shift.
4. On or about August 3, 2015, the Provider hired the Respondent as a part-time CLA (Community Living Assistant). On or about May 1, 2016, the Respondent was hired by the

¹ In order to maintain confidentiality, facility, patient and employee names will not be used in this document but will be provided to the Respondent on request.

Provider as a full-time CLA working the awake overnight shift at one of the Provider's assisted living units ("Unit"). His regularly scheduled hours were from 9:45pm until 8:30am the following morning.

5. The Respondent was assigned to provide overnight care for the Unit's four (4) residents:
 - a. Resident A – 31-year-old male with diagnoses of Mixed Expressive/Receptive Language Disorder, ADHA, Bipolar disorder and intellectual disability. Resident A has unlimited unsupervised time while awake but is unable to self-medicate and requires 1:5 supervision overnight.
 - b. Resident B – 60-year-old male with diagnoses of intellectual disability, Epilepsy, conduct disorder, and cervical spinal stenosis. Resident B is allowed up to five (5) hours of unsupervised time while awake but is unable to self-medicate and requires 1:4 supervision overnight.
 - c. Resident C – 50-year-old male with diagnoses of mild intellectual disability, diabetes mellitus II, and Obsessive-Compulsive Disorder. Resident C has a Behavior Support Plan that addresses verbal and physical aggression, self-injurious behavior and elopement. Resident C must be supervised at all times, is unable to self-medicate, and requires 1:4 supervision overnight.
 - d. Resident D – 31-year-old male with diagnoses of intellectual disability secondary to fetal alcohol syndrome, postural hypotension and ADHD. Resident D is allowed up to four (4) hours of unsupervised time while awake, however, he is unable to self-medicate and requires 1:5 supervision overnight.
6. On or about July 19, 2018, Resident B notified the Provider's Operations Manager and the Special Projects Facilitator that he had observed the Respondent sleeping when he was supposed to be working the awake overnight shift. Resident B added that he often sees the Respondent sleeping when Resident B gets his morning coffee. Resident A was interviewed and stated that he has seen the Respondent asleep during the awake overnight shift.
7. On July 24, 2018, the Unit's House Manager performed an unannounced site-visit at approximately 2:00 a.m. and found the Respondent asleep on the living room couch with his shoes off and his shirt on his arm. The House Manager took a photo of the Respondent

and sent it to the Operations Manager.² According to the timesheet, the Respondent clocked out at 2:30 a.m.

8. On August 1, 2018, the Provider terminated the Respondent's employment. The Respondent refused to sign the incident paperwork, maintaining that he was not sleeping when the House Manager visited. The *Disciplinary Warning and Action Taken* notice stated in part:

On the morning of July 24, 2018 at 2:00 am house manager ... was conducting a drop-in visit at the unit. During this visit he witnessed you sleeping on the living room sofa with your shoes off and your shirt in your arms.

Mr. Popoola your position is Awake Overnight. Because there is an individual in that house that has to be monitored at all times so he will not cause harm to himself or others it is especially important that you are awake and monitoring the individuals at all times.

Mr. Popoola, you have violated [Provider] Standards of Conduct when you put your individual's safety in jeopardy.

Because of this blatant disrespect for policy your employment with [Provider] is terminated.

9. A review of the Respondent's personnel record revealed several disciplinary actions including:

1/31/2016 – Written Warning – Multiple issues including 12/6/15: failure to perform any incontinence care on a resident during his entire shift; 1/10/16: overdosed resident; medication administration privileges suspended until he retakes refresher course; 1/31/16: failed to perform any incontinence care on resident during his shift; failed to give another resident dinner. Removed from schedule until 2/8/16 to discuss concerns.

5/31/2016 – Verbal Warning – Transported individuals from Unit to day program while the individual was having a behavior in violation of safety protocols and training.

2/4/2018 – Written Warning – The Respondent transported individuals from one unit to another without outerwear. The outside temperature was 29 degrees.

² A color copy of the photograph was later obtained by the Board's investigator.

3/1/2018 – Verbal Warning – The respondent failed to conduct a three-way check before giving medication to a resident resulting in a “high-risk medication error.”

4/17/2018 – Verbal Warning – The Respondent failed to send the medication request form to the pharmacy and failed to notify the nursing staff and House Manager that the resident had run out of three of his primary medications.

5/23/2018 – Performance Review Evaluation – “Mr. Popoola continues to struggle with overnight documentation and with following [Provider] guidelines concerning documenting every hour during his shift.”

Board Investigation

10. On or about November 4, 2018, the Respondent submitted a completed *Complaint Response Form*. The Respondent stated that on the day of the unannounced visit he called the House Manager around 3:30 p.m. and informed him that he “was sick of headache and malaria.” The Respondent added that the House Manager “came and saw me that midnight around 1 AM, like I said, I was sick of malaria all my body was [in] pain, lay my back on a sofa, my shoe was off, he came and ask me to go home.”
11. On January 15, 2019, the Respondent was interviewed under oath at the Board’s offices. The Respondent admitted that he often slept while on the job. He stated that he would set his phone to wake him every two hours to check on the individuals and complete documentation.
12. During the interview, the Respondent stated that he saved the text messages between himself and House Manager. As proof, the Respondent showed the Board’s investigators a text message that included a photograph of a blister card of medications that was labeled as belonging to one of the residents. The investigators confirmed that the cell phone in the Respondent’s possession was not a Provider phone but rather the Respondent’s personal cell phone.

13. On March 7, 2019, the House Manager was interviewed under oath at the Board's offices. House Manager confirmed that he went to the Unit and found the Respondent asleep. The House Manager looked at the photo that the investigators received as part of the investigation and confirmed that it was a color copy of the one he had taken that night of the Respondent, asleep on the couch in the Unit.

II. DISCUSSION

In July 2018, the Respondent's employer received complaints that the Respondent was sleeping during his Awake Overnight Shift. Management conducted an unannounced site visit and found the Respondent asleep on the Unit's sofa. A review of the Respondent's personnel file notes several medication errors and concerns regarding his overnight documentation. The Board finds that the Respondent's actions constitute misconduct that falls within category F(1) of the Board's sanctioning guidelines. *See* COMAR 10.27.26.07F(1). The range of potential sanctions under category F(1) includes reprimand to probation for five years and/or a minimum fine of \$100.00 to a maximum fine of \$500.00. *Id.*

III. CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board concludes that Respondent violated:

§ 8-6A-10(a) *Penalties*. – Subject to the hearing provisions of § 8-317 of this title and § 8-6A-10.1 of this subtitle, the Board may . . . , reprimand any certificate holder, place any certificate holder on probation, or suspend or revoke the certificate of a certificate holder, if the . . . certificate holder:

...

- (13) Has acted in a manner inconsistent with the health or safety of a person under the applicant or certificate holder's care;
- (14) Has practiced as a nursing assistant or medication technician in a manner which fails to meet generally accepted standards for the practice of a nursing assistant or medication technician;

...

- (29) Engages in conduct that violates the code of ethics; *to wit*, Code of Maryland Regulations ("COMAR") 10.39.07.02

- (C) A certificate holder may not engage in the following behaviors that dishonor the practice, whether or not acting in the capacity or identity of a certificate holder, including, but not limited to:

(12) Engaging in unprofessional or immoral conduct[.]

IV. ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that the Respondent's certificate to practice as a medication technician **and** as a certified nursing assistant in the State of Maryland shall be placed on **PROBATION FOR A MINIMUM OF TWO (2) YEARS**, beginning on the effective date of this Consent Order, subject to the following terms and conditions:

1. The Respondent's status as a certified nursing assistant and as a medication technician will be listed in the Board's computer records and website as being on "**Probation**";
2. The Respondent may continue to work in his current position as a MT, but shall obtain Board approval before accepting any new position as a MT and/or CNA;
3. **Self-reports.** The Respondent shall submit to the Board written monthly self-reports describing the Respondent's progress, even if the Respondent is not working in the nursing field. Failure to provide written self-reports on time shall constitute a violation of probation and this Consent Order;
4. The Respondent shall immediately notify all employers of the probationary status of his certificates and arrange for all employers to submit, in writing, confirmation that they have reviewed this Consent Order;
5. **Work site reports.** The Respondent shall arrange for the Respondent's supervisor at the Respondent's place of employment to submit written quarterly work-site reports to the Board evaluating the Respondent's work performance and practice as a MT and/or CNA. If the Respondent's employment terminates at any of the Respondent's place(s) of

employment before the due date of a quarterly report, then a final work-site report is due on the last day of employment. It is the Respondent's responsibility to ensure that work-site reports are submitted to the Board and to notify the Respondent's supervisor when these reports are due. An unsatisfactory report will be considered a violation of probation and this Consent Order;

6. The Respondent shall notify the Board in writing of any MT and/or CNA position from which the Respondent is terminated by the employer and/or any MT and/or CNA position from which the Respondent voluntarily resigns within **THREE (3) DAYS** of the date of termination/resignation. The Respondent shall include the reasons for the termination or resignation in the written notification;
7. The Respondent shall not seek employment or be employed in the following work environments: Home Health; Staffing Agency;
8. The Respondent shall not work more than forty (40) hours per week;

ORDERED that the Respondent shall have contacted, and scheduled an appointment with, the Board of Nursing's Discipline/Compliance unit **no later than ten (10) days from the effective date of this Consent Order**, for the purpose of beginning compliance with its terms and conditions. Failure to contact the Board as required by this paragraph shall constitute a violation of probation and of this Consent Order; and it is further

ORDERED that the Respondent may not work outside the State of Maryland without the written permission of the Maryland Board of Nursing and the certifying body in the state where the Respondent wishes to work; and it is further

ORDERED that the Respondent shall disclose a copy of this Consent Order to the nursing board or certifying body of another State where employed and submit to the Board written acknowledgement that they have reviewed the Consent Order; and it is further

ORDERED that in the event that the Board issues to the Respondent any other type of license and/or certificate that the Board is authorized to grant, that license and/or certificate shall also be subject to the terms of this Consent Order; and it is further

ORDERED that the Respondent shall obey all state and federal laws. If the Respondent is convicted of, or pleads guilty to, any crime(s), whether or not any appeal or other proceeding is pending to have the conviction or plea set aside, the Respondent shall notify the Board, in writing, of any conviction(s) or guilty plea(s) within **TEN (10) DAYS** of the conviction or guilty plea. Failure to report a conviction or guilty plea to the Board in writing within **TEN (10) DAYS** is a violation of probation and this Consent Order; and it is further

ORDERED that in the event that the Respondent moves, permanently or temporarily, either within or outside of Maryland, the Respondent shall notify the Board of the new address and phone number within **THREE (3) DAYS** of the move; and it is further

ORDERED that the Respondent shall submit to an in-person, face-to-face annual meeting with Board staff throughout the entire duration of the probationary period **if** requested to do so; and it is further

ORDERED that the Respondent shall be responsible for paying all costs required to comply with all of the terms and conditions of the probation and this Consent Order; and it is further

ORDERED that there shall be no early termination of the probation imposed by this Consent Order. After a **minimum of TWO (2) YEARS** from the effective date of this Consent Order have passed, the Board will consider a petition for termination of the Respondent's probationary status, provided that the Respondent has been compliant with all of the probationary terms of this Consent Order and safely employed as a MT and/or CNA for at least **NINE (9)**

MONTHS immediately preceding the petition for termination of probationary status; and it is further

ORDERED that failure to comply with any of the terms and conditions of this Order shall constitute a violation of the Consent Order;

ORDERED that if the Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing, may impose, by further public Order of the Board, any sanction(s) authorized by Health Occ. § 8-6A-10 and COMAR 10.27.26, including reprimand, additional probation, suspension, revocation, and/or monetary penalty; and be it further

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

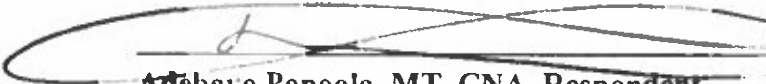
November 13, 2019
Date

Gary N. Hicks, MS, RN, CEN, CNE
The Board President's Signature
Appears on the Original Document

CONSENT

By this Consent, I acknowledge that I have read this Consent Order in its entirety and I hereby admit the truth of the Findings of Fact, and I accept and submit to 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 legal counsel authorized to practice law in Maryland, to confront witnesses, to give testimony, to request subpoenas for witnesses, to call witnesses on my own behalf, to introduce testimony and evidence on my own behalf, and to all other substantive and procedural protections provided by law. I waive these rights, as well as any appeal rights under Maryland Code Annotated, State Government Article § 10-222.

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

 10/23/19
Adebayo Popoola, MT, CNA, Respondent

NOTARIZATION

STATE: _____

COUNTY: _____

I HEREBY CERTIFY that on this _____ day of _____, 2019, before me, Notary Public of the State and City/County aforesaid, **Adebayo Popoola** personally appeared, and made oath in due form of law that signing the foregoing Consent Order of Probation was the voluntary act and deed of **Adebayo Popoola**.

AS WITNESSETH my hand and notarial seal.

SEAL

Notary Public

My Commission Expires: _____