

IN THE MATTER OF
FRANCIS PALERMO, M.D.

Respondent

License Number: D33420

*** BEFORE THE**
*** MARYLAND STATE**
*** BOARD OF PHYSICIANS**
*** Case Number: 2224-0071**

* * * * *

FINAL DECISION AND ORDER

BACKGROUND

On September 24, 2024, Disciplinary Panel B of the Maryland State Board of Physicians (“Board”) charged Francis Palermo, M.D. with immoral and unprofessional conduct in the practice of medicine and violating the Board’s sexual misconduct regulations. *See* Md. Code Ann., Health Occ. (“Health Occ.”) § 14-404(a) (3)(i), (ii); Health Occ. § 1-212; COMAR 10.32.17.

The case was forwarded to the Office of Administrative Hearings (“OAH”) for an evidentiary hearing and a proposed decision. On May 5, 6, and 7, 2025, a hearing was held before an Administrative Law Judge (“ALJ”) at OAH. At the hearing, the State presented testimony from five witnesses and Dr. Palermo testified on his own behalf.

On August 4, 2025, the ALJ issued a proposed decision concluding that Dr. Palermo was guilty of immoral and unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(i) and (ii), and violated the Board’s sexual misconduct regulations, COMAR 10.32.17.03A-C(8), in violation of Health Occ. § 1-212. The ALJ concluded that Dr. Palermo did not violate the sexual misconduct regulations that were in effect prior to 2019. The ALJ proposed that the September 24, 2024 charges be upheld and that Dr. Palermo be reprimanded, placed on probation for two years with referral to the Maryland Physicians Rehabilitation Program, ordered to complete courses in professional ethics and boundaries, and ordered to pay a fine of \$10,000.

Neither party filed exceptions to the ALJ's proposed decision. On October 15, 2025, this matter came before Disciplinary Panel A ("Panel A") of the Board. Panel A has considered the record in this case, including the proposed decision of the ALJ, and now issues this order based on Panel A's findings of fact and conclusions of law. *See* COMAR 10.32.02.05B(4).

FINDINGS OF FACT

Panel A adopts the ALJ's proposed joint factual stipulations, numbered 1 – 21, and the proposed findings of fact, numbered 1 - 25. *See* ALJ proposed decision, attached as **Exhibit 1**. These facts are incorporated by reference into the body of this document as if set forth in full. Neither party filed exceptions to any of the factual findings and the factual findings were proved by a preponderance of the evidence. The Panel also adopts the ALJ's discussion set forth on pages 8 - 21. The discussion section is incorporated by reference into the body of this document as if set forth in full.

CONCLUSIONS OF LAW

Panel A concludes, based on the undisputed facts, that Dr. Palermo is guilty of immoral and unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(i) and (ii), and violated the Board's sexual misconduct regulations, in violation of Health Occ. § 1-212.

SANCTION

Neither party filed exceptions to the ALJ's proposed sanction. Panel A agrees with the proposed sanction of the ALJ of a reprimand, probation for two years with referral to the Maryland Physicians Rehabilitation Program and with courses in professional ethics and boundaries, and payment of a \$10,000 fine. The disciplinary panel will provide Dr. Palermo with six months to take the courses and one year to pay the fine.

ORDER

Based upon the findings of fact and conclusions of law, it is, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel A, hereby

ORDERED that Francis Palermo, M.D., is **REPRIMANDED**; and it is further

ORDERED that Dr. Palermo's license to practice medicine is placed on **PROBATION**¹ for a minimum of **TWO (2) YEARS**. During the probation, Dr. Palermo shall comply with the following terms and conditions of the suspension:

(1) Dr. Palermo shall enroll in the Maryland Professional Rehabilitation Program (MPRP) as follows:

(a) Within 5 business days, Dr. Palermo shall contact MPRP to schedule an initial consultation for enrollment;

(b) Within 15 business days Dr. Palermo shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP;

(c) Dr. Palermo shall fully and timely cooperate and comply with all MPRP's referrals, rules, and requirements, including, but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by MPRP;

(d) Dr. Palermo shall sign and update the written release/consent forms requested by the Board and MPRP, including release/consent forms to authorize MPRP to make verbal and written disclosures to the Board and to authorize the Board to disclose relevant information from MPRP records and files in a public order. Dr. Palermo shall not withdraw his release/consent;

(e) Dr. Palermo shall also sign any written release/consent forms to authorize MPRP to exchange with (i.e., disclose to and receive from) outside entities (including all of Dr. Palermo's current therapists and treatment providers) verbal and written information concerning Dr. Palermo and to ensure that MPRP is authorized to receive the medical records of Dr. Palermo, including, but not limited to, mental health and drug or alcohol evaluation and treatment records. Dr. Palermo shall not withdraw his release/consent;

¹ If Dr. Palermo's license expires during the period of probation, the probation and any conditions will be tolled.

(f) Dr. Palermo's failure to comply with any of the above terms or conditions including terms or conditions of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s) constitutes a violation of this Final Decision and Order;

(g) If, upon the authorization of MPRP, Dr. Palermo transfers to a rehabilitation program in another state, Dr. Palermo's failure to comply with any term or condition of that state's [the out-of-state's] rehabilitation program, constitutes a violation of this Final Decision and Order. Dr. Palermo shall also sign any out-of-state written release/consent forms to authorize the Board to exchange with (i.e., disclose to and receive from) the out-of-state program verbal and written information concerning Dr. Palermo, and to ensure that the Board is authorized to receive the medical records of Dr. Palermo including, but not limited to, mental health and drug or alcohol evaluation and treatment records. Dr. Palermo shall not withdraw his release/consent.

2) Within **SIX (6) MONTHS**, Dr. Palermo is required to take and successfully complete a course in professional ethics and a course in maintaining professional boundaries. The following terms apply:

(a) It is Dr. Palermo's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the course before the course is begun;

(b) Dr. Palermo must provide documentation to the disciplinary panel that Dr. Palermo has successfully completed the course;

(c) The courses may not be used to fulfill the continuing medical education credits required for license renewal;

(d) Dr. Palermo is responsible for the cost of the courses.

3) Within **ONE (1) YEAR**, Dr. Palermo shall pay a civil fine of \$10,000. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297. The Board will not renew or reinstate Dr. Palermo's license if Dr. Palermo fails to timely pay the fine to the Board; and it is further

ORDERED that Dr. Palermo shall not apply for early termination of probation; and it is further

ORDERED that after the minimum period of probation imposed by this Final Decision and Order has passed and Dr. Palermo has fully and satisfactorily complied with all terms and

conditions for the probation Dr. Palermo may submit a written petition to the disciplinary panel for termination of the probation. Dr. Palermo may be required to appear before the disciplinary panel to discuss his petition for termination. If the disciplinary panel determines that it is safe for Dr. Palermo to return to the practice of medicine without monitoring, the probation shall be terminated through an order of the disciplinary panel. If the disciplinary panel determines that it is not safe for Dr. Palermo to return to the practice of medicine without supervision, the probation shall be continued through an order of the disciplinary panel;

ORDERED that, if Dr. Palermo allegedly fails to comply with any term or condition imposed by this Final Decision and Order, Dr. Palermo shall be given notice and an opportunity for a hearing. If the disciplinary panel determines there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings followed by an exceptions process before a disciplinary panel; and if the disciplinary panel determines there is no genuine dispute as to a material fact, Dr. Palermo shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that after the appropriate hearing, if the disciplinary panel determines that Dr. Palermo has failed to comply with any term or condition imposed by this Final Decision and Order, the disciplinary panel may reprimand Dr. Palermo, place Dr. Palermo on probation with appropriate terms and conditions, or suspend with appropriate terms and conditions, or revoke Dr. Palermo's license to practice medicine in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on Dr. Palermo; and it is further

ORDERED that this Order shall not be amended or modified and future requests for modification will not be considered by the Board or a disciplinary panel; and it is further

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

ORDERED that this is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

12/05/2025
Date

Signature on file

Christine A. Farrelly, Executive Director
Maryland Board of Physicians

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Md. Code Ann., Health Occ. § 14-408, Dr. Palermo to seek judicial review of this Final Decision and Order. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Final Decision and Order. The cover letter accompanying this Order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Dr. Palermo files a petition for judicial review, the Board is a party and should be served with the court's process at the following address:

**Maryland State Board of Physicians
Christine A. Farrelly, Executive Director
4201 Patterson Avenue
Baltimore, Maryland 21215**

Notice of any petition should also be sent to the Board's counsel at the following address:

**Stacey Darin
Assistant Attorney General
Maryland Department of Health
300 West Preston Street, Suite 302
Baltimore, Maryland 21201**

Exhibit 1

MARYLAND STATE BOARD OF
PHYSICIANS

v.

FRANCIS PALERMO,
RESPONDENT

LICENSE No.: D0033420

* BEFORE RACHAEL BARNETT,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
*
* OAH No.: MDH-MBP2-71-24-30073

* * * * *

PROPOSED DECISION

STATEMENT OF THE CASE
ISSUES
SUMMARY OF THE EVIDENCE
PROPOSED FINDINGS OF FACT
DISCUSSION
PROPOSED CONCLUSIONS OF LAW
PROPOSED DISPOSITION

STATEMENT OF THE CASE

On September 24, 2024, a disciplinary panel of the Maryland State Board of Physicians (Board) issued charges against Dr. Francis Palermo (Respondent) alleging violations of the State law governing the practice of medicine. Md. Code Ann., Health Occ. §§ 14-101 through 14-509, 14-601 through 14-607 (2021 & Supp. 2024).¹ Specifically, the Respondent is charged with violating section 14-404 of the Act. Health Occ. § 14-404(a)(3); Code of Maryland Regulations (COMAR) 10.32.02.03E(3)(d). The disciplinary panel further charged the Respondent with violating section 1-212 of the Act. Health Occ. § 1-212(a)(1-2), (b)(3), (c)(2-4). The disciplinary panel also charged the Respondent with violations of the Board's sexual misconduct

¹ Unless otherwise noted, all references to the Health Occupations Article cite the 2021 Volume and 2024 Supplement of the Maryland Annotated Code.

regulations. COMAR 10.32.17.02B(2)(a), (3)(a); COMAR 10.32.17.03(A, B, C(8)). The disciplinary panel to which the complaint was assigned forwarded the charges to the Office of the Attorney General for prosecution, and another disciplinary panel delegated the matter to the Office of Administrative Hearings (OAH) for issuance of a proposed decision. COMAR 10.32.02.03E(5); COMAR 10.32.02.04B(1).

I held a hearing on May 5, 6, and 7, 2025, at the OAH in Hunt Valley, Maryland. Health Occ. § 14-405(a); COMAR 10.32.02.04. Andrew Vernick, Esq., represented the Respondent, who was present. Veronica Colson, Assistant Attorney General and Administrative Prosecutor, represented the State of Maryland (State).

Procedure is governed by the contested case provisions of the Administrative Procedure Act, the Rules for Hearings Before the Board of Physicians, and the Rules of Procedure of the Office of Administrative Hearings. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021 & Supp. 2024); COMAR 10.32.02; COMAR 28.02.01.

ISSUES

1. Did the Respondent violate the cited provisions of the applicable law? If so,
2. What sanctions are appropriate?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits into evidence on behalf of the State:

- St. Ex. 1 - Mandated Ten-Day Report, October 27, 2023
- St. Ex. 2 - Board's Physician Profile, multiple dates
- St. Ex. 3 - American Medical Association Physician Profile, December 7, 2023

- St. Ex. 4 - Respondent's Response to the Board, January 9, 2024, with attachments:
- Information Form, various dates
 - Curriculum Vitae, undated
- St. Ex. 5a - Precautionary Suspension, October 27, 2023
- St. Ex. 5b - Letter to the Respondent, February 2, 2023
- St. Ex. 6 - [REDACTED] Hospital Security Footage (USB Drive), October 24, 2023
- St. Ex. 7 - Transcript of Board Interview with [REDACTED], March 14, 2025
- St. Ex. 8a - Written Statement of [REDACTED], October 24, 2023
- St. Ex. 8b - Written Statement of [REDACTED], October 24, 2023
- St. Ex. 8c - Written Statement of [REDACTED], October 25, 2023
- St. Ex. 8d - Written Statement of [REDACTED], October 24, 2023
- St. Ex. 9 - Interview Transcript of [REDACTED], April 14, 2024
- St. Ex. 10 - Interview Transcript of [REDACTED], April 11, 2024
- St. Ex. 11a - Email Correspondence Between [REDACTED] and Eunice Onwuchekwa, January 9, 2024
- St. Ex. 11b - Email Correspondence Between [REDACTED] and [REDACTED], December 9, 2022
- St. Ex. 11c - Written Statement of [REDACTED] November 2, 3, and 18, 2022
- St. Ex. 12 - Board Interview with [REDACTED] March 20, 2024
- St. Ex. 13 - Interview Transcript of [REDACTED], February 12, 2024
- St. Ex. 14 - Telephone Memorandum Re: [REDACTED], February 12, 2024
- St. Ex. 15 - Patient Records from [REDACTED] Hospital for [REDACTED] (USB Drive), various dates
- St. Ex. 16 - Patient Records from the Respondent's Medical Practice for [REDACTED], various dates
- St. Ex. 17 - Interview Transcript of the Respondent, June 6, 2024

St. Ex. 18 - Interview Transcript of [REDACTED], M.D., January 9, 2024

St. Ex. 19 - Charges Under the Maryland Medical Practice Act, September 24, 2024

St. Ex. 20 - Letter from Dr. [REDACTED] to Dr. Palermo, February 25, 2020

I admitted the following exhibits² into evidence on behalf of the Respondent:

Resp. Ex. 1 - Respondent's Curriculum Vitae, undated

Resp. Ex. 2 - Respondent's Awards Received from [REDACTED] Hospital, 2015

Resp. Ex. 3 - Respondent's Seminar Certificates, various dates

Resp. Ex. 4 - Dr. [REDACTED]'s Statement Regarding a Conversation with [REDACTED],
November 1, 2023

Resp. Ex. 5 - Dr. [REDACTED]'s Testimony from a Hearing at [REDACTED] Hospital,
September 20, 2024

Resp. Ex. 6 - Dr. [REDACTED]'s Interview Transcript, February 9, 2024

Resp. Ex. 7a - Chart: Before Video, undated

Resp. Ex. 7b - Chart: BD Comment, undated

Resp. Ex. 9a - Chart: Before Video RT [REDACTED], undated

Resp. Ex. 9b - Additional Chart, undated

Resp. Ex. 10 - Diagram, undated

Testimony

The following witnesses testified on behalf of the State: [REDACTED], Certified
Nursing Assistant; [REDACTED], Respiratory Therapist; Eunice Onwuchekwa, Intake
Manager for the Board; [REDACTED], and [REDACTED], former intern.

The Respondent testified on his own behalf.

² Respondent offered large charts drawn by counsel during the course of the hearing, beginning with Exhibits 7 and ending with 9. They were admitted into evidence. The number 8 seems to have been omitted accidentally.

PROPOSED FINDINGS OF FACT

Having considered all of the evidence presented, I find the following facts by a preponderance of the evidence:

1. At all times relevant to this proceeding, the Respondent was a licensed physician in the State of Maryland.
2. The Respondent is a non-invasive cardiologist.³
3. The Respondent is Board-certified in internal medicine and in cardiovascular disease.
4. In 1990, the Respondent joined the staff at [REDACTED] Hospital [REDACTED], located in Elkton, Maryland.
5. At all times relevant to this matter, the Respondent also maintained a medical practice outside of the hospital where he saw patients in an office setting.
6. In 2014 or 2017, patient [REDACTED] had an in-office examination with Dr. Palermo that made her feel uncomfortable.
7. In May 2022, the Respondent entered into a consent order with the Board for reasons unrelated to the charges herein.
8. On a date between 2021 and 2023, the Respondent and Ms. [REDACTED]⁴ were both in the Intensive Care Unit at [REDACTED] when the Respondent approached Ms. [REDACTED] (who was using a cell phone) and came so close to her that the front of his body touched her back. He whispered in her ear and asked whether she was sending nudes. She answered in the negative and explained she was text messaging her supervisor.

³ Non-invasive cardiologists do not perform the overwhelming majority of cardiac surgeries. They see patients, perform stress tests and perform a limited scope of procedures.

⁴ Ms. [REDACTED] is a respiratory therapist.

9. Later that day the Respondent approached Ms. [REDACTED] again and said he hoped he had not offended her.

10. In November 2022, [REDACTED] began an internship at [REDACTED] as part of her studies to become a nuclear medicine technologist.

11. On November 2, 2022, the Respondent asked Ms. [REDACTED] if she was single when he encountered her in the reading room.

12. On November 18, 2022, the Respondent entered a room where a stress test was about to be performed. Ms. [REDACTED] was waiting near the door with her arms crossed when the Respondent entered the room and brushed her upper arm and shoulder blade with his hand and then rubbed her upper back and ran his hand down to her upper arm, which he then rubbed before moving past her.

13. Ms. [REDACTED] reported the incidents to her clinical coordinator and ultimately wrote an incident report for her school program, Delaware Technical Community College. As a result, Ms. [REDACTED] and all other student interns were removed from [REDACTED].

14. In 2023, the Respondent performed consultations on the surgical specialty unit (SSU) at [REDACTED].

15. [REDACTED] CNA, was one of the Respondent's co-workers on the SSU.

16. In 2023, Ms. [REDACTED] was twenty-one-years old, and she had been working at [REDACTED] for approximately one year.

17. In 2022 or 2023, the Respondent began pinching Ms. [REDACTED] near her bra strap when he encountered her in the workplace.

18. After pinching her on multiple occasions, the Respondent began bumping into Ms. [REDACTED]'s backside.

19. At some point in 2023, the Respondent referred to a burn mark (from a curling iron) on Ms. [REDACTED] as a "hicky."

20. Prior to October 2023, the Respondent joined in a conversation that Ms. [REDACTED] and [REDACTED] (a nurse) were having about a patient with the initials, B.D., and told Ms. [REDACTED] and [REDACTED] that he had a "B.D.," an abbreviation for "big dick."

21. There is a stationary camera that records the staff's movements in a portion of the main hallway of the SSU unit.

22. On October 24, 2023, Ms. [REDACTED] was in the hallway with a cart that carries vital signs equipment. Ms. [REDACTED]⁵ and Ms. [REDACTED] fellow staff members, were also in the main hallway. The Respondent entered the main hallway, approached Ms. [REDACTED], leaned in towards her face, said "nom, nom" (like Cookie Monster) in her ear and touched her arm and then proceeded down the hallway. The camera captured the Respondent's movements throughout this interaction. Ms. [REDACTED] and Ms. [REDACTED] both heard the sound the Respondent made in Ms. [REDACTED]'s ear.

23. Ms. [REDACTED], Ms. [REDACTED] and Ms. [REDACTED] all reported the hallway incident to the appropriate hospital staff.

24. On November 8, 2023, the Maryland Board of Physicians received a report from Dr. [REDACTED], indicating that the Respondent was suspended from practicing medicine at [REDACTED] based on claims that he had inappropriate physical contact with a co-worker.

25. The Board performed an investigation into the aforementioned incidents.

⁵ Ms. [REDACTED] is a nurse.

DISCUSSION

When not otherwise provided by statute or regulation, the standard of proof in a contested case hearing before the OAH is a preponderance of the evidence, and the burden of proof rests on the party making an assertion or a claim. State Gov't § 10-217; COMAR 28.02.01.21K. To prove an assertion or a claim by a preponderance of the evidence means to show that it is "more likely so than not so" when all the evidence is considered. *Coleman v. Anne Arundel Cnty. Police Dep't*, 369 Md. 108, 125 n.16 (2002). The Department bears the burden to show the Respondent committed the violations alleged by a preponderance of the evidence. COMAR 28.02.01.21K(1)-(2)(a).

The Board issued charges on the grounds that a reprimand or probation of a licensee, or suspension or revocation of a license is merited under the Act including the following:

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

- (3) Is guilty of:
 - (i) Immoral conduct in the practice of medicine; or
 - (ii) Unprofessional conduct in the practice of medicine;

Health Occ. § 14-404(a)(3) (Supp. 2024).

Sexual misconduct in a health care workplace is, by its nature, unprofessional conduct in the practice of medicine. See *Board of Physician Quality Assurance v. Banks*, 354 Md. 59, 77 (1999) ("When a hospital physician, while on duty, in the working areas of the hospital, sexually harasses other hospital employees who are attempting to perform their jobs, the Board can justifiably conclude that the physician is guilty of immoral or unprofessional conduct in the practice of medicine."). The State alleges that the Respondent violated Health Occ. § 1-212 (2021). Section 1-212(a) prohibits sexual misconduct and provides for the discipline of a

licensee found to be guilty of sexual misconduct. The statute defines “sexual misconduct” as “any sexual behavior that would be considered unethical or unprofessional according to the code of ethics, professional standards of conduct, or regulations of the appropriate health occupations board under this article.” Health Occ. § 1-212(b). A violation of this statute may result in Board discipline including a reprimand, placing a licensee on probation or suspending or revoking a license. Health Occ. § 1-212(c).

The State also alleged that the Respondent violated its sexual misconduct regulations. The regulations went into effect in 2000, and an amended version took effect on May 20, 2019. The State alleges that the Respondent’s pre-2019 conduct violated COMAR 10.32.17, which prohibited “sexual misconduct against patients or key third parties by individuals licensed or certified under Health Occupations Article, Titles 14 and 15.” COMAR 10.32.17.01. COMAR 10.32.17.02 provided two applicable definitions. The regulation defined sexual impropriety as “behavior, gestures, or expressions that are seductive, sexually suggestive or sexually demeaning to a patient or key third party regardless of whether the sexual impropriety occurs inside or outside of a professional setting.” COMAR 10.32.17.02B(2). The regulation also includes a relevant definition for sexual misconduct, “a health care practitioner’s behavior toward a patient, former patient or key third party which includes: (a) sexual impropriety...” COMAR 10.32.17.02B(3). COMAR 10.32.17.03 states explicitly, “[i]ndividuals licensed or certified under Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland, may not engage in sexual misconduct.” *Id.* The State alleged violations of each of these regulations.

The State also alleges that the Respondent violated the version of the regulations in effect after 2019. COMAR 10.32.17.01 prohibits sexual misconduct by health care practitioners. COMAR 10.32.17.03 prohibits health care practitioners from engaging in sexual misconduct,

which includes but is not limited to “having nonconsensual sexual contact with a coworker or employee.” COMAR 10.32.17.03C(8). COMAR 10.32.17.02B(3) defines sexual contact as “the knowing touching directly or through clothing where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the health care practitioner’s own prurient interest or for sexual arousal or gratification.” Sexual contact “includes but is not limited to...(v) nonclinical touching of breasts, genitals, or any other sexualized body part.” Sexual harassment is defined as an “unwelcome sexual advance or request for sexual favor, or other verbal or physical conduct of a sexual nature.” COMAR 10.32.17.02B(4).

The Board’s charging documents also indicated that the Board considered the following Principles of Ethics of the American Medical Association, in pertinent part:

9.1.3 Sexual Harassment in the Practice of Medicine

Sexual harassment can be defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

Sexual harassment in the practice of medicine is unethical. Sexual harassment exploits inequalities in status and power, abuses the trust of those who are subjected to such conduct....

The State proposes a reprimand, placing the Respondent on probation for two years, enrolling him in a rehabilitation program for physicians, as well as in courses in ethics and maintaining boundaries. The State also seeks a \$10,000.00 fine. The State’s charges against the Respondent stem from allegations made by several women, most of them young women, against him. The Respondent argues that he interacted socially, but not inappropriately, with his colleagues and some level of physical contact with fellows is normal in a hospital practice setting.

Pre-2019 conduct - Ms. [REDACTED]

The State offered the testimony, medical records, interview transcript, and telephone memorandum of cardiac care patient [REDACTED]⁶ into evidence and argued that the Respondent made comments of a sexual nature to her that were immoral and unprofessional prior to the 2019 change in the regulations. In Ms. [REDACTED]' February 12, 2024 interview with the Board's investigator, she initially stated⁷ that when she saw the Respondent for a cardiac exam in his office (on a date she was not certain of), he saw her in an exam room without any other staff present. He directed her to pull her bra up, so he could listen to her heart. When he was done listening, she started to pull it down and the Respondent offered to help her do so and made the statement, "If I was in school, I'd get in trouble for this." Ms. [REDACTED] declined the Respondent's offer of assistance. However, shortly thereafter in the interview, Ms. [REDACTED] stated the Respondent directed her to "pull your bra off so that I can listen to your heart"⁸ during that medical visit. There is obviously a difference between lifting one's bra briefly for exam purposes and taking it off completely.

There were additional discrepancies with Ms. [REDACTED] account of the incident, as compared to how Dr. [REDACTED] documented her describing the same in-office incident. On November 1, 2023, Ms. [REDACTED] saw Dr. [REDACTED] in [REDACTED]'s Emergency Department for medical care, and Dr. [REDACTED] wrote a statement that same day recounting what she told him when he mentioned the Respondent's name as a possible cardiac care provider for Ms. [REDACTED]. The written statement, Respondent's Exhibit 4, states in pertinent part:

He asked her to undress which she thought was odd since she expected him to simply listen to her heart and had never been asked to undress in a cardiologists office before....He never looked away and waited for her to disrobe which she did...He made a

⁶ Ms. [REDACTED] was the only accuser who was not a young woman at the time of the incident(s).

⁷ State Ex. 13, bate stamp 000078.

⁸ State Ex. 13, bate stamp 000079.

vaguely sexual comment about not being normally aloud to take off women's bras and an equally inappropriate sexual comment about it being a skill he wished he'd had while he was in high school as it would have made him more popular....He just stood there staring at her. He then stood next to her with his arm against hers which made her even more uncomfortable.

This account included details that weren't part of Ms. [REDACTED]' statement to the Board or her testimony, such as the Respondent staring at her and standing next to her with his arm against her, as well as the more extensive comment regarding his high school experiences. On cross-examination, legal counsel drew attention to Ms. [REDACTED]'s mental health diagnoses, including anxiety and depression. While I did not find these diagnoses to be a reason to discount her testimony, the inconsistencies across her accounts were troubling enough that I am unable to rely upon her accounts to conclude anything beyond that the Respondent made her feel uncomfortable enough to report him to another physician.

Since the allegations involving Ms. [REDACTED] are the only allegations that pre-date 2019, I do not find that the State proved any violations of the pre-2019 version of its sexual misconduct regulations. I also do not find any statutory violations based on the allegations involving Ms. [REDACTED]

Post-2019

Ms. [REDACTED]

The State presented the testimony of [REDACTED], her written statement, the transcript of her interview with the Board, as well as hospital records related to the incidents between her and the Respondent. Ms. [REDACTED] was a nuclear medicine student beginning her internship at [REDACTED] when she first met the Respondent on November 2, 2022. A nuclear medicine technician was showing her around at [REDACTED] when they brought her to the reading room, a quiet space used by medical staff to review materials. The Respondent was

present at the time and initially engaged her in a conversation she described as “polite conversation.”⁹ Ms. [REDACTED] testified that the Respondent then asked her if she was single. During his testimony, the Respondent offered a slightly different account -- he stated that he asked her if she was married and explained that she had mentioned her family was coming to visit her. This incident alone was not worthy of any disciplinary action, but asking about either her availability or marital status was a more personal question than one wouldn’t typically ask in that situation and foreshadowed a significant later incident.

Ms. [REDACTED] testified about an incident involving unwanted physical contact with the Respondent on November 18, 2022. She was at [REDACTED], about to observe a stress test, and was standing in the doorway of the room where it would occur, with her arms crossed in front of her. When the Respondent arrived, he brushed her upper arm and shoulder blade with his hand and then rubbed her upper back and ran his hand down to her upper arm, which he then rubbed before moving past her. This account is nearly identical to her written statement from November of 2022, which also mentions rubbing her upper back and arm. The Respondent testified that as he went by Ms. [REDACTED] he touched her shoulder and said “excuse me.” The Respondent’s account is significantly different from that of Ms. [REDACTED].

Ms. [REDACTED] immediately reported the incident to her academic program. It was at that time that she wrote the account of both incidents involving the Respondent. By doing so, she documented her interactions with the Respondent close in time to the unwanted touching. This incident was disturbing enough for Ms. [REDACTED] to report it, and she did so promptly. The Respondent has a motive to make his account of the incident seem more innocent; he wishes to avoid discipline with the Board. There was no apparent motive for Ms. [REDACTED] to fabricate this incident. To the contrary, bringing it to the attention of her

⁹ State Ex. 11, bate stamp 000064.

program took courage, as she was a student and a young adult at the time. Given the contemporaneous documentation in her written statement, consistency with her testimony, and lack of motivation to fabricate the incidents, I find Ms. [REDACTED] more credible than the Respondent.

The Respondent's actions on this occasion were highly inappropriate. The Respondent and Ms. [REDACTED] were co-workers in a health care setting. Massaging another person without permission is understandably seen as unwelcome touching of a sexual nature. The Respondent's action was sexual behavior that is unethical and unprofessional in the practice of medicine and therefore, a basis for professional discipline. Health Occ. §§ 1-212(a)-(c), 14-404(a)(3). Furthermore, stroking and massaging Ms. [REDACTED]'s upper body was an unwelcome sexual advance in a medical workplace, which meets the definition of sexual harassment under COMAR 10.32.17.02B(4), is a form of sexual misconduct pursuant to COMAR 10.32.17.03C(1), and is prohibited under COMAR 10.32.17.03A. However, asking Ms. [REDACTED] if she was single did not rise to the level of a sexual comment, as the State alleged. It was an invasive question, but not clearly sexual absent prior overtures. Therefore, this verbal interaction did not constitute a violation of any Board statute or regulation.

Ms. [REDACTED]

The State offered the testimony and transcript of the Board interview for Ms. [REDACTED]. Ms. [REDACTED] reported in both her interview and her testimony that she had an initial unpleasant interaction with the Respondent in 2022 or 2023, and that she observed and reported an inappropriate interaction between her co-worker, Ms. [REDACTED], and the Respondent that occurred on October 24, 2023. Ms. [REDACTED] reported immediately standing up to the Respondent when he acted inappropriately towards her. During her testimony, she used a firm

tone of voice when recounting how she responded to the Respondent. After she did so, she testified, he apologized, and she did not have any more adverse interactions with him.

Ms. [REDACTED] testified that she has known the Respondent for almost four years and that one day in 2021 or 2022 in the Intensive Care Unit, the Respondent came up behind her and stood up against her, catching her by surprise, and quietly asked her whether she was “sending nudes.” (Test. [REDACTED]). She explained to the Respondent that she was corresponding with her supervisor, and he then moved away from her. She testified that she felt “caught off-guard” by this situation. (Test. [REDACTED]). She further testified that he later apologized to her, and she felt she had handled the situation.

Her Board interview transcript included a very similar report of the incident, except that she added that she estimated the incident was in 2022 or 2023 (rather than 2021 or 2022) and stated she regretted not reporting the incident when it first occurred. When asked about this alleged incident during his testimony, the Respondent did not offer any explanation but rather testified that he “would never” do this.

The Respondent is facing disciplinary action and has a motive to minimize or conceal incriminating statements. Ms. [REDACTED]'s statements were specific and included emotional reflection – feeling caught off guard and like she handled the situation after he apologized. Furthermore, the tone of her voice changed during her testimony, becoming stern as she recounted responding to the Respondent in the negative to explain that she was in contact with her supervisor. Ms. [REDACTED]'s emotional reflection lent credibility to her testimony; she still has strong feelings about what happened. For these reasons, I found Ms. [REDACTED] more credible than the Respondent regarding these allegations.

Asking a co-worker if they are “sending nudes” constitutes “verbal or physical conduct of a sexual nature,” which is sexual harassment per the definition in COMAR 10.32.17.02B(4) and therefore, is a form of prohibited sexual misconduct under COMAR 10.32.17.03A and a basis to discipline a physician under sections 1-212(a)-(c) and 14-404(a)(3) of the Health Occupations Article.

Ms. [REDACTED]

The State offered the interview transcript and testimony of Ms. [REDACTED], interview transcripts and written statements of [REDACTED] and [REDACTED], security footage of the October 24, 2023 hallway incident, and written statements immediately following that incident. The incident of October 24, 2023, is the best documented of the alleged improprieties. During the hearing, legal counsel played and replayed the video recording of the incident several times. The video is a visual recording only; there is no sound.

The video shows Ms. [REDACTED] standing in the SSU hallway with a vital signs cart, with her back facing the wall. Other staff are visible in the hallway and include Ms. [REDACTED] and Ms. [REDACTED]. The Respondent enters the hallway through the double doors and walks towards Ms. [REDACTED]. When he reaches her, he leans in towards her face, pauses a moment and Ms. [REDACTED] then pulls away (towards the wall behind her) and the Respondent pulls back and reaches out with his left hand and touches her right arm as he walks past her.

Ms. [REDACTED] testified that when the Respondent leaned in, she could feel his face touch her “baby hairs,” as she described the shorter hairs along her hairline. (Test. [REDACTED]). She further testified that the Respondent made a “nom nom” sound (like Cookie Monster) in her ear when he leaned in. During her testimony, Ms. [REDACTED] described the sound she overheard as “num num”; her written statement the day of the incident described it as “a weird noise in her

ear,”¹⁰ which is consistent but less descriptive. Ms. [REDACTED]’ written statement the day of the incident describes the sound as a “chomping noise.”¹¹

The Respondent testified that as he passed Ms. [REDACTED] in the hallway he said “woof woof” a few inches from her neck, where she had a mark that they had discussed being a burn mark (though he testified, they had joked about it being a dogbite). He acknowledged holding her wrist and then letting it go as he moved past her and stated that he startled her and regretted it ever since then. During his testimony, the Respondent appeared calm, was well-dressed and well-spoken; he gave a professional impression. However, it is possible to project a professional demeanor in one setting and exhibit unprofessional behavior in another. It appears that is exactly what has happened in this instance. While I found the statements of Ms. [REDACTED] in conjunction with witnesses Ms. [REDACTED] and Ms. [REDACTED] more credible as to what the sound was, the exact nature of the noise (whether it was a dog sound or a Cookie Monster sound) is less important than the fact that he made an oddly sexual noise in her ear and leaned in close to her to do so, making unwanted and unnecessary contact with her arm in the process.

Respondent argued that Ms. [REDACTED], Ms. [REDACTED] and Ms. [REDACTED] exaggerated the hallway interaction with the Respondent. Ms. [REDACTED] and Ms. [REDACTED] described the interaction as “groping” during their testimony. A written statement by [REDACTED] Assistant Nurse Manager, indicates that Ms. [REDACTED] and Ms. [REDACTED] described the incident to him as a “groping,”¹² when they discussed it. Respondent’s counsel pointed out to the witnesses that what was seen on the video did not meet the definition of groping. Ms. [REDACTED] and Ms. [REDACTED] maintained it was groping and explained they understood the word to mean

¹⁰ State Ex. 8B.

¹¹ State Ex. 8D.

¹² State Ex. 8C.

something akin to an unwelcomed touching. It is possible that there is a different demographic understanding of what groping means, since these witnesses are all young adults.

I agree that the Respondent did not grope Ms. [REDACTED]. Groping (in the sexual context) means to “feel up.”¹³ The Respondent engaged in an unwelcomed touching, but the video does not show him feeling her up, such as running his hands over her breasts or buttocks. He touched her forearm but did not run his hands over any part of her body.¹⁴ The Respondent’s unwelcomed touching of Ms. [REDACTED]’s arm also directly followed him leaning in and saying “nom nom” in her ear.

Had he touched her arm in the context of working with a patient together, rather than after leaning in and saying something inappropriate, this touch would have had a different meaning. The Respondent testified that co-workers in a hospital touch as they interact with patients. That, however, does not mean that the type of contact the Respondent had with Ms. [REDACTED] in the hallway was appropriate.

The entirety of the contact (both verbal and physical) meets the regulatory definition of sexual harassment, because it was “an unwelcome sexual advance, request for sexual favor, or other verbal or physical conduct of a sexual nature.” COMAR 10.32.17.02B(4). Sexual harassment is categorized as a form of sexual misconduct that is prohibited for health care practitioners. COMAR 10.32.17.03A. Furthermore, this conduct constitutes unprofessional conduct in the practice of medicine.

There had been several inappropriate incidents leading up to the hallway incident which corroborate the finding that this was sexual harassment. Ms. [REDACTED] testified at the hearing

¹³ Merriam-webster.com/dictionary/grope (checked July 28, 2025).

¹⁴ Ms. [REDACTED] also testified that he held her shoulders when he leaned in towards her, but given the angle and speed of the security footage, it is not possible to see whether this occurred. It is not necessary to make this finding to resolve this matter, as the Respondent’s other actions were sufficiently inappropriate to merit discipline.

and stated during her interview that the Respondent had intentionally bumped into her backside and had pinched her fat just beneath her bra strap on several occasions. She also testified that she had a burn mark on her neck from a curler and that the Respondent referred to it as a "hicky," which she did not like. She testified they did not have a joke about a dog bite. Additionally, she testified that the Respondent joined in a conversation that Ms. [REDACTED] was having with a female nurse about a patient with initials "B.D." to inform them that he had a "B.D.," by which he meant a big dick. Ms. [REDACTED] testified about this statement and described it during her Board interview. It is obviously unprofessional for a physician to pinch a co-worker, purposefully bump into her backside or describe the size of his penis to her. These incidents, as well as the culminating hallway incident also meet the definition of sexual harassment. In fact, the pervasive nature of the Respondent's sexual overtures towards Ms. [REDACTED] makes his conduct towards her the most significant evidence of sexual harassment with which the Respondent is charged. Furthermore, the bumping into her buttocks and pinching of the area near her bra strap also meet the definition of sexual contact, which is "the knowing touching directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the healthcare practitioner's own prurient interest or for sexual arousal or gratification." COMAR 10.32.17.02B(3)(a). Nonconsensual sexual contact with a coworker is a form of prohibited sexual misconduct. COMAR 10.32.17.03A,C(8).

The Respondent scrutinized Ms. [REDACTED]'s decision not to report the Respondent sooner. Ms. [REDACTED] testified that these incidents began in early 2023 but she had not said anything until her co-workers encouraged her to speak up following the hallway incident. She had not reported the Respondent because she felt he had more power than she did since he was a

physician and she was a Certified Nursing Assistant (CNA). She expressed her fear of being terminated. She testified, "It's cheaper to get rid of a CNA." (Test. [REDACTED]). Regardless of whether the Respondent had the authority to terminate her, the Respondent continued to engage in this conduct until Ms. [REDACTED]'s colleagues, Ms. [REDACTED] and Ms. [REDACTED], encouraged her to inform her superiors. It can be challenging for the victim of workplace sexual misconduct to report the misconduct. Respondent's scrutiny of Ms. [REDACTED]'s long-term silence demonstrated a lack of awareness of the challenges employees, especially those of a lower workplace status, face in these situations.

The State proved by a preponderance of the evidence that through inappropriate physical contact and comments, the Respondent violated the Board's sexual misconduct statutes and regulations. Health Occ, §§ 1-212(a)-(c), 14-404(a)(3); COMAR 10.32.17.02B(3,4); COMAR 10.32.17.03A, C(8). Therefore, sanctions are appropriate.

Sanctions

In this case, the State has stated that it seeks to impose the following disciplinary sanctions: a written reprimand, two years of probation, enrollment in a physicians' rehabilitation program, a professional course in ethics, and a professional course in maintaining boundaries. Health Occ. § 14-404(a); COMAR 10.32.02.09A; COMAR 10.32.02.10. These recommendations are sound.

The level of discipline, a written reprimand, is the lowest possible level of discipline that exists for physicians. Considering the Respondent's sexual improprieties towards several younger and lower-ranking female medical staff, a reprimand is surely warranted. The fact that it is a written reprimand means the Board will be able to document why the Respondent is being disciplined, which is important for him to understand since he is going to continue to practice

medicine. Additionally, the probationary period will allow the Board to monitor the Respondent's behavior and respond with further actions if needed to ensure he does not slip back into his pattern of sexual contact and harassment of young female hospital staff members. The Respondent's prior agreement with the Board is an aggravating factor that makes a period of probation especially appropriate.

Under the applicable law, the State also may impose a fine instead of or in addition to disciplinary sanctions against a licensee who is found to have violated section 14-404. COMAR 10.32.02.10. In this case, the State is seeking a fine of \$10,000.00, which is the minimum fine called for under COMAR 10.32.02.10B(3) for violations that are sexual in nature.

PROPOSED CONCLUSIONS OF LAW

Based on the foregoing Proposed Findings of Fact and Discussion, I conclude, as a matter of law, that the Respondent violated the alleged provisions of the law in effect after 2019. Md. Code Ann., Health Occ. §§ 14-404(a)(3), 1-212(a)(1-2); COMAR 10.32.17.03A-C(8). I further conclude that the Respondent did not violate the alleged provisions of the law in effect prior to 2019. COMAR 10.32.17.03A-(B), COMAR 10.32.17.02B(2)-(3).

As a result, I conclude that the Respondent is subject to disciplinary sanctions of a written reprimand, two years of probation, enrollment in a physicians' rehabilitation program, a professional course in ethics, and a professional course in maintaining boundaries for the cited violations. *Id.*; COMAR 10.32.02.09A-B.

I further conclude that the Respondent is subject to a fine of \$10,000.00 for the cited violations. COMAR 10.32.02.10


PROPOSED DISPOSITION

I **PROPOSE** that charges filed by the Maryland State Board of Physicians against the Respondent on September 24, 2024 be **UPHELD**; and

I **PROPOSE** that the Respondent be sanctioned by written reprimand, two years of probation, enrollment in a physicians' rehabilitation program, a professional course in ethics, and a professional course in maintaining boundaries; and

I **PROPOSE** that the Respondent be ordered to pay a fine of \$10,000.00.

August 4, 2025
Date Decision Issued


Rachael Barnett
Administrative Law Judge

RAB/lp
#219150


NOTICE OF RIGHT TO FILE EXCEPTIONS

Any party adversely affected by this proposed decision may file written exceptions with the disciplinary panel of the Maryland State Board of Physicians that delegated the captioned case to the Office of Administrative Hearings (OAH) and request a hearing on the exceptions. Md. Code Ann., State Gov't § 10-216(a) (2021); COMAR 10.32.02.05. Exceptions must be filed within fifteen (15) days of the date of issuance of this proposed order. COMAR 10.32.02.05B(1). The exceptions and request for hearing must be addressed to the Disciplinary Panel of the Board of Physicians, 4201 Patterson Avenue, Baltimore, MD, 21215-2299, Attn: Christine A. Farrelly, Executive Director.

A copy of the exceptions should be mailed to the opposing attorney, and the other party will have fifteen (15) days from the filing of exceptions to file a written response addressed as above. *Id.* The disciplinary panel will issue a final order following the exceptions hearing or other formal panel proceedings. Md. Code Ann., State Gov't §§ 10-216, 10-221 (2021); COMAR 10.32.02.05C. The OAH is not a party to any review process.

Copies mailed to:

Francis Palermo M.D.



Andrew Vernick, Esquire
Vernick & Associates
901 Dulaney Valley Road, Suite 500
Towson, MD 21204

Veronica Colson, Assistant Attorney General
Administrative Prosecutor
Health Occupations Prosecution and Litigation Division
Office of Attorney General
300 West Preston Street, Room 201
Baltimore, MD 21201

Christine A. Farrelly, Executive Director
Compliance Administration
Maryland Board of Physicians
4201 Patterson Avenue
Baltimore, MD 21215

Rosalind Spellman, Administrative Officer
Health Occupations Prosecution and Litigation Division
Office of the Attorney General
300 West Preston Street, Room 201
Baltimore, MD 21201

Nicholas Johansson, Principal Counsel
Health Occupations Prosecution and Litigation Division
Office of the Attorney General
300 West Preston Street, Room 201
Baltimore, MD 21201