

GEORGIA COMPOSITE MEDICAL BOARD

October 2023 Public Board Actions List

The Board issued **five** public orders in **October 2023**. To view each Board order, click on the licensee's name below.

1. Eric Young Chang, M.D.

83929

Physician

Public Consent Order

2. Latoyia Danielle Flowers

Assistant Laser Practitioner

Consent Agreement for Licensure

3. Adam William Murphy

Clinical Perfusionist

Public Consent Agreement for Reinstatement

4. Babs Maria Spakes, AKA Beate Kanamine

Unlicensed

Public Cease and Desist Order

5. Sherri Studstill, M.D.

66085

Physician

Final Decision

BEFORE THE GEORGIA COMPOSITE MEDICAL BOARD

STATE OF GEORGIA

IN THE MATTER OF:

ERIC YOUNG CHANG, M.D.,
License Number 83929,

Respondent.

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DOCKET NO.

GEORGIA COMPOSITE
MEDICAL BOARD

SEP 27 2023

DOCKET NUMBER:

20240029

PUBLIC CONSENT ORDER

By agreement of the Georgia Composite Medical Board ("Georgia Board") and ERIC YOUNG CHANG, M.D. ("Respondent"), the following disposition of this disciplinary matter is entered pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-13(a)(4), as amended.

FINDINGS OF FACT

1.

Respondent is licensed to practice medicine in the State of Georgia and was licensed at all times relevant to the matters stated herein.

2.

Respondent, while employed with at least one telemedicine company, prescribed numerous medications to multiple individuals outside of an established physician-patient relationship. Specifically:

3.

Patient PN

On or about July 3, 2020, Respondent prescribed Patient PN three (3) medications without performing an in-person examination nor performing an examination using technology that is equal to or superior to an examination done personally by a provider, as follows:

- Respondent prescribed Calcipotriene 0.005% Topical Cream, Diflorasone Diacetate 0.05% ointment, and Lidocaine-Prilocaine Cream to PN.

4.

Patient RM

On or about July 29, 2020, Respondent prescribed Patient RM three (3) medications without performing an in-person examination nor performing an examination using technology that is equal to or superior to an examination done personally by a provider, as follows:

- Respondent prescribed Diflorasone Diacetate 0.05% ointment, Chlorzoxazone 250mg tablets, and Lidocaine-Prilocaine 2.5%-2.5% Cream to RM.

5.

Patient BF

On or about Jul 24, 2020, Respondent prescribed Patient BF two (2) medications without performing an in-person examination nor performing an examination using technology that is equal to or superior to an examination done personally by a provider, as follows:

- Respondent prescribed Lidocaine-Prilocaine 2.5%-2.5% Cream, Diflorasone Diacetate 0.05% ointment, Calcipotriene 0.005% Topical Cream to BF.

6.

Patient DW

On or about August 20, 2020, Respondent prescribed Patient DW three (3) medications without performing an in-person examination nor performing an examination using technology that is equal to or superior to an examination done personally by a provider, as follows:

- Respondent prescribed Diflorasone Diacetate 0.05% ointment, Dihydroergotamine 0.5 mg/pump nasal spray, and Lidocaine-Prilocaine 2.5%-2.5% Cream to RM.

7.

Respondent's aforementioned conduct departed from and failed to conform to the minimum standards of acceptable and prevailing medical practice and was a violation of Georgia's laws and the Board's rules. *See* Ga. Comp. R. & Regs. R. 360-3-.07 (Practice Through Electronic or Other Such Means), O.C.G.A. § 43-34-8(a), and O.C.G.A. § 43-1-19(a).

8.

Respondent agrees to the above findings of facts and waives any further findings of fact with respect to the above-styled matter.

CONCLUSIONS OF LAW

Respondent's conduct constitutes sufficient grounds for the imposition of discipline upon Respondent's license to practice as a physician in the State of Georgia under O.C.G.A. Title 43, Chapters 1 and 34, as amended. Respondent hereby waives any further conclusions of law with respect to the above-styled matter.

ORDER

The Georgia Board, having considered all the facts and circumstances of this case, hereby orders, and Respondent hereby agrees, that the following sanctions shall be imposed upon Respondent's license to practice as a physician in the State of Georgia:

1.

Within **one hundred and twenty (120) days** of the effective date of this Consent Order, Respondent shall submit to the Georgia Board a fine of two thousand five hundred dollars (\$2,500.00) to be paid in monthly installment payments of at least five hundred dollars and zero cents (\$500.00) by cashier's check or money order made payable to the Board until the entire amount of \$2,500.00 is paid in full. Said fine shall be sent to the Georgia Composite Medical Board, located at 2 MLK Jr. Drive SE, East Tower, 11th Floor, Atlanta, GA 30334 to the attention of the Executive Director. Failure to pay the entire amount within one hundred and twenty (120) days of the effective date of this Consent Order shall be considered a violation of this Consent Order and shall result in further sanctioning of Respondent's license, upon substantiation thereof.

2.

Within **six (6) months** of the effective date of this Consent Order, Respondent shall successfully complete ten (10) hours of continuing medical education ("CME") course(s) focusing on ethics and ten (10) hours of CME course(s) focusing on prescribing. Said CME may be completed online and shall be in addition to the CME required of all Georgia physicians. Respondent shall provide written evidence of successful completion of the CME to the Georgia Board within six (6) months of the effective date of this Order. Failure to provide written evidence of successful completion of the CME within six (6) months of the effective date of this Consent Order shall be considered a violation of this Consent Order and shall result in further sanctioning of Respondent's license, upon substantiation thereof.

3.

In addition to and in conjunction with any other sanction contained herein, this Consent Order and dissemination thereof shall serve as a **public reprimand** of Respondent by the Georgia

Board.

4.

Respondent also understands that pursuant to O.C.G.A. Title 43, Chapter 34A, the contents of this Consent Order shall be placed on Respondent's Physician Profile. Furthermore, by executing this Consent Order, Respondent hereby agrees to permit the Georgia Board to update the Physician's Profile reflecting this Consent Order.

5.

Respondent acknowledges that Respondent has read this Consent Order and understands its contents. Respondent understands that Respondent has the right to a hearing in this matter and freely, knowingly and voluntarily waives that right by entering into this Consent Order. Respondent understands and agrees that a representative of the Department of Law may be present during the Georgia Board's consideration of this Consent Order and that the Georgia Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Order. Respondent further understands that this Consent Order will not become effective until approved and docketed by the Georgia Board. Respondent understands that this Consent Order, once approved and docketed, shall constitute a public record, evidencing disciplinary action by the Georgia Board that may be disseminated as such. However, if this Consent Order is not approved, it shall not constitute an admission against interest in this proceeding, or prejudice the right of the Georgia Board to adjudicate this matter. Respondent hereby consents to the terms and sanctions contained herein.

Approved this 27th day of September, 2023.

GEORGIA COMPOSITE MEDICAL BOARD

(BOARD SEAL)



BY: William K. Bastock DO

MATTHEW W. NORMAN, M.D.

Chairperson

William K. Bastock, D.O.

ATTEST:

A handwritten signature in black ink, appearing to be "D. Dorsey".

DANIEL R. DORSEY

Executive Director

CONSENTED TO:

A handwritten signature in black ink, appearing to be "Eric Young Chang".

ERIC YOUNG CHANG, M.D.

Respondent

AS TO THE SIGNATURE OF RESPONDENT:

Sworn to and subscribed before me

This, 3rd day of August 2023.

A handwritten signature in black ink, appearing to be "Daniel Mattis".

NOTARY PUBLIC

My Commission Expires: 02/13/2027

Commonwealth of Pennsylvania - Notary Seal
Daniel Mattis, Notary Public
Philadelphia County
My Commission Expires February 13, 2027
Commission Number 1431421

**BEFORE THE GEORGIA COMPOSITE MEDICAL BOARD
STATE OF GEORGIA**

IN THE MATTER OF:

LATOYIA DANIELLE FLOWERS,

Applicant.

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DOCKET NO:

GEORGIA COMPOSITE
MEDICAL BOARD

SEP 27 2023

DOCKET NUMBER:

20240030

CONSENT AGREEMENT FOR LICENSURE

Pursuant to O.C.G.A. Title 43, Chapters 1 and 34, the Georgia Composite Medical Board ("Board"), in its discretion, has considered the application for licensure of LATOYIA DANIELLE FLOWERS, to practice as an Assistant Laser Practitioner in the State of Georgia. In conjunction therewith, the Board hereby enters its Findings of Fact and Conclusions of Law as follows:

FINDINGS OF FACT

1.

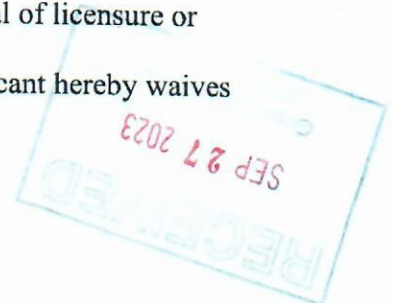
On or about June 29, 2023, Applicant submitted an application for a license to practice as an assistant laser practitioner. During the course of reviewing the application, it was discovered that Applicant had performed laser services without a license.

2.

Applicant waives any further findings of fact with respect to this matter.

CONCLUSIONS OF LAW

The unlicensed practice disclosed by Applicant is grounds for denial of licensure or licensure with discipline under O.C.G.A. Ch. 34, T. 43, as amended. Applicant hereby waives any further conclusions of law with respect to the above-styled matter.



ORDER

Beginning on the effective date of this Consent Agreement, Applicant's license to practice as an Assistant Laser Practitioner in the State of Georgia shall be issued, subject to the following terms:

1.

Applicant shall submit to the Board a fine of **five hundred dollars (\$500.00)** to be paid in full by cashier's check or money order made payable to the Georgia Composite Medical Board within ninety (90) days of the effective date of this Consent Agreement. Said fine shall be sent to Georgia Composite Medical Board, 2 MLK, Jr. Drive, SE, East Tower, 11th Floor, Atlanta, Georgia 30334, to the attention of the Executive Director. Failure to pay the entire amount by the 90th day shall be considered a violation of this Agreement and shall result in further sanctioning of Applicant's license, including revocation, upon substantiation thereof.

2.

This Consent Agreement and dissemination thereof shall be considered a **PUBLIC REPRIMAND** of Applicant by the Board.

3.

The effective date of this Consent Order is the date the Consent Order is docketed. Respondent should receive a docketed copy of the Consent Order from the Board at the Respondent's address of record within ten (10) business days of the docket date. If Respondent has not received a docketed copy of the Consent Order, it is Respondent's responsibility to obtain a docketed copy of the Consent Order from the Board. Respondent must comply with the terms and conditions of the Consent Order beginning on the effective date.

4.

Approval of this Consent Order by the Board shall in no way be construed as condoning the Applicant's conduct and shall not be construed as a waiver of any of the lawful rights possessed by the Board.

5.

Applicant acknowledges that Applicant has read this Consent Agreement and understands its contents. Applicant understands that Applicant has the right to an appearance in this matter, and freely, knowingly and voluntarily waives such right by entering into this Consent Agreement. Applicant understands that this Consent Agreement will not become effective until approved and docketed by the Board. However, if this Consent Agreement is not approved, it shall not constitute an admission against interest in this proceeding, or prejudice the right of the Board to adjudicate this matter. Applicant further understands and agrees that a representative of the Department of Law may be present during presentation of this Consent Agreement to the Board and that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Agreement. Applicant hereby consents to the terms and sanctions contained herein.

(Signatures on following page)

Approved this 27 day of September, 2023.

GEORGIA COMPOSITE MEDICAL BOARD

(BOARD SEAL)



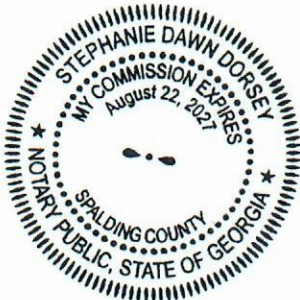
BY: William K. Bostock D.O.
WILLIAM BOSTOCK, D.O.
Chairperson

ATTEST: [Signature]
DANIEL R. DORSEY
Executive Director

CONSENTED TO: [Signature]
LATOYIA DANIELLE FLOWERS
Applicant

[AS TO THE SIGNATURE OF LATOYIA DANIELLE FLOWERS]
Sworn to and subscribed before me
this, 26 day of September, 2023.

[Signature]
NOTARY PUBLIC
My Commission Expires: August 22, 2024



BEFORE THE GEORGIA COMPOSITE MEDICAL BOARD
STATE OF GEORGIA

IN THE MATTER OF:)

ADAM WILLIAM MURPHY,)

Clinical Perfusionist License No. 334)

Applicant.)

DOCKET NO:

GEORGIA COMPOSITE
MEDICAL BOARD

SEP 25 2023

DOCKET NUMBER:

20240027

CONSENT AGREEMENT FOR REINSTATEMENT

Pursuant to O.C.G.A. Title 43, Chapters 1 and 34, the Georgia Composite Medical Board ("Board"), in its discretion, has considered the application for reinstatement of Adam William Murphy ("Applicant") to practice as a Clinical Perfusionist in the State of Georgia. In conjunction therewith, the Board hereby enters its Findings of Fact and Conclusions of Law as follows:

FINDINGS OF FACT

1.

Applicant was previously licensed as a clinical perfusionist by the Board. Applicant's license lapsed on or around February 28, 2022.

2.

On or about June 13, 2023, Applicant submitted an application for reinstatement of Applicant's license to practice as a clinical perfusionist in the State of Georgia. During the course of reviewing the application, it was discovered that Applicant practiced after his license lapsed.

3.

Applicant waives any further findings of fact with respect to this matter.

CONCLUSIONS OF LAW

The unlicensed practice by Applicant is grounds for denial of his reinstatement application or reinstatement with discipline under O.C.G.A. Ch. 34, T. 43, as amended. Applicant hereby waives any further conclusions of law with respect to the above-styled matter.

ORDER

Beginning on the effective date of this Consent Agreement, Applicant's license to practice as a Clinical Perfusionist in the State of Georgia shall be reinstated, subject to the following terms:

1.

Within ninety (90) days of the effective (docket) date of this Consent Agreement, Applicant shall submit to the Board a fine of one thousand dollars (\$1,000.00) to be paid in full by cashier's check or money order made payable to the Georgia Composite Medical Board. Said fine shall be sent to Georgia Composite Medical Board, 2 MLK Jr. Drive, SE, East Tower, 11th Floor, Atlanta, Georgia 30334, to the attention of the Executive Director. Failure to pay the entire amount by the 90th day shall be considered a violation of this Agreement and shall result in further sanctioning of Applicant's license, including revocation, upon substantiation thereof.

2.

Within three (3) months of the effective (docket) date of this Consent Order, Respondent shall complete ten (10) hours of continuing medical education (CME) in the area of ethics. Respondent shall provide the Board with evidence of his completion of the CME. Respondent's failure to complete an approved course and/or to provide evidence of completion of the course shall be considered a violation of this Order and grounds for further disciplinary action, including revocation.

3.

It shall be the responsibility of the Respondent to ensure that all evidence of compliance is timely submitted to and received by the Georgia Composite Medical Board. The preferred way to submit the reports is by email: medboard@dch.ga.gov They may also be sent to 2 MLK Jr. Drive SE, East Tower, 11th Floor, Atlanta, GA 30334 to the attention of the Executive Director.

In addition to, and in conjunction with any other sanction contained herein, this Consent Agreement and dissemination thereof, shall serve as a **public reprimand** of Applicant by the Board.

4.

The effective date of this Consent Agreement is the date the Consent Agreement is docketed. Applicant should receive a docketed copy of the Consent Agreement from the Board at Applicant's address of record within 10 business days of the docket date. If Applicant has not received a docketed copy of the Consent Agreement, it is Applicant's responsibility to obtain a docketed copy of the Consent Agreement from the Board. Applicant must comply with the terms of the Consent Agreement beginning on the effective date.

5.

Applicant acknowledges that Applicant has read this Consent Agreement and understands its contents. Applicant understands that Applicant has the right to a hearing in this matter, and freely, knowingly and voluntarily waives such right by entering into this Consent Agreement. Applicant understands that this Consent Agreement will not become effective until approved and docketed by the Board. Applicant further understands and agrees that a representative of the Department of Law may be present during presentation of this Consent Agreement to the Board

and that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Consent Agreement. Applicant further understands that this Consent Agreement, once approved, shall constitute a public record that may be disseminated as a disciplinary action of the Board and will be reportable to the National Practitioner Data Bank. However, if the Consent Agreement is not approved, it shall not constitute an admission against interest in this proceeding or prejudice the right of the Board to adjudicate this matter. Applicant consents to the terms and conditions contained herein.

Approved this ²⁵~~24~~ day of September, 2023.

GEORGIA COMPOSITE MEDICAL BOARD

(BOARD SEAL)



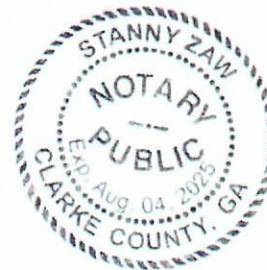
BY: William K. Bostock DO
WILLIAM BOSTOCK, D.O.
Chairperson

ATTEST: [Signature]
DANIEL R. DORSEY
Executive Director

CONSENTED TO: [Signature]
ADAM WILLIAM MURPHY
Applicant

[As to the signature of ADAM WILLIAM MURPHY]
Sworn to and subscribed before me
This 22 day of September, 2023.

NOTARY PUBLIC
My Commission Expires: Aug 4, 2025



BEFORE THE GEORGIA COMPOSITE MEDICAL BOARD

STATE OF GEORGIA

GEORGIA COMPOSITE
MEDICAL BOARD

IN THE MATTER OF:

BABS MARIA SPAKES,
AKA BEATE KANAMINE

Respondent.

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DOCKET NO. _____

OCT 18 2023

DOCKET NUMBER:
10240032

CONSENT ORDER

Respondent, Babs Maria Spakes, AKA Beate Kanamine, the undersigned, does not currently possess a license to practice as a physician, pursuant to O.C.G.A. Ch.. 34, T. 43, as amended. The Georgia Composite Medical Board ("Board") is requesting that Respondent cease and desist any practice that would require Respondent to possess a license to practice as a physician.

Respondent has responded by representing in good faith that she has not engaged in any activities that would require her to possess a license as a physician and, therefore, hereby agrees to voluntarily continue to refrain from any practice that would require Respondent to possess a license to practice as a physician as required under O.C.G.A. Ch. 34, T. 43, as amended, until such time as Respondent is licensed by the Board.

Respondent understands that Respondent has a right to a hearing in this matter, and hereby freely, knowingly, and voluntarily waives such right.

This Order shall become effective immediately upon approval by the Board and shall remain in effect until such time as Respondent becomes licensed with the Board or until further order. Respondent understands that this document will be considered to be a public record entered as the final disposition of any proceedings presently pending or which could be brought against Respondent by the Board and that this action shall be considered to be and may be recorded as a final order of the Board.

Any violation of this Order shall subject Respondent to a fine not to exceed \$500.00 for each transaction constituting a violation thereof, pursuant to O.C.G.A. § 43-1-20.1, and any remedy contained herein shall NOT preclude the Board from seeking remedies otherwise available by statute, including criminal prosecution or injunctive relief.

This 18th day of October, 2023.



GEORGIA COMPOSITE MEDICAL BOARD

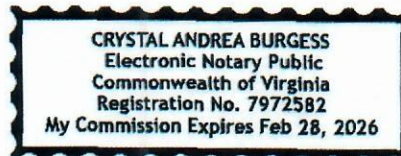
BY: William K. Bostock DO
WILLIAM BOSTOCK, D.O.
Chairperson

ATTEST: [Signature]
DANIEL D. DORSEY
Executive Director

CONSENTED TO: Babs Spake (Oct 17, 2023 14:55 EDT)
BABS MARIA SPAKES,
AKA BEATE KANAMINE
Respondent

[AS TO THE SIGNATURE OF RESPONDENT]
Sworn to and subscribed before me by **Babs Maria Spakes**
this, 17th day of October, 2023.
This notarization was performed remotely.

[Signature]
NOTARY PUBLIC
My Commission Expires: 02/28/2026



BEFORE THE GEORGIA COMPOSITE MEDICAL BOARD

STATE OF GEORGIA

IN THE MATTER OF:

SHERRI STUDSTILL, MD,
License No. 66085,
Respondent.

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OSAH Docket No.: 2325620

2325620-OSAH-GCMB-PHY-222-Barnes

BOARD DOCKET NO:

GEORGIA COMPOSITE
MEDICAL BOARD

OCT 02 2023

DOCKET NUMBER:
20230077

FINAL DECISION

An Initial Decision was issued by the Office of State Administrative Hearings in the above matter on August 29, 2023. The Initial Decision was sent via certified mail to Respondent's address of record and was received on September 2, 2023. In the absence of an application to the agency for review of said Initial Decision, or an order by the Board to review said Initial Decision on its own motion, said Initial Decision becomes the Final Decision of the Board by operation of law, pursuant to O.C.G.A. § 50-13-17(a).

FINDINGS OF FACT

The Findings of Fact entered by the Administrative Law Judge in the Initial Decision are adopted and incorporated by reference herein.

CONCLUSIONS OF LAW

The Conclusions of Law entered by the Administrative Law Judge in the Initial Decision are adopted and incorporated by reference herein.

DECISION AND ORDER

The recommendation of the Administrative Law Judge that Respondent's license to practice medicine in the State of Georgia be **SUSPENDED INDEFINITELY**, with the terms as set forth in the Initial Decision, is adopted and incorporated by reference and, having

become final on October 2, 2023, is hereby made the Final Decision of the Board, effective
October 2, 2023.

SO ORDERED, this 2nd day of October 2023.



(BOARD SEAL)

GEORGIA COMPOSITE MEDICAL BOARD

William K. Bostock, D.O.

WILLIAM BOSTOCK, D.O.

Chairperson

Daniel R. Dorsey

DANIEL R. DORSEY

Executive Director

IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

GEORGIA COMPOSITE MEDICAL BOARD,

Petitioner,

v.

SHERRI STUDSTILL, M.D.,

Respondent.

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 : **Docket No.: 2325620**
 : **2325620-OSAH-GCMB-PHY-222-Schroer**
 :
 : **Agency Ref. No.: 66085**
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INITIAL DECISION

I. INTRODUCTION

On June 25, 2020, the Georgia Composite Medical Board (hereinafter “Petitioner” or “GCMB”) issued an Order of Summary Suspension, suspending Sherri Studstill’s (hereinafter “Respondent”) license to practice medicine in the State of Georgia. On or about April 19, 2023, the Board issued a Statement of Matters Asserted, seeking final disciplinary action against Respondent’s license to practice medicine. An evidentiary hearing took place on July 26, 2023, before the undersigned Administrative Law Judge. Sandra Bailey, Assistant Attorney General, and third-year law student Emily Willis represented the Board. Respondent appeared and represented herself at the hearing. After consideration of the evidence presented and for the reasons stated below, the undersigned **RECOMMENDS** that Respondent’s license to practice medicine in Georgia be **INDEFINITELY SUSPENDED**.

II. FINDINGS OF FACT

1.

Respondent holds a license to practice as a physician in the State of Georgia and held such license at all times relevant to the issues presented for hearing. Respondent’s Georgia license was originally issued in 2011 and is scheduled to expire on August 31, 2024. Her license

currently is suspended. (Statement of Matters Asserted, at ¶ 1; Exhibit P-2).

2.

Respondent was also licensed to practice medicine in the State of Alabama from 2014 until approximately 2020. In October 2019, she was the subject of an investigation by the Alabama State Board of Medical Examiners, which issued an Administrative Complaint and Petition for Summary Suspension of License to the Alabama Medical Licensure Commission (“Alabama MLC”).¹ Sometime thereafter, the Alabama MLC held a hearing on the Administrative Complaint, during which Respondent was represented by an attorney and testified on her own behalf. On or about March 12, 2020, the Alabama MLC issued an Order following the hearing, finding that Respondent “has mild opioid use/abuse disorder and paranoid delusional disorder, and that her condition and use of opioids while practicing medicine affects her judgment and temperament.” Based on these findings, the Alabama MLC concluded that Respondent was unable to practice medicine with reasonable skill and safety and ordered that her license be revoked. However, the Alabama MLC suspended the revocation, and placed Respondent’s Alabama license on probation subject to certain conditions, including compliance with psychiatric and opioid use evaluations and treatment. Under the Order, until Respondent successfully completed the terms of her probation, her Alabama license would remain suspended, and Respondent would be permitted to apply to lift the suspension only with the written support of her treatment providers and the Alabama Physician’s Health Program or “APHP.” (Testimony of Respondent, Daniel Dorsey; Exhibits P-6, P-7.)

3.

State medical boards share licensing information with other state boards, and GCMB has

¹ The underlying facts that gave rise to the Administrative Complaint have been redacted, and GCMB did not present any evidence regarding these allegations.

access to various “license look-up tools” and databases that provide disciplinary information about out-of-state physicians who also hold Georgia licenses. GCMB learned of the Alabama investigation and summary suspension as early as January 2020, and received a copy of the Alabama MLC’s March 12, 2020 Order within days of its issuance. On or about March 16, 2020, Respondent entered into a Private Agreement Not to Practice with the Georgia Professional Health Program (“GAPHP”), and “knowingly and voluntarily agree[d] . . . [to] follow all treatment recommendations as established by my treating physicians(s).” Respondent also gave the GAPHP consent to notify GCMB if she failed to comply with evaluation or treatment recommendations or if she returned to practice medicine in Georgia without GAPHP’s written permission. (Testimony of Mr. Dorsey; Exhibits P-8, P-10.)

4.

A Physician’s Health Program or “PHP” is defined under Georgia law as “a program established for the purposes of monitoring and rehabilitation of impaired health care professionals.” O.C.G.A. § 43-34-5.1. GCMB is authorized, although not mandated, by statute to contract with a PHP to provide monitoring and rehabilitation of impaired health care professionals, including physicians. Id. According to Daniel Dorsey, GCMB’s Executive Director, GCMB has entered into a contract with GAPHP to provide case management for impaired physicians and to assist them in seeking treatment. Dr. Paul Earley, the medical director of GAPHP, characterized the GAPHP’s role as an “intermediary” between GCMB and impaired physicians, who are “safety-sensitive professionals” requiring specialized evaluation and treatment. Dr. Earley testified that the evaluation process approved by GAPHP is “rich and complex,” involving a multi-disciplinary team of specially trained evaluators, including psychiatrists, psychologists, and pain management doctors, and includes a series of laboratory

tests, interviews, and drug screens that take several days to complete. He testified that there are only 8 to 10 centers across the country where this type of evaluation can be done due to the limited number of physicians with expertise in evaluating other physicians.² (Testimony of P. Earley, D. Dorsey, Respondent.)

5.

Respondent began discussions with GAPHP regarding an evaluation in Georgia in early February 2020, and she agreed to submit to an evaluation by the Talbot Recovery Center (“TRC”), an approved GAPHP provider, in or around March 2020. When the evaluations were complete, the TRC team prepared a 20-plus-page report, which summarized the results of the evaluations and testing, the findings of the evaluators, and their recommendations.³ On May 14, 2020, the TRC team, along with representatives of the GAPHP and the APHP, met with Respondent via Zoom to conduct an “evaluation outbrief.” According to GAPHP’s records, the team informed Respondent that TRC “recommended a treatment course and deems participant not able to practice with reasonable skill and safety at this time.” They also informed her that she could move forward with the recommended treatment, or she could seek a second opinion, but only from another provider approved by GAPHP. Finally, GCMB’s representative advised Respondent that GCMB had voted to “forgo any disciplinary action if participant followed the recommendations of Georgia PHP.” (Testimony of P. Earley; Exhibit P-10.)

² Dr. Earley opined that evaluating a physician for substance or mental health impairments – as compared to any other individual – was like comparing “apples to oranges” because of the different “power dynamics” at play.

³ GCMB did not tender a copy of the report into evidence at the administrative hearing, nor did they provide a copy of the report to Respondent. Dr. Earley testified that in addition to the results from Respondent’s own testing and interviews with TRC evaluators, the TRC report contained “collateral information,” including data collected from third parties about “what’s happening in the [physician’s] world,” as well as review of medical records and other pertinent outside material. GCMB did not present any evidence about the collateral information used in evaluating Respondent, nor does it appear that GCMB has ever shared that information with Respondent. In response to questioning during the hearing, Dr. Earley was unable to identify the exact collateral data collected and relied upon by the evaluators who contributed to the TRC report.

Although GCMB did not tender the TRC report, Dr. Earley testified that the team recommended that Respondent participate in a detoxification and education program regarding chronic pain. The preponderance of evidence in the record proved that from a very young age, Respondent has suffered from a medical condition that causes severe, chronic pain, and she has managed the pain over the years with opioids and other medications, such as Gabapentin.⁴ Dr. Earley testified that today most patients with chronic, non-malignant pain – physicians and non-physicians alike – are not treated with opioids because opioids are considered less effective in pain remission. Moreover, with respect to a physician with chronic pain, opioids present particular concerns because of their effect on alertness and mental status. Dr. Earley testified that the “vast majority” of physicians do not use opioids personally for the treatment of pain, and if they do, they do not practice while taking them. The TRC and GAPHP recommended that Respondent participate in a supervised detoxification program, where she would discontinue the use of opioids and explore other, non-narcotic, non-pharmacologic options for pain management. Dr. Earley testified that the TRC team did not find that Respondent was addicted to or was abusing opioids or other medications, and he acknowledged that an alternative treatment program might not satisfactorily manage Respondent’s pain. However, he persuasively testified regarding the significant risks of opioids on a physician’s ability to safely care for patients, and the Court finds that the TRC’s recommendation for the trial detoxification and education program was reasonable. (Testimony of P. Earley; Exhibit P-10.)

⁴ Gabapentin, a seizure medication, has an off-label use for pain. It is not a controlled substance, but Dr. Earley testified that it has multiple, concerning side effects on the central nervous system, including sedation or sleepiness, difficulty with sustained attention, and waxing and waning of sensorium. (Testimony of Respondent, P. Earley.)

7.

The TRC also recommended that after Respondent completes the detoxification and education program, she should seek treatment through a “specialty center to address personality, boundaries, and professionalism in the workplace.” GCMB presented no probative evidence, however, to prove the underlying finding or diagnosis that gave rise to this recommendation, nor did GCMB present sufficient evidence to prove that this undefined treatment at a “specialty center” was reasonable, necessary, or appropriate. (Testimony of P. Earley; Exhibit P-10.)

8.

On or about May 27, 2020, GAPHP contacted Respondent. She informed GAPHP that she did not plan to move forward with TRC’s treatment recommendations. GAPHP notified GCMB of Respondent’s position, and on June 25, 2020, GCMB entered an Order of Summary Suspension under O.C.G.A. 50-13-18(c)(1), giving Respondent the option to request an expedited hearing within fourteen days. She did not do so at that time. Rather, in February or March 2023, Respondent made an appearance before a meeting of the GCMB to discuss her case. Later, in or around June 20, 2023, GCMB received a request for expedited hearing, which was dated April 6, 2023, and bore a signature purportedly by Respondent.⁵ (Testimony of D. Dorsey, Respondent; Exhibits P-3, P-10.)

9.

At the hearing, Respondent testified regarding her lifelong struggle with congenital spinal stenosis, a rare condition that causes, among other things, severe pain. She persevered through medical school and residency despite this condition, and she testified that she has always been

⁵ Respondent denied signing the request for expedited hearing form, but she acknowledged that she did want a hearing to contest her suspension. (Exhibit P-4.)

transparent with her supervisors and licensing agencies regarding the medications she was using. In addition, she has reduced her hours and changed the type of work she performs so that she can adequately perform her duties despite her pain, which is controlled, but not eliminated, through medication. In 2015 or so, she began working primarily in healthcare facilities in Alabama, not Georgia. In or around 2017, while working in a small Alabama hospital, Respondent testified that she had an encounter with an unruly patient, who “yanked” on Respondent, causing her “excruciating pain.” Although Respondent’s reaction to this encounter is not clear from the evidence in the record, Respondent testified that she was notified that she had lost her privileges to practice at that hospital due to her “assault” on the unruly patient during this encounter. (Testimony of Respondent.)

10.

Respondent further testified that Alabama investigated this encounter in or around 2018, but at the time Respondent was experiencing headaches, trouble concentrating, and feelings of paranoia, possibly due to her use of Gabapentin. She testified that she regrettably followed the advice of someone associated with the Alabama investigation and filed a written explanation for the 2017 encounter, ascribing her conduct to her use of Gabapentin, which she had since discontinued. In 2019, Alabama either expanded its earlier investigation or began a separate investigation into Respondent’s use of medications and required Respondent to undergo an evaluation with the APHP. Respondent disputes the results of the Alabama evaluation, but she does not deny that her license has been suspended in Alabama, subject to her completing the treatment recommended by the APHP evaluators, which she has not done. (Testimony of Respondent.)

11.

At the hearing in this case, as a result of the Alabama MLC's Order and Respondent's failure to comply with GAPHP recommendations for treatment, GCMB now seeks an indefinite suspension of Respondent's license to practice medicine until GCMB is assured that she is safe to practice. Respondent disagrees with the findings of the TRC and with the recommended treatment, and testified at the hearing that she does not have the financial means to pay for the extensive treatment through the specialized providers mandated by GAPHP. (Testimony of Respondent, D. Dorsey; Exhibits P-3, P-10.)

III. CONCLUSIONS OF LAW

1.

Petitioner seeks the indefinite suspension of Respondent's medical license. Accordingly, Petitioner bears the burden of proof. Ga. Comp. R. & Regs. 616-1-2-.07. The standard of proof is a preponderance of the evidence. Ga. Comp. R. & Regs. 616-1-2-.21.

2.

Georgia Code section 43-1-19 is the general licensing and disciplinary statute that pertains to professional licensing boards.⁶ It states, in pertinent part, that the Board has the authority to discipline a licensee, upon a finding that the licensee has:

* * *

(5) Had his or her license to practice a business or profession licensed under this title revoked, suspended, or annulled by any lawful licensing authority other than the board . . . ;

⁶ Although GCMB is an independent agency and not under the jurisdiction of the Secretary of State, Georgia Code section 43-34-6(a) grants GCMB the powers, duties and functions of state licensing boards. O.C.G.A. § 43-34-6(a). Accordingly, the provisions of section 43-1-19 are also applicable to GCMB's licensees.

* * *

(10) Displayed an inability to practice a business or profession licensed under this title with reasonable skill and safety to the public or has become unable to practice the licensed business or profession with reasonable skill and safety to the public by reason of illness or the use of alcohol, drugs, narcotics, chemicals, or any other type of material

O.C.G.A. § 43-1-19(a)(5), (10).

3.

Similarly, Georgia Code section 43-34-8, which is the specific licensing and disciplinary statute for the medical profession, states, in pertinent part, that GCMB has the authority to discipline a licensee, upon a finding 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 . . . ;

* * *

(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;

O.C.G.A. § 43-34-8(a) (5), (13).

4.

Furthermore, “the board may, upon reasonable grounds, require a licensee . . . to submit to a mental or physical examination by physicians designated by the board.” O.C.G.A. § 43-34-8(a)(13)(B); see also Ga. Comp. R. & Regs. 360-3-.04(1). Physicians are “deemed to have given

[their] consent to submit to such [examinations].” O.C.G.A. § 43-34-8(a)(13)(A).

5.

The Court concludes that GCMB is authorized to take disciplinary action against Respondent’s license as a result of the suspension of her medical license by the Alabama MLC. As a preliminary matter, the Court notes that the concept of “reciprocal discipline” is specifically authorized under Georgia law, as well as other jurisdictions. See O.C.G.A. § 43-1-19(a)(5); O.C.G.A. § 43-34-8(a)(5). See, e.g., Khan v. State Bd. of Auctioneer Exam’rs, 577 Pa. 166, 189-90 (2004).⁷ Having weighed the evidence in the record, the Court further concludes that GCMB’s action in response to the Alabama MLC’s May 12, 2020 Order was measured and reasonable under the circumstances. That is, given the findings of the Alabama MLC relating to Respondent’s opioid use and mental health issues, GCMB properly concluded that Respondent presented a risk to patient safety in Georgia and summarily suspended her license. However, GCMB provided Respondent an opportunity to address these concerns by cooperating with an evaluation and treatment recommendations in Georgia through the GAPHP. The Court concludes that this was a reasonable response to the Alabama MLC’s Order and was authorized under Georgia law. O.C.G.A. §§ 43-34-8(a)(5); 43-1-19(a)(5).

⁷ The Pennsylvania courts have held that “the fact of discipline in another state is the only evidence required by statute to support a corresponding disciplinary action by a Pennsylvania licensing board.” Khan 577 Pa. at 189-90 (citing Tandon v. State Bd. of Med., 705 A.2d 1338 (Pa. Cmwlth. 1997), petition for allowance of appeal denied, 556 Pa. 682 (1998); Shoenhair v. Commonwealth, Dep’t of State, Bureau of Prof’l & Occupational Affairs, 74 Pa. Commw. 217 (1983); Johnston v. State Bd. of Med. Ed. & Licensure, 49 Pa. Commw. 9 (1980). “Moreover, this tenet is accepted by other jurisdictions that have decided this issue.” Id. (citing Faulkenstein v. Dist. of Columbia Bd. of Med., 727 A.2d 302 (D.C. 1999) (reciprocal discipline applied to acupuncturist); Butts v. State Bd. of Architects, 911 P.2d 1062 (Wyo. 1996) (imposing reciprocal discipline on architect based on settlement agreement in Kentucky); Marek v. Bd. of Podiatric Med., 16 Cal. App. 4th 1089 (1993) (reciprocal discipline imposed based on entry into consent decree in Nevada, even though no admission of wrongdoing made); Bhuket v. Missouri State Bd. of Registration for the Healing Arts, 787 S.W.2d 882 (Mo. Ct. App. 1990) (concluding that “disciplinary action” includes any restriction or limitation on license or licensee).

The Court further concludes that GCMB made a prima facie case that Respondent is unable to practice medicine with reasonable skill and safety by reason of her use of narcotics. See O.C.G.A. §§ 43-34-8(a)(13)(A), 43-1-19(a)(10). Specifically, although the Court is troubled by GCMB's failure to tender the TRC report,⁸ Respondent does not deny that she currently uses opioids on a daily basis to treat chronic pain, and the Court was persuaded by Dr. Earley's testimony regarding the general side effects of opioids on an individual's ability to safely perform complex and demanding tasks. Although not unique to the medical profession, it is undisputed that physicians must often exercise high levels of alertness, mental acuity, and nuanced physical skill to safely and effectively provide care to patients, and the Court credits Dr. Earley's testimony that, as a general rule, the use of opioids by practicing physicians presents an unacceptable risk to patient safety. The Court does not rule out the possibility that in an individual case a physician could present sufficient evidence to rebut GCMB's prima facie evidence on the risks associated with a physician use of opioids; however, Respondent has not done so in this case. Consequently, GCMB is authorized to take disciplinary action against Respondent's license on this ground as well.

⁸ The TRC report is hearsay, but Dr. Earley testified in general terms regarding the contents of the report without objection from Respondent, who was unrepresented. See O.C.G.A. § 24-8-802 (if party does not properly object to hearsay, the objection shall be deemed waived, and hearsay evidence shall be legal evidence and admissible). Nevertheless, the Court is mindful of the due process rights afforded to parties in administrative proceedings, which include the right to confront and cross-examine the witnesses against them. See Neal v. Augusta-Richmond Cnty. Pers. Bd., 304 Ga. App. 115 (2010) (citations omitted) (due process includes the right to cross-examine witnesses and is required in administrative hearings). GCMB did not present probative evidence regarding the specific results of the multiple evaluations conducted by TRC, the numerous collateral sources contained in the report, or the diagnoses or findings of the TRC evaluators, and the Court did not find Dr. Earley's broad overview of the report to be sufficient or reliable proof of its contents, particularly when he could not identify the collateral sources relied upon by the evaluators in reaching their conclusions. See Parker v. State, 296 Ga. 586, 597 (2015) ("[T]he [trier of fact] retains the prerogative . . . to determine the weight and credibility of the evidence submitted, and in making this determination, the court may consider the fact that evidence was presented in the form of hearsay rather than testimony subject to cross-examination or evidence bearing other indications of trustworthiness.") (citing Paul S. Milich, Georgia Rules of Evidence § 1:7 (2014-2015 ed.)).

7.

Georgia Code section 43-34-8(b) authorizes the Board to discipline a licensee upon a finding that the licensee has violated GCMB rules. When GCMB finds that a physician should be disciplined, it may suspend (for a definite or indefinite period), revoke, limit, or restrict a license; administer a public or private reprimand; make an adverse finding but withhold imposition of judgment; or impose the judgment but suspend the enforcement of such judgment and place the physician on probation. Further, GCMB is authorized to vacate any probation if the physician fails to comply with reasonable terms imposed by the Board. O.C.G.A. § 43-34-8(b); see also O.C.G.A. § 43-1-19(d), (e). Finally, the Board may impose a fine of up to \$3000.00 for each violation of law, rule or regulation, or a reasonable amount to reimburse the Board for administrative costs. O.C.G.A. § 43-34-8(b)(1)(G), (H).

8.

Based on the Findings and Conclusions above, the Court **RECOMMENDS** that Respondent's license to practice medicine in the State of Georgia be **SUSPENDED indefinitely**. Respondent should not be eligible to petition for lifting of the suspension until she complies with the detoxification and education program recommended by the GAPHP. However, because GCMB failed to prove that the recommendations relating to secondary treatment at a "specialty center" for personality, boundaries, and professionalism issues was appropriate or warranted, reinstatement of Respondent's license should not be conditioned upon successful completion of such treatment.

SO ORDERED, this 29th day of August, 2023.

Kimberly W. Schroer

Kimberly W. Schroer
Administrative Law Judge

