

IN THE MATTER OF

*

BEFORE THE MARYLAND

CHANTEL A. JOHNSON, Radiographer *

STATE BOARD OF

Respondent

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PHYSICIANS

Applicant

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Case Number: 2224-0171

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FINAL DECISION AND ORDER

On August 6, 2024, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) notified Chantel A. Johnson, Radiographer, of its intent to deny her *Application for Reinstatement of Radiographer* (“The Application”), dated December 27, 2023, under the Maryland Radiation Therapy, Radiography, Nuclear Medicine Technology and Radiology Assistance Act, Md. Code Ann., Health Occ. §§14-5B-01 *et seq.* The pertinent provisions of the Act provide:

Health Occ. § 14-5B-14. Denial of License

(a) Subject to the hearing provisions of § 14-405 of this title, a disciplinary panel, on the affirmative vote of a majority of a quorum of the disciplinary panel, may deny a license to any applicant, . . . , if the applicant . . . :

...

(3) Is guilty of unprofessional or immoral conduct in the practice of . . . radiography . . . [and]

...

(26) Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel[.]

The case was delegated to the Office of Administrative Hearings (“OAH”) for an evidentiary hearing and a proposed decision. On April 8, 2025, an Administrative Law Judge (“ALJ”) held the evidentiary hearing and, on June 26, 2025, issued a Proposed Decision, recommending that the Board deny Ms. Johnson’s reinstatement application. Ms. Johnson filed

written exceptions, and the administrative prosecutor filed a response on behalf of the State. On September 24, 2025, Ms. Johnson and the Administrative Prosecutor appeared before Disciplinary Panel B (“Panel B”) for an exceptions hearing where both parties decided to submit on their written submissions and did not present any oral argument. Panel B has considered the record in this case, including the proposed decision of the ALJ, and now issues this order based on Panel B’s findings of fact and conclusions of law. *See* COMAR 10.32.02.05B(4).

FINDINGS OF FACT

Panel B adopts the ALJ’s proposed findings of fact, numbered 1 - 36. *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. The Panel also adopts the ALJ’s discussion set forth on pages 11-26. The discussion section is incorporated by reference into the body of this document as if set forth in full. The factual findings were proved by a preponderance of the evidence and are summarized below:

Ms. Johnson was issued a radiographer license by the Board on January 7, 1998, which expired on April 30, 2017. On December 27, 2023, Ms. Johnson submitted an application for the reinstatement of her radiography license. The application asked her to provide a chronology of employment activities since her license expired and asked her to explain any lapse in time over one year in which she was not employed. Ms. Johnson initially listed one job as a delivery driver for Amazon Flex from May 2021 to September 2021 and did not provide any additional employment or explanation for any lapses in employment. During January and February of 2024, the Board communicated with Ms. Johnson regarding the deficiencies in her application and Ms. Johnson supplemented her application with additional information. Ms. Johnson explained that she had provided all of the required documentation and explanations and stated that if the Board wanted to know why she had not worked, they would have to ask the many companies that she

applied to. The new chronology of activities included several ranges of dates, and her activities were described as “Misc. Independent/Unemployed.” On February 26, 2024, Ms. Johnson sent an email (“the deli clerk email”) to the Board attempting to further explain the lapses in her employment:

However the lapses are not for the reason that, in the words of a nice customer service-oriented deli clerk, “I act like I don’t be understanding.” I understand. I understand that I don’t have to follow instructions meant for animals. I understand that I don’t have to consent to, and have not consented to being used as a research subject where potential employers give potential co-workers my personal information. I understand that as a client or patient who does not feel well, I do not have to accept mistreatment, when I walk into a medical facility because the staff is given false information about me. I understand that as a professional, I do not have to accept abuse from clients, patients, and co-workers who are given my personal information.

Ms. Johnson sent another letter to the Board, dated February 26, 2024, providing further details regarding her non-employment activities:

- 1) Searching and applying for work by contacting individuals and companies via online and in person.
- 2) From time to time I write notes in the notes app on my personal device in order to catch potential hackers, not a very lucrative hobby.
- 3) Taking courses such as, CPR and continuing education courses. I’m also contemplating taking another dance class. If you haven’t tried it you should; it’s fun.^[1]
- 5) The usual daily activities that include: cooking, cleaning, shopping and assisting others when I can.
- 6) Lastly, taking out time to file concerns regarding a variety of unfortunate circumstances.

On February 29, 2024, the licensure unit of the Board forwarded Ms. Johnson’s application to the Board’s intake unit due to concerns regarding Ms. Johnson’s willingness to cooperate or provide the requested information, as well as various statements in her communications with Board staff that called into question Ms. Johnson’s fitness to practice. On March 13 and 26, 2024, Ms. Johnson was referred to the Maryland Professional Rehabilitation Program for an intake evaluation

¹ A number 4 is not included in Ms. Johnson’s list.

for the purposes of scheduling an examination to determine Ms. Johnson's competency to practice, pursuant to Md. Code Ann. Health Occ. §14-402(a). Ms. Johnson failed to appear at either intake appointment and, as a result, Panel A voted to issue the Notice of Intent to Deny, which is the subject of this proceeding.

EXCEPTIONS

The ALJ found that the denial of Ms. Johnson's reinstatement application was appropriate based on Ms. Johnson's unprofessional conduct in the practice of radiography and failure to cooperate with a lawful investigation conducted by the Board. The Panel will now consider Ms. Johnson's written exceptions to the ALJ's proposed decision. Ms. Johnson explained the reasons she was unemployed and had left her temporary employment. She also stated that she did not know that the Board wanted a year-by-year breakdown of her lapses in employment instead of her general explanation regarding her unemployment. Ms. Johnson explained that her exceptions and other letters were handwritten due to the stalking and harassment by staff, clients, and other Maryland employees that occurred in the libraries and stated that the library staff had accessed her email account without permission. She also detailed the circumstances surrounding the loss of her ARRT certification, financial hardships, and difficulty with landlords and housing, none of which were related to the proposed denial of her reinstatement application or the ALJ's proposed decision. While Ms. Johnson specifically references various parts of the ALJ's proposed decision, the majority of her exceptions read as a response or explanation, rather than an objection to the proposed decision.

Failure to cooperate with lawful Board investigation

Ms. Johnson does not dispute that she did not attend either of the two evaluation appointments scheduled by the Board. Rather, she contends that there was no lawful basis for the Board to investigate her competence and, therefore, there was no lawful investigation she failed to

comply with. The ALJ addressed Ms. Johnson's concerns and found that the referral for the evaluation was part of a lawful Board investigation to ensure Ms. Johnson's competence in part, due to her large gaps in employment, lack of detailed explanation for the gaps, and her nonsensical and aggressive comments to Board Staff. The Panel agrees with the ALJ that the evaluation was warranted and that Ms. Johnson's refusal to attend the evaluation constitutes a failure to cooperate.

Unprofessional Conduct in the Practice of Radiography

Noting that there was little to no case law regarding unprofessional conduct in the practice of radiography, the ALJ evaluated the cases that address unprofessional conduct in the practice of medicine. In Maryland, unprofessional conduct has been defined as "conduct which breaches the rules or ethical code of a profession, or conduct which is unbecoming a member in good standing of a profession." *Finucan v. Maryland Bd. of Physician Quality Assurance*, 380 Md. 577, 593 (2004). It is also conduct that "is commonly understood within the medical profession" as prohibited and conduct that "diminish[es] the standing of the medical profession's role of caregiver in the eyes of the public." *Finucan*, 380 Md. at 594, 601.

Ms. Johnson does not dispute that her communications were unprofessional, but rather, she argues that she was not engaged in the practice of radiography during the application process and that communications with Board staff were not in the practice of radiography because there was no patient involvement. The ALJ considered case law pertaining to unprofessional conduct in the practice of medicine and specifically relied on *Kim v. Maryland State Board of Physicians*, 423 Md. 523, 542 (2011), which held that the completion of a licensure application was sufficiently intertwined with the practice of medicine because without a license, the individual would be unable to practice. The Panel agrees that the *Kim* case is directly on point and agrees with the ALJ that Ms. Johnson's actions and the communications between Board Staff and Ms. Johnson during the application process occurred in the practice of radiography.

To start, the ALJ found that the failure to attend the two scheduled evaluations also constituted unprofessional conduct in the practice of radiography. The panel agrees. The ALJ also considered eight other possible instances of unprofessional conduct and found that two of Ms. Johnson's communications to Board staff during her application process, specifically the emails sent on February 26, 2024, and March 14, 2024, constituted unprofessional conduct in the practice of radiography. Neither party filed exceptions regarding the remaining six instances that the ALJ found did not rise to the level of unprofessional conduct. The Panel adopts the ALJ's analysis concerning these instances, and, accordingly, the Panel will only address the two findings of unprofessional conduct.

February 26, 2024 email

The ALJ found the deli clerk email to be unbecoming of a radiographer in good standing in the community in that the email was argumentative, nonsensical, and clearly not intended to assist in the review of the application. The ALJ recounted that the email "references a statement by a deli worker, instructions meant for animals, consent to being used as a research subject, the Applicant's rights as a client or patient, and the Applicant's personal information being given to clients, patients and co-workers."

Ms. Johnson discussed the deli clerk situation, but not in a way that clarifies either the email. For example, she stated that "one of the customers [she] recognized from the agency that is mentioned in the court documents." Ms. Johnson did not explain how the deli clerk email was related to her application for reinstatement and did not provide any arguments to refute the ALJ's finding that this email constituted unprofessional conduct in the practice of medicine. The Panel agrees that the deli clerk email was unresponsive to Board Staff's inquiries regarding Ms. Johnson's application and, further, gave rise to the concerns that prompted the competency evaluation referral.

March 14, 2024 email

The second finding of unprofessional conduct occurred on March 14, 2024, in response to a Board staff member's out of office message when Ms. Johnson replied:

Good morning,

Why are you out of the office? Are you sick? Can you send me a copy of your doctor's report or an explanation about why you are out if [sic] the office? Refusal to do so, will prove that you are an inefficient worker! You have a great day as well.

The ALJ found this communication to be unprofessional conduct, unbecoming to radiographers, because the language was demeaning to the Board employee and demanded confidential personal information that Ms. Johnson was not entitled to receive. Ms. Johnson does not challenge or dispute this finding of the ALJ.

Miscellaneous Exceptions

Ms. Johnson's exceptions, consistent with her previous communications to the Board, contain extraneous and irrelevant information about her trouble finding employment, lapse in AART certification, financial struggles, issues with finding housing, and problems with her landlords, among others. Ms. Johnson also attempts to further explain the reasons she did not initially include all of her employment activities on her application. The Notice of Intent to Deny, however, was not issued based on her incomplete application, but rather in response to some concerning statements that Ms. Johnson made during the application process and her failure to cooperate with the Board's investigation. All of her exceptions related to her employment history are, therefore, irrelevant because her application wasn't denied based on concerns related to her work history. The ALJ did not find that the incomplete answers on the application itself constitute unprofessional conduct. Neither does the Board.

CONCLUSIONS OF LAW

Panel B adopts the ALJ's Proposed Conclusions of Law that Ms. Johnson's Application for Reinstatement is subject to denial based on her violations of the Act for being guilty of unprofessional or immoral conduct in the practice of radiography and failing to cooperate with a lawful investigation conducted by the Board or a disciplinary panel, *see* Health Occ. § 14-5B-14 (a)(3); and Health Occ. § 14-5B-14(a)(26).

DISPOSITION

Panel B agrees with the ALJ that the denial of Ms. Johnson's application for reinstatement of her radiographer license in Maryland is warranted.

ORDER

It is, on the affirmative vote of a majority of a quorum of Panel B, hereby

ORDERED that the application of Chantel A. Johnson, dated December 27, 2023, for Reinstatement of license to practice radiography in Maryland is **DENIED**; 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).

Signature on file

11/26/2025
Date

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

NOTICE OF RIGHT TO APPEAL

Pursuant to § 14-5B-14.1 of the Health Occupations Article, Ms. Johnson has the right to seek judicial review of this Final Decision and Order. Any petition for judicial review shall be filed within 30 days from the date this Final Decision and Order is mailed. The cover letter accompanying this Final Decision and Order indicates the date the decision and order were mailed. The petition for judicial review must be made as directed in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222, and Maryland Rules 7-201 *et seq.*

If Ms. Johnson petitions 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**

In addition, Ms. Johnson should send a copy of her petition for judicial review to the Board's counsel at the following address:

**Stacey Darin, Assistant Attorney General
Office of the Attorney General
300 W. Preston Street, Suite 302
Baltimore, Maryland 21201**

The administrative prosecutor is not involved in the circuit court process and does not need to be served or copied on pleadings filed in circuit court.

Exhibit 1

MARYLAND STATE BOARD OF
PHYSICIANS

v.

CHANTEL A. JOHNSON,
RADIOGRAPHER

APPLICANT

* BEFORE ERIN H. CANCEENNE,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
*
* OAH No.: MDH-MBP1-75A-24-30800

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PROPOSED DECISION

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

Received

JUL 01 2025

MD Board of Physicians

STATEMENT OF THE CASE

On August 6, 2024, the Maryland State Board of Physicians (Board) notified Chantel Johnson (Applicant) of its intent to deny her Application for Reinstatement of Radiographer (Application). Md. Code Ann., Health Occ. §§14-5B-01 *et seq.* (2021 & 2024 Supp.).¹ The Applicant requested a hearing on the determination to deny. On November 9, 2024, the Board transmitted the case to the Office of Administrative Hearings (OAH) for a hearing and delegated the Administrative Law Judge to issue proposed findings of fact, proposed conclusions of law and a proposed disposition.

On January 6, 2025, I held a remote scheduling conference via the Webex videoconferencing platform. The Applicant attended via telephone and represented herself.

¹ All references to the Health Occupations article are to the 2021 printed edition. Throughout this decision the Health Occupations article will be abbreviated as Health Occ.

Katherine Vehar-Kenyon, Assistant Attorney General, attended via video and represented the State of Maryland (State). Following the remote scheduling conference, I scheduled a pre-hearing conference (Conference) via the Webex videoconferencing platform on February 24, 2025.

On February 24, 2025, I conducted the Conference as scheduled. COMAR 28.02.01.17A. The Applicant attended via telephone and represented herself. Ms. Vehar-Kenyon attended via video.

I held an in-person hearing on April 8, 2025, at the Office of Administrative Hearings in Hunt Valley, Maryland. Health Occ. § 14-405(a); COMAR 10.32.02.04. The Applicant was self-represented and was present. Ms. Vehar-Kenyon represented the 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. Whether the Applicant's conduct constitutes unprofessional or immoral conduct in the practice of radiography under Section 14-5B-14(a)(3) of the Health Occupations Article of the Maryland Code Annotated?
2. Whether the Applicant failed to cooperate with a lawful investigation conducted by the Board or a disciplinary panel under Section 14-5B-14(a)(26) of the Health Occupations Article of the Maryland Code Annotated?
3. If the Applicant either engaged in unprofessional or immoral conduct in the practice of radiography, or failed to cooperate with a lawful investigation conducted by the Board or a disciplinary panel, is denial of the Application proper

under Section 14-5B-14(a) of the Health Occupations Article of the Maryland Code Annotated?

SUMMARY OF THE EVIDENCE

Exhibits

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

- State Ex. 1 - Maryland Board of Physicians Profile for Applicant, undated, S0001-S0002
- State Ex. 2 - Referral from Board Intake Supervisor to Allied Health,² February 29, 2024, S0003-S0004
- State Ex. 3 - Application for Reinstatement of Radiographer, December 27, 2023,³ S0005-S0015
- State Ex. 4 - Continuing Education Documentation, received December 27, 2023 and January 16, 2024, S0016-S0026
- State Ex. 5 - Emails between Applicant and the Board, January 4, 2024, S0027-S0030
- State Ex. 6 - Applicant's statement of reported employment activities, received January 16, 2024, S0031
- State Ex. 7 - Email between Board and Applicant, January 17, 2024, S0032
- State Ex. 8 - Letter from Applicant to the Board, received February 2, 2024, S0033
- State Ex. 9 - Email from the Board to the Applicant, February 5, 2024, S0034
- State Ex. 10 - Email from the Applicant to the Board, February 7, 2024, S0035
- State Ex. 11 - Emails between various members of the Board and the Applicant, February 21, 2024, S0036-S0037
- State Ex. 12 - Emails and Letter to the Applicant from the Board, February 23, 2024, S0038-S0044
- State Ex. 13 - Emails from the Applicant to the Board, February 26, 2024, S0045-S0048

² This exhibit is the memorandum for the referral. However, the referral memorandum had attachments, which are marked as State Exhibits 3-20.

³ While the Application was initially signed on December 15, 2023 and received on December 27, 2023, some of the pages in this exhibit were submitted on other dates as supplements. Page S0008 was received on February 2, 2024. Pages S0006-S0007 were received on February 26, 2024. Pages S0010 and S0012 were received on February 27, 2024.

- State Ex. 14 - Emails between the Applicant and the Board, February 27, 2024, S0049-S0061
- State Ex. 15 - Emails between the Applicant and the Board, February 28, 2024, S0062-S0070
- State Ex. 16 - Emails from the Board to the Applicant, February 29, 2024, S0071-S0076
- State Ex. 17 - Letter from the Applicant with attachments, received March 5, 2024, S0077-S0080
- State Ex. 18 - Applicant's initial application for Licensure and Acceptance, January 7, 1998, S0081-S0088.
- State Ex. 19 - Memorandum Opinion by Catherine C. Blake, United States District Court Judge in *Chantel Johnson v. Pinda Marie McKoy, et al.*, Civil Action No. CCB-18-1142, May 11, 2018, S0089-S0091
- State Ex. 20 - Memorandum Opinion by Christopher L. Ray, United States Magistrate Judge in *Chantel Antoinette Johnson v. Achike Christopher Oranye et al.*, CV422-255, November 4, 2022, S0092-S0094
- State Ex. 21 - Letter from the Board to the Applicant, March 13, 2024, S0095
- State Ex. 22 - Emails between the Board, and the Applicant, March 13-15, 2024, S0096-S0105
- State Ex. 23 - Letter from the Board to the Applicant, March 26, 2024, S0106; Letter from the Applicant to the Board, sent via email on March 28, 2024, S0107-S0108
- State Ex. 24 - Emails between the Board and the Program, March 26, 2024 to April 3, 2024, S0109-S0112
- State Ex. 25 - Notice of Intent to Deny Application, August 6, 2024, S0113-0126

The Applicant did not offer any exhibits into evidence.

Testimony

The following witnesses testified on behalf of the Board: Felicia Wright, Manager of the Allied Health Unit, and Michael Eid, Compliance Analysis Associate for the Intake Unit.

The Applicant testified.⁴

PROPOSED FINDINGS OF FACT

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

1. The Applicant had a radiographer license issued to her by the Board on January 7, 1998. State Ex. 1.
2. The Applicant's radiographer license expired on April 30, 2017. State Ex. 1.
3. On December 27, 2023, the Applicant submitted a reinstatement application for Radiography Reinstatement (Application).
4. Question 7 on the Application states: "Chronology of Employment Activities: Beginning with your most recent, describe your employment history since your license expired. Explain any lapse in time over one year in which you were not employed. Include non-health related employment history." The Application has sections for each activity requesting starting and ending month and year, description of the position/activity, name and phone number of the supervisor, and name and address of the employer. State Ex. 3, pp. S0006-S0009.
5. On the original Application submitted, the Applicant listed one job as a delivery driver for Amazon Flex from May 2021 to September 2021. State Ex. 3, S0009. There was no

⁴ At the hearing, the Applicant indicated that she wanted to call additional witnesses. However, these witnesses had not been previously identified during discovery nor during the prehearing conference. At the prehearing conference, the Applicant stated that she planned to cross examine the State's witnesses and testify herself. She did not indicate that there were other witnesses who would testify. Further, the Applicant had not requested that the OAH issue subpoenas for any witnesses nor provided the State with the name of any specific witness prior to the hearing. Finally, no witness was present at the hearing. For all of these reasons, I sustained an objection by the State and barred the Applicant from calling any additional witnesses.

other job or activity, or an explanation for a lapse in employment for Question 7 on the December 2023 submission.

6. On January 4, 2024, the Board sent a deficiency email to inform the Applicant that information was missing from her application, including continuing education documentation and a chronology of her work activities since her license expired in April 2017.⁵ State Ex. 5, S0027. The email stated all documents must be received by March 4, 2024, or the Application would be closed.

7. On January 4, 2024, the Applicant replied, "I submitted the documents you requested with my application." State Ex. 5, S0027. However, the Board responded on the same date that the information provided regarding continuing education was insufficient because it did not have sponsor names, dates of completion, or continuing education unit (CEU) values. Further, the Board requested that if the Applicant believes there were additional documents submitted with the Application that were not being considered, she should resend the information relevant to the deficiencies. State Ex. 5, S0028.

8. On January 16, 2024, the Board received a handwritten statement from the Applicant. State Ex. 6, S00031. In the statement, the Applicant stated that she did not know why she could not obtain employment as a radiographer before her license expired. Further, the Applicant said that "due to financial reasons" she could not complete continuing education or renew her license.

9. On January 17, 2024, the Board requested further clarification from the Applicant regarding the time periods of May 2017 to May 2021 and September 2021 to the present. State Ex. 7, S0032.

⁵ The email restated the requirements of Question 7 in similar but slightly different language. The differences were not substantive.

10. By January 17, 2024, the Board had received the Applicant's continuing education information, and no further continuing education information was requested. State Ex. 7, S0032.

11. On February 2, 2024, the Board received a supplement to the Applicant's Question 7. On this page, the Applicant stated she was a seasonal picker for Amazon, a temporary merchandiser for Rainbow, and a delivery driver for Amazon Flex. State Ex. 3, S0008. These jobs ranged in time periods from March 2020 through September 2021. There was no other job, or activity, and no explanation for lapses in employment for Question 7 for the time between April 2017 through March 2020, or from September 2021 through the Application date of December 2023.

12. On February 5, 2024, the Board informed the Applicant of the intent to close the Application if she did not provide a complete chronology of employment prior to March 4, 2024. State Ex. 9, S0034.

13. On February 7, 2024, the Applicant sent an email to the Board indicating that she intended to sue, and that "The civil suit will take place on 3/5/2024." State Ex. 10, S0035.

14. On February 23, 2024, the Board sent the Applicant an email and letter that stated that the Applicant still needed to provide a list of activities (employment and non-employment) from May 2017 to March 2020 and from September 2021 to the present. If that was not received by March 4, 2024, the Board would close the Applicant's Application. State Ex. 12, S0037 and S0039.

15. On February 26, 2024, the Board received another supplement to the Applicant's Question 7. State Ex. 13, pp. 0045 and State Ex. 3, S0006-S0007. On this supplement, the Applicant had several activities and time periods described as "Misc. Independent/ Unemployed" and she listed the time ranges as January 2023 to February 2024, January 2022 to January 2023,

September 2021 to January 2022, January 2020 to March 2020, January 2019 to January 2020, January 2018 to January 2019 and January 2017 to January 2018. She also included the seasonal picker, temporary merchandiser and delivery driver positions that were included in the earlier supplement. There was no explanation of "Misc. Independent/ Unemployed" for Question 7 on this page. State Ex. 3, S0006-S0007.

16. On February 26, 2024, the Applicant sent a second email to the Board which asserted that the "companies where I've applied would have to provide" an explanation for lapses in employment in general. State Ex. 13, S0047. In this email the Appellant further stated:

However, the lapses are not for the reason that, in the words of a nice customer service-oriented deli clerk, "I act like I don't be understanding."

I understand.

I understand that I don't have to follow instructions meant for animals.

I understand that I don't have to consent to, and I have not consented to being used as a research subject where potential employers give potential co-workers my personal information.

I understand that as a client or patient who does not feel well, I do not have to accept mistreatment, when I walk into a medical facility because the staff is given false information about me.

I understand that as a professional, I do not have to accept abuse from clients, patients, and co-workers who are given my personal information.

State Ex. 13, S0047.

17. On February 27, 2024, the Board emailed the Applicant to ask for an explanation for "Misc. Independent/Unemployed." State Ex. 14, p. S0049.

18. On February 27, 2024, the Applicant responded that she did not work for anyone, but did not provide any other explanation for her activities during the time period she described as "Misc. Independent/ Unemployed." State Ex. 14, S0059.

19. On February 27, 2024, the Board explained to the Applicant that it had not issued an "Intent to Deny" and that the closure of the Application was administrative only.

State Ex. 15, S0062.

20. On February 28, 2024, the Applicant responded, "It looks like the Board has made a final decision to deny reinstatement of the Radiographer license, without an opportunity to appeal through OAH." State Ex. 15, S0066.

21. On February 29, 2024, the Board again informed the Applicant that no decision had been made on the Application and that it was still under review. State Ex. 16, S0071.

22. On March 5, 2024, the Board received a handwritten letter from the Applicant (which is dated February 26, 2024). In this letter, the Appellant lists her non-employment activities from April 2017 to present as:

1. Searching and applying for work by contacting individuals and companies via online and in person.
2. From time to time, I write notes in the notes app on my personal device in order to catch potential hackers, not a very lucrative hobby
3. Taking courses such as, CPR and continuing education courses. I'm also contemplating taking another dance class. If you haven't tried it you should, it's fun.
5. The usual daily activities that include: cooking, cleaning, shopping and assisting others when I can
6. Lastly, taking out time to file concerns regarding a variety of unfortunate circumstances.

State Ex. 17, S0077-S0078.⁶

23. During its investigation, the Board found that between 2017 and the Application, the Applicant filed two lawsuits that were dismissed by the respective courts. One was dismissed in 2018 and one was dismissed in 2022.

24. In 2018, a United States District Court Judge dismissed a civil complaint filed by the Applicant in part due to a failure to state a claim. Specifically, the judge stated, "the allegations are speculative at best, and seem to connect unrelated events to impugn the actions of two defendants." State Ex. 19, S0089-S0090.

⁶ The Applicant's list did not contain number 4.

25. In 2022, a United States Magistrate Judge dismissed a civil complaint by the Applicant as frivolous. State Ex. 20, S0092-S0094. Specifically, the magistrate said, “Given the substance of [the Applicant’s] Complaint, it appears that, at least the conspiratorial elements, are the product of delusional thinking.” State Ex. 20, S0093. Further the magistrate stated that the Applicant’s complaint presented “precisely the sort of ‘fantastic or delusional scenario []... with which federal judges are all too familiar’.” State Ex. 20, S0094.

26. On March 13, 2024, the Board notified the Applicant that an intake evaluation was scheduled for Monday March 25, 2024 with the office of the Maryland Professional Rehabilitation Program (Program). State Ex. 21, S0095. This letter notified the Applicant that an unreasonable failure or refusal to submit to an examination is *prima facie* evidence of an inability to practice medicine,⁷ unless the Board find that the failure or refusal was beyond an individual’s control.

27. The Applicant replied to the notification asking if individuals who are not members of the Board and were unknown to the Board would be at the evaluation.⁸ State Ex. 22, S0096. The Applicant also asked for a basis to refer her to the Program. State Ex. 22, S0097.

28. On March 14, 2024, the Applicant wrote to a worker for the Board asking why she was out of the office, for a doctor’s report for the Board’s employee, or if she refused to provide a doctor’s report, it would “prove that you are an inefficient worker!” State Ex. 22, S0099.

29. On March 14, 2024, the program director for the Program emailed some intake forms to the Applicant to be completed prior to the evaluation. State Ex. 22, S0100.

⁷ The letter uses the term “practice medicine” instead of “practice radiography.” State Ex. 22, S0095.

⁸ The individuals listed were defendants in the Applicant’s lawsuits. As those individuals were not witnesses nor members of the Board, their names are not contained in this decision to maintain their privacy. Board Exhibits 19, 20 and 22 contain the names of the individuals. The record is unclear regarding how these individuals are connected to the Applicant; however, there is no known connection between the Board and any of these individuals.

30. The Applicant replied to the email from the program director asking for the director's personal information to include in the Applicant's lawsuit against the Board.

State Ex. 22, S0100.

31. The Appellant did not attend the March 25, 2024 evaluation with the Program.

32. The Board rescheduled the evaluation for April 3, 2024 and notified the Appellant on March 26, 2024. The letter again warned that unreasonable failure or refusal to submit to an examination is *prima facie* evidence of an inability to practice medicine, unless the Board finds that the failure or refusal was beyond the individual's control. State Ex. 23, S0106.

33. On March 28, 2024, the Applicant notified the Board that she would not attend an evaluation with the Program and that she had initiated a lawsuit against the Board for "malicious investigation and intent, amongst other civil rights violations." State Ex. 23, S0109.

34. The Applicant did not attend the April 3, 2024 evaluation with the Program. State Ex. 24, S0111.

35. The Applicant does not have any disciplinary actions, pending charges, or other public actions in the practice of the profession or administrative fines. State Ex. 1.

36. The Applicant had no negative results on the National Practitioner Database report or the Criminal History Record Check. Testimony of Wright.

DISCUSSION⁹

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

⁹ Throughout the Discussion, much of the emphasis is placed on the exhibits, which are various communications between the Applicant, the Board, and at times, the Program. The Applicant did not raise any objections to any of the documents or refute their content. As the crux of the case is based on the documents, reference to the testimony of the witnesses is limited. The witnesses largely provided authentication of the documents and explanation as to why the documents were relevant, or why statements were contained in documents. To the extent those explanations are necessary to further the discussion, the testimony will be included in the discussion. However, all witness testimony was fully considered in the rendering of this decision.

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).

When an application for licensure is submitted, the burden of proof is initially on the Applicant to establish that she meets all the licensure requirements. Health Occ., §14-5B-09, and §14-5B-10. If the State determines that the Applicant has not satisfied all of the requirements, as it has done in this case by claiming that she is guilty of unprofessional conduct in the practice of radiography and that she failed to cooperate with a lawful investigation, then the burden shifts to the State to establish *prima facie* evidence of that fact. Health Occ., §14-5B-14(a). If the State is able to establish *prima facie* evidence of the fact, then the burden shifts again to the Applicant to establish the disqualifying fact is not true or not significant enough to deny the Applicant a medical license.

The Board may deny a license of any applicant, if the applicant:

(3) Is guilty of unprofessional or immoral conduct in the practice of radiation therapy, radiography, nuclear medicine technology, or radiology assistance;

....

(26) Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel;

Md. Code Ann., Health Occ., §14-5B-14(a)(3), and (26).

Parties' Positions

The State's position is that the Board's role in regulating radiography is to protect the public and to ensure that it only issues licenses to people who meet all requirements for a license. The State stands behind the Board's notice of intent to deny as the Applicant had engaged in unprofessional conduct in the practice of radiography, as well as had failed to cooperate in the evaluations. The State initially wanted the Applicant to provide a detailed explanation about

what she had done between the expiration of her license in 2017 and her application in 2023. However, as the interactions between the Board and the Applicant progressed, the Board became concerned regarding her conduct and whether she could practice radiography safely. The Board decided to refer the Applicant to the Program for an evaluation and she failed to appear for two separate scheduled evaluations. After that, the Board issued a Notice of Intent to Deny based on the alleged unprofessional conduct and the failure to cooperate.

The Applicant contends that the Board was not specific in its question on the Application. She contends that Question 7 asked her to provide information regarding employment, or that she was not employed. The Applicant contends that no one explained that the Board wanted a list of what she did when she was not employed. According to the Applicant, her behavior was not erratic and instead, that the Board's behavior in handling her application was what raised red flags. She contends that she did not understand the difference between closing her application and denying her application and that she believed she could appeal if her application was not approved. Further, she does not believe the Board should have forwarded her information to a third party, the Program, without her express permission, particularly since the Program is supposed to be voluntary. Essentially, the Applicant denies that she acted in any unprofessional manner in the practice of radiography, and that the request by the Board for her to complete an evaluation with the Program was not reasonable.

Unprofessional Conduct

The Board sought to deny the Application due in part to its finding that she was guilty of unprofessional conduct in the practice of radiography. There is little to no case law by the Maryland appellate courts directly addressing the practice of radiography. However, the

Supreme Court of Maryland¹⁰ has addressed the issue of unprofessional conduct in the practice of medicine in several cases. When considering whether a practitioner is engaged in the practice of either medicine or radiography during the application procedure, I find that the limits are analogous, and will discuss them more below. Therefore, this decision relies on the cases discussing the limits of the practice of medicine.

First, I considered the statutory definitions of “practice medicine” and “practice radiography”.

(o)(1) “Practice medicine” means to engage, with or without compensation, in medical:

- (i) Diagnosis;
- (ii) Healing;
- (iii) Treatment; or
- (iv) Surgery.

(2) “Practice medicine” includes doing, undertaking, professing to do, and attempting any of the following:

(i) Diagnosing, healing, treating, preventing, prescribing for, or removing any physical, mental, or emotional ailment or supposed ailment of an individual:

- 1. By physical, mental, emotional, or other process that is exercised or invoked by the practitioner, the patient, or both; or
- 2. By appliance, test, drug, operation, or treatment;

(ii) Ending of a human pregnancy; and

(iii) Performing acupuncture as provided under § 14-504 of this title.

(3) “Practice medicine” does not include:

- (i) Selling any nonprescription drug or medicine;
- (ii) Practicing as an optician; or
- (iii) Performing a massage or other manipulation by hand, but by no other means.

Health Occ. § 14-101 (o).

(o) “Practice radiography” means to use ionizing radiation to:

(1) Demonstrate portions of the human body to assist in the diagnosis or localization of disease or injury; or

(2) Perform tumor localization radiography.

Health Occ. § 14-5B-01(o).

¹⁰ Prior to December 2022, the Supreme Court of Maryland was called the Maryland Court of Appeals. Throughout this decision, only the current name of the court or Court will be used.

Both of these definitions specifically consider the actual conduct between the practitioner and a patient. However, they do not specifically identify other conduct that relates to effective delivery of patient care. Both physicians and radiographers can face consequences for unprofessional conduct in the practice of their field (medicine or radiography). *See* Health Occ. 14-404(a)(3)(ii); Health Occ. 14-5B-14(a)(3). Based on the similarity in both the definitions of practice, the similar allegations of unprofessional conduct in the practice of the field, and that both of these fields are under the Health Occupations article in the Maryland Code and relate to medical based fields, I find that it is appropriate to consider the Supreme Court of Maryland's prior case law addressing what is unprofessional conduct in the practice of medicine to help delineate the boundaries of what is unprofessional conduct in the practice of radiography.

The Supreme Court of Maryland has consistently recognized that "in the practice of medicine" applies not only to diagnosing and treating patients, which is what is contained in the definition of practice medicine, but also covers misconduct relating to the effective delivery of patient care. *See Kim v. Maryland State Bd of Physicians*, 423 Md. 523, 541 (2011); *Finucan v. Maryland State Bd of Physician Quality Assurance*, 380 Md. 577, 597 (2004). For example, the Supreme Court of Maryland in the case of *Board of Physician Quality Assurance v. Banks*, 354 Md. 59, 71 (1999), held that a physician's sexual harassment of hospital employees occurred in the practice of medicine. The *Banks* court concluded that limiting misconduct to that which is committed in the process of diagnosing, evaluating, examining, or treating a patient would lead to unreasonable results and render the statute inadequate to deal with the many situations that may arise. *Id.* at 73. The *Banks* court looked to determine whether the activity was intertwined with patient care in such a way as to pose a threat to patients or the medical profession. However, the Court also recognized that discipline can only be imposed when the unprofessional conduct is within the practice of medicine, and therefore, the Court has found limits to

unprofessional conduct in the practice of medicine. For example, in *McDonnell v. Commission on Medical Discipline*, 301 Md. 426 (1984), the Court found that attempting to intimidate witnesses in a medical malpractice case was not within the practice of medicine, and therefore, was not sanctionable.

In *Kim*, the Court considered whether filing a license renewal application is sufficiently intertwined with patient care to be within the practice of medicine. The Court stated:

In the present case, the Board made no legal error in concluding that Petitioner's submission of his license renewal application occurred "in the practice of medicine." We made plain in *Banks* that, in "considering whether a physician's conduct was within the statutory requirement of 'in the practice of medicine,' a critical factor has been whether the conduct occurred while the physician was performing a task integral to his or her medical practice." 354 Md. at 74, 729 A.2d at 384. **Petitioner's completion and filing of his application to renew his physician's license is unquestionably "a task integral to his ... practice."** **Without a license, Petitioner would have no authority to practice.**

Moreover, the Board did not err in adopting the ALJ's finding that filing a license renewal application is sufficiently intertwined with patient care. We appreciate that the Board must be able to rely on the accuracy of information conveyed in license applications in order to investigate and determine physicians' fitness to practice medicine.

423 Md. at 542 (Emphasis added).

Similarly, in the present case, the Applicant's alleged unprofessional conduct is related to the Application, and the ensuing requests by the Board to obtain additional information and explanations. The alleged unprofessional conduct involves the various correspondence sent to the Board and the Program.¹¹ Considering the Court's decision in *Kim*, and the allegations in this case, I find that the alleged behavior by the Applicant was within the practice of radiography.

¹¹ The Notice of Intent to Deny was unclear whether failing to attend the scheduled Program evaluations was also considered unprofessional conduct. I will address the failure to attend the scheduled evaluations in the next section of the decision.

The next step is determining whether any of the Applicant's behavior was unprofessional conduct. In *Finucan*, the Court addressed a constitutional challenge to the Act's prohibition of "unprofessional conduct", and stated:

The meaning of terms such as "immoral conduct" and "dishonorable conduct" is determined by the "common judgment" of the profession as found by the professional licensing board. . . . A statute prohibiting "unprofessional conduct" or "immoral conduct," therefore, is not per se unconstitutionally vague; the term refers to "conduct which breaches the rules or ethical code of a profession, or conduct which is unbecoming a member in good standing of a profession."

380 Md. at 593 (citations omitted).

The Maryland legislature, through its enactment of the Act, including the prohibition on "unprofessional conduct," has empowered the Board to render a "common judgment" as to the propriety of a physician's behavior. The Board has not attempted to delineate the exact contours of "unprofessional conduct", which is not defined in the statute. In this case, neither party presented specific rules for radiographers or ethical codes or addressed which specific rule or code was violated. As such, I will consider the actions of the Applicant to determine if the action is conduct which is unbecoming of radiographers in good standing..

First, I consider the Application, including updated answers. The Applicant initially submitted the Application with incomplete information. State Ex. 3. There is no allegation that the Applicant ever submitted false or misleading information, but instead that the Applicant's work history section (Question 7) was lacking information regarding large periods of time. The Appellant's initial answer to Question 7 listed a job from May to September 2021, and did not address any other time between April 2017 to December 2023. State Ex. 3, S0009. The second answer to Question 7, addressed jobs from March 2020 to September of 2021, but still did not address the time frames of April 2017 to March 2020 or September 2021 to December 2023. State Ex. 3, S0008. The third answer to Question 7 covered all periods of time, but had several entries where the activity was described as "Misc. Independent/Unemployed."

State Ex. 3, S0006-S0007. The Applicant wrote a letter explaining those periods explaining that she was searching and applying for work, writing notes to catch potential hackers, taking courses, engaging in normal daily activities, and taking time to file concerns. State Ex. 17, S0078. This explanation did not further expound on who she applied to, how many applications were submitted, how much time she spent taking courses, etc. While I find the explanation to be lacking, as did the Board, the actual answers on the Application, including supplemental answers on the Application were not unprofessional conduct. Providing answers that are merely lack sufficient details, particularly when the Applicant was uncertain of what details were required, is not conduct unbecoming radiographers in good standing.

Next, I consider the various correspondence between the Board and the Applicant. Initially, the Board sent a notice of deficiency, and the Applicant and the Board had various written correspondence in January 2024. State Exs. 5-8. There was nothing unprofessional in these communications.

Starting in February 2024, there were some statements by the Applicant that were concerning. On February 7, 2024, the Applicant told the Board that she intended to sue. State Ex. 10, S0035. On February 26, 2024, the Applicant told the Board that it should contact companies where she had applied and determine from them why they did not hire her; however, she did not provide names for any companies where she had applied. State Ex. 13, S0047. On the same date, her correspondence contained what could best be described as a rant. State Ex. 13, S0047. It was illogical and nonsensical. It references a statement by a deli worker, instructions meant for animals, consent to being used as a research subject, the Applicant's rights as a client or patient, and the Applicant's personal information being given to clients, patients and co-workers. During the hearing, the Applicant provided no explanation that addressed why she made these statements. There is no identifiable connection between these statements and the

Board's prior communication asking for a complete chronology of employment since 2017, including explanations for lapses of work for more than a one-year period. I find the rant in the February 26, 2024 email to be unprofessional conduct, or in other words, conduct unbecoming to radiographers in good standing. The language was argumentative, nonsensical, and clearly not intended to assist in the review of the Application.

After the February 26, 2024 email, there were several emails on February 27 through 29, 2024. State Exs. 14-15. During those emails, the Applicant confused a closure of an application (which is administrative only and does not provide appeal rights), and a notice of intent to deny an application (which requires a review and decision by the Board and provides for appeal rights). On February 27, 2024, the Board sent an email that attempted to explain that distinction; however, it is unclear that the Applicant understood the legal distinction or why she would receive appeal rights for a notice of intent to deny versus not receiving appeal rights for a closure. I do not find that any communication in these emails was unprofessional, but clearly shows a misunderstanding regarding the differences in a closure of an application and a denial of an application.

The next communication received by the Board was a handwritten letter from the Applicant that is dated February 26, 2024, but was not received until March 5, 2024. This letter again contains some statements that are, at the very least, odd. She discusses taking notes to catch potential hackers, suggests the reviewer should take a dance class because it is fun, and references filing "concerns regarding a variety of unfortunate circumstances." State Ex. 17, S0078-S0079. The language was not accusatory or aggressive. While some of these statements seem to be out of place in a communication to the Board when attempting to reinstate a license, in my opinion the statements do not rise to unprofessional conduct because the statements are not conduct unbecoming to radiographers or violations of any specific rule or ethical code.

On March 13, 2024, the Board referred the Applicant to the Program for an evaluation.¹² The Board, the Program and the Applicant had various communications after this referral. On March 13, 2024, the Applicant asked if certain individuals would be present at the evaluation. State Ex. 22, S0096. These individuals were defendants in lawsuits filed by the Applicant, but do not seem to have any relationship with the Board. The Applicant also asked for the reason that the Board referred her to the Program. State Ex. 22, S0097. Neither of these communications are unprofessional conduct by themselves. Similarly, on March 14, 2024, the Applicant asked for an individual's personal information to include in a lawsuit against the Board. State Ex. 22, S0100. It is unclear if the Applicant was requesting the information to sue the individual personally or as support for other allegations in the complaint. Also on March 14, 2024, the Applicant told the Board that she would see them in court and asked the Board to not contact her again. While these communications are off-putting, I do not find they rise to the level of unprofessional conduct. Individuals have the right to pursue legal actions, such as appeals, or civil suits if they believe the Board is acting outside of its boundaries. The Applicant stating that she intends to pursue her legal challenges to the Board's actions is not conduct unbecoming, and the State has not presented any evidence that it violates any rule or ethical code.

On March 14, 2024, the Applicant asked an employee of the Board for the employee's doctor's report to explain why the employee was out of the office. State Ex. 22, S0099. The Applicant went on to state that if no report was provided then it proved the employee was "an inefficient worker." State Ex. 22, S0099. The Applicant is not entitled to receive medical documentation from any member of the Board. Further, employees can be out of the office for reasons other than medical reasons and the Applicant is not entitled to an explanation. Finally,

¹² The basis for this referral and details regarding the missed evaluations will be discussed in the next section.

the Applicant insulted the employee by stating she must be inefficient if she would not provide the Applicant with a doctor's note, which the Applicant is not entitled to. This communication is unprofessional conduct. This conduct is unbecoming to radiographers. The language is demeaning to the Board employee, and demanding information that the Applicant was never entitled to receive.

On March 28, 2024, the Applicant sent a letter to the Board raising several concerns with her mail possibly being given to the wrong person, and needing details regarding why she was being sent to the Program, and regarding what the evaluation would entail. She concludes the letter by stating that she will not attend the appointment for evaluation and that she had initiated a lawsuit against the Board. State Ex. 23, S0109. None of the statements in the letter are unprofessional conduct on their own; however, refusing to attend the evaluation will be discussed further below.

In conclusion, I find that two of the communications from the Applicant to the Board are unprofessional conduct in the practice of radiography, namely the emails on February 26, 2024 and March 14, 2024. State Ex. 13, S0047 and State Ex. 22, S0099.

Failure to cooperate with a lawful investigation

Two intake evaluations were scheduled, March 24, 2024, and April 3, 2024, and there is no dispute that the Applicant did not attend either evaluation. Further, there is no dispute regarding whether the Applicant knew about the evaluations, or that she was required to attend or face denial of her Application. The Applicant requested more information regarding the evaluation scheduled for March 24, 2024. State Ex. 22. Therefore, she had received the notice. Further, after receiving the notice of the evaluation scheduled for April 3, 2024, the Applicant responded that she would not attend. State Ex. 23, S0109. Both of the notices clearly stated that failure to submit to an examination is *prima facie* evidence of a licensed medical practitioner's

inability to practice medicine. Based on all of this information, I find that the Applicant failed to cooperate with the evaluations.

However, the Applicant's position at the hearing and throughout her correspondence with the Board and the Program regarding these evaluations was questioning why the Board had referred her to the Program and whether it was lawful. As the duty to cooperate is only for a lawful investigation, I will address below the Board's explanation for the referral, the Applicant's response, and whether I find that the referral to the Program was a lawful investigation. If the referral was part of a lawful investigation, then the Applicant's failure to cooperate with the evaluation is a violation of section 14-5B-14 (a)(26) of the Health Occupations Article. Further, I find that the failure to cooperate with a lawful investigation by the Board is itself unprofessional conduct in the practice of radiography, under section 14-5B-14(a)(3) of the Health Occupations Article because the failure to cooperate directly relates to the Applicant's fitness to practice radiography and violates the statutory and regulatory requirements to cooperate with a lawful investigation.

During the Board's review of the Application, including communication with the Applicant, the Board became concerned. Ms. Wright, Manager of the Allied Health Unit, oversees the analysts who process applications for licensure of radiologists. She explained that the employment chronology provides information to determine whether any applicant is practicing without a license, has been incarcerated, has been hospitalized, or has any other reason that may prohibit them from competently and safely practicing medicine. Ms. Wright testified that the Applicant's failure to provide a detailed explanation regarding several years after multiple attempts to explain what was required was concerning. In addition, according to Ms. Wright, some of the nonsensical, aggressive and off-putting statements (described in more detail

above) caused the Board to be concerned that the Applicant may not be fit to practice radiography at the time of the Application.

Further, the Allied Health Unit searched for court cases involving the Applicant and found two civil cases filed by the Applicant. State Ex. 19 and 20. Both of the cases were dismissed prior to a hearing on the merits. In the 2018 case, the judge found the allegations speculative and said that the complaint seemed to connect unrelated events. State Ex. 19, S0089-S0090. In the 2022 case, the magistrate judge said that the complaint presented a “fantastic or delusional scenario,” and that parts of the complaint were the product of delusional thinking. State Ex. 20, S0093-S0094. The Allied Health Unit referred the Application to the Compliance Division for further investigation.

After considering the various comments in the correspondence, and the two civil cases that had been dismissed, the Compliance Division decided to refer the Applicant to the Program for an evaluation. The Program is a third party that works with the Board in assessing whether health practitioners are safe and competent to practice their profession in the state of Maryland. Testimony of Eid. The Program also provides assistance to practitioners dealing with potentially impairing conditions in a private, non-disciplinary setting, while protecting both the confidentiality of the practitioner and the safety of the public. State Ex. 3, S0012. Mr. Eid explained that some of the Applicant’s communications were helpful and straightforward, which is expected when a practitioner is communicating with the Board to obtain a license. However, the Applicant seemed reluctant to provide information regarding her employment and non-employment history, and some of her responses were not connected to the conversation. Further, the civil court cases indicated the Applicant’s complaints were delusional, fantastical, and speculative, connecting unrelated events. Finally, the Applicant repeatedly referenced suing the Board when the Board had not taken any action on the Application. These things were out of the

ordinary and led the Compliance Division to determine that an evaluation by the Program was appropriate. Testimony of Eid. Further, after the request for an evaluation, the Applicant asked if individuals who were defendants in her lawsuits would be present at the evaluation. This again is erratic behavior because these individuals do not have a connection to the Board and have not been involved in the application process. Testimony of Eid.

The Applicant argued that no one ever asked her to explain her comments that were deemed nonsensical or erratic. Further, the Applicant had requested the reason she was being referred to the Program and she contends that she did not receive any response to explain the referral, or explain what kind of evaluation was planned. The Applicant testified that the Board's communications to her raised red flags because the Board was not being clear, and also because at times, the emails seemed to be scolding or accusatory. The Applicant pointed to specific words or phrases as inflammatory, such as deficiency or insufficiency. Also, she felt that she was being scolded by being asked if she had a copy of her application. She felt the communication was vague, and strange. The Applicant argues that the Program is an outside agency that is a voluntary program, and no one contacted her to explain what concerns they have or asked her to voluntarily participate. The Applicant testified that the intake forms requested information about her children's mental and physical status that she found inappropriate and intrusive. Based on all of these reasons, the Applicant contends that she was not required to comply with the requested evaluations and that the Board was not acting lawfully within its authority.

After considering all of the evidence, I find that the referral of the Applicant to the Program and the requested evaluations were lawful. As explained by Mr. Eid during the hearing, there were several concerns regarding the Applicant, including large gaps between employment, lack of a detailed explanation for the gaps, nonsensical and aggressive comments in

correspondence with the Board, the two dismissed civil lawsuits, the repeated references to suing the Board while the Application was still being reviewed, and the questions regarding individuals who have no relationship to the Board. For all of these reasons, requesting that the Applicant attend an evaluation with the Program was an appropriate and lawful investigation to ensure that there were not any concerns with the Applicant's ability to safely and competently practice radiography. The Board could have provided better explanations regarding what employment/non-employment details were needed and the process (i.e. closure versus denial) throughout the communication. Further, the Board could have answered the Applicant's questions about the reason for the referral and about what the evaluation would entail. However, the Board's shortfall in explanations and information did not make the referral unlawful in any way. Therefore, the Applicant's failure to attend the two scheduled evaluations with the Program was a failure to cooperate with a lawful investigation. Similarly, refusing to attend the two scheduled evaluations is unprofessional conduct in the practice of radiography.

Sanctions

Based on both the unprofessional conduct in the practice of radiography and the failure to cooperate with a lawful investigation by the Board, the Board has stated that it intends to deny the Application. Health Occ. § 14-5B-14(a)(3) and (26); COMAR 10.32.10.14B(3) and (26). Both Health Occupations Section 14-5B-14(a) and COMAR 10.32.10.14A state that the Board may deny an application for either unprofessional conduct in the practice of radiography or failure to cooperate with a lawful investigation by the Board.

Neither the Applicant nor the Board specifically argued for any mitigating or aggravating factors in this case. Instead, the arguments at the hearing relied on whether the Applicant had committed the alleged violations. Based on the record, there are no aggravating factors. The Applicant has no prior disciplinary history, or criminal record. There is no evidence that she has

ever been involved with any other investigation or charge with the Board. As to mitigating factors, the Applicant did not seem to understand some of the legal terms regarding the process, and the Board's explanations to the Applicant were lacking in detail and plain language. Further, the Applicant requested information to understand why she was being referred to the Program and what the evaluation would entail, and the Board did not respond to those requests.

Considering all of the evidence, I find that the Board's decision to deny the Application is appropriate. The Applicant's unprofessional conduct and failure to attend the evaluations were not caused by any failure of the Board or confusion by the Applicant. When the Board finds that either unprofessional conduct in the practice of radiography or failure to cooperate with a lawful investigation has occurred, it may deny the Application. In this case, after finding both had occurred, and still having concerns regarding the Applicant's ability to safely and competently provide radiography services, the Board's denial of the Application was appropriate.

PROPOSED CONCLUSIONS OF LAW


Based on the foregoing Proposed Findings of Fact and Discussion, I conclude, as a matter of law, that the Applicant violated the alleged provisions of the law. Md. Code Ann., Health Occ. § 14-5B-14(a)(3) and (26); COMAR 10.32.10.14B(3) and (26). As a result, I conclude that the Applicant's December 27, 2023 Application for Reinstatement is subject to denial for the cited violations. *Id.*; COMAR 10.32.10.10A..

PROPOSED DISPOSITION

I **PROPOSE** that the Notice of Intent to Deny filed by the Maryland State Board of Physicians against the Applicant on August 6, 2024 be **UPHELD**; and

I **PROPOSE** that the Applicant's December 27, 2023 Application for Reinstatement of Radiographer be denied.

June 26, 2025
Date Decision Issued


Erin H. Cancienne
Administrative Law Judge

EHC/kh
#218844

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 10.32.02.11. Exceptions must be filed within fifteen (15) days of the date of issuance of this proposed order. COMAR 10.32.02.11C(8). 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 10.32.02.11C(9). The OAH is not a party to any review process.

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