

IN THE MATTER OF \* BEFORE THE MARYLAND  
JIMMY R. AUGUSTIN \* STATE BOARD OF  
Applicant for Licensure \* PHYSICIANS  
\* Case Number: 2223-0051A

\* \* \* \* \*

**NOTICE OF INTENT TO DENY APPLICATION FOR LICENSURE UNDER  
THE MARYLAND ATHLETIC TRAINERS ACT**

Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) hereby notifies **JIMMY R. AUGUSTIN** (the “Applicant”) of its intent to deny his *Athletic Trainer Application for Licensure*, dated December 6, 2022 (the “2022 Application”), pursuant to the Maryland Athletic Trainers Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-5D-01 *et seq.* (2014 Repl. Vol., 2021 Repl. Vol. & 2022 Supp.); Health Occ. § 1-101 *et seq.* (2014 Repl. Vol., 2021 Repl. Vol. & 2022 Supp.); and Code Md. Regs. (“COMAR”) 10.32.17 *et seq.* (2000).

The pertinent statutory and regulations provide the following:

**Health Occ. § 14-205. Miscellaneous powers and duties.**

(b) Additional powers. –

(3) Subject to the Administrative Procedure Act and the hearing provisions of § 14-405 of this title, a disciplinary panel may deny a license to an applicant or, if an applicant has failed to renew the applicant’s license, refuse to renew or reinstate an applicant’s license for:

(i) Any of the reasons that are grounds for action under § 14-404, § 14-5A-17, § 14-5B-14, § 14-5C-17, § 14-5D-14, § 14-5E-16, or § 14-5F-18 of this title.

**Health Occ. § 14-5D-14. Denial of license, reprimand, probation, or suspension or revocation of license.**

(a) *Grounds.* – Subject to the hearing provisions of § 14-405 of this title, a disciplinary panel, on the affirmative vote of a majority of the 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 athletic training; [and]

(17) Is disciplined by a licensing, certifying, or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans Administration for an act that would be grounds for disciplinary action under this section;

...

(b) *Suspension or revocation of license.* – (1) On the filing of certified docket entries with the Board by the Office of the Attorney General, a disciplinary panel shall order the suspension of a license if the licensee is convicted of or pleads guilty or nolo contendere with respect to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

(2) After completion of the appellate process, if the conviction has not been reversed or the plea has not been set aside with respect to a crime involving moral turpitude, a disciplinary panel shall order the revocation of a license on the certification by the Office of the Attorney General.

Acts that would be grounds for disciplinary action under Health Occ. § 14-

5D-14(a) include the following:

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

**Health Occ. § 14-5D-08. Qualifications.**

- (b) *Character and age requirements; criminal history records check.* – The applicant shall:
  - (1) Be of good moral character[.]

**Health Occ. § 1-212. Sexual misconduct prohibited; regulations; discipline.**

- (c) *Violating board regulations.* – Subject to the provisions of the law governing contested cases, if an applicant . . . violates a regulation adopted under subsection (a) of this section a board may:
  - (1) Deny a license . . . to the applicant[.]

**COMAR 10.32.17. Sexual Misconduct**

**.01. Scope.**

This chapter prohibits sexual misconduct against patients or key third parties by individuals licensed or certified under Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland.

**.02. Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

...

(2) Sexual Impropriety.

- (a) “Sexual impropriety” means behavior, gestures, or expressions that are seductive, sexually suggestive, or sexually demeaning to a patient or a key third party regardless of whether the sexual impropriety occurs inside or outside of a professional setting.
- (b) “Sexual impropriety” includes, but is not limited to:

- (i) Failure to provide privacy for disrobing;
  - (ii) Performing a pelvic or rectal examination without the use of gloves;
  - (iii) Using the health care practitioner-patient relationship to initiate a dating, romantic, or sexual relationship; and
  - (iv) Initiation by the health care practitioner of conversation regarding the health care practitioner's sexual problems, sexual likes or dislikes, or fantasies.
- (3) "Sexual misconduct" means a health care practitioner's behavior toward a patient, former patient, or key third party, which includes:
- (a) Sexual impropriety;
  - (b) Sexual violation; or
  - (c) Engaging in a dating, romantic, or sexual relationship which violates the code of ethics of the American Medical Association, American Osteopathic Association, American Psychiatric Association, or other standard recognized professional code of ethics of the health care practitioner's discipline or specialty.
- (4) Sexual Violation.
- (d) "Sexual violation" means health care practitioner-patient or key third party sex, whether or not initiated by the patient or key third party, and engaging in any conduct with a patient or key third party that is sexual or may be reasonably interpreted as sexual, regardless of whether the sexual violation occurs inside or outside of a professional setting.
  - (e) "Sexual violation" includes, but is not limited to:
    - (i) Sexual intercourse, genital to genital contact;

- (ii) Oral to genital contact;
- (iii) Oral to anal contact or genital to anal contact;
- (iv) Kissing in a romantic or sexual manner;
- (v) Touching the patient's breasts, genitals, or any sexualized body part;
- (vi) Actively causing the patient or key third party to touch the health care practitioner's breasts, genitals, or any sexualized body part;
- (vii) Encouraging the patient to masturbate in the presence of the health care practitioner or masturbation by the health care practitioner while the patient is present;
- (viii) Offering to provide practice-related services, such as drugs, in exchange for sexual favors; and
- (ix) Intentionally exposing the health care practitioner's breasts, genitals, or any sexualized body part.

**.03. Sexual Misconduct.**

- A. Individuals licensed or certified under Health Occupations Article, Titles 14 and 15, Annotated Code of Maryland, may not engage in sexual misconduct.
- B. Health Occupations Article, §§ 14-404(a)(3) and 15-314(3), Annotated Code of Maryland, includes, but is not limited to sexual misconduct.

## ALLEGATIONS OF FACT<sup>1</sup>

Panel A intends to deny the Applicant's Application based on the following facts that it has reason to believe are true:

### **I. Background/2017 Application for Licensure**

1. The Applicant previously applied to the Board for an athletic trainer's license in 2017 (the "2017 Application"). In response to Character and Fitness questions posed in the 2017 Application, the Applicant disclosed that on August 4, 2017, he was found guilty of "misdemeanor sexual abuse of a minor and misdemeanor sexual assault" in the District of Columbia, for which he was sentenced to "20 weekend days in DC jail." The Applicant admitted that he was found guilty of the above criminal offenses after engaging in unlawful sexual contact with a minor female student while employed as an athletic trainer at a high school in the District of Columbia. The Applicant disclosed that based on his criminal convictions, he was prohibited from working with anyone under 18 years of age for the duration of his probation.

2. The Applicant further disclosed that he "either voluntarily resigned or terminated" his employment contract while under investigation "for possible inappropriate contact with a student."

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<sup>1</sup> The allegations set forth in this document are intended to provide the Applicant with notice of Panel B's action. They are not intended as, and do not necessarily represent, a complete description of the evidence, either documentary or testimonial, to be offered against the Applicant in connection with this action.

## **II. Board Investigation of the 2017 Application**

3. The Board initiated an investigation of the Applicant based on the disclosures he provided in his 2017 Application.

4. The Board's investigation determined that the Applicant, while working as an athletic trainer at a school in the District of Columbia in 2016, engaged in unlawful sexual contact with a minor female student whom he taught and advised. On multiple occasions, the Applicant hugged the minor student in an "intense" and "intimate" manner and kissed her. The Applicant cultivated his sexual relationship with the minor student through sending her multiple, overtly sexual text messages in which he encouraged her to have sexual contact with him.

5. The Board's investigation further found that the school that employed the Applicant investigated his actions after which, in a letter dated November 4, 2016, it terminated his employment, effective November 15, 2016, citing as reasons his gross misconduct with a female minor student.

6. The Board's investigation confirmed that on or about December 2, 2016, the Applicant was charged in the Superior Court of the District of Columbia with criminal offenses including Sexual Abuse of a Child or Minor and Simple Assault, the offenses occurring between September 1, 2016, and October 31, 2016.

7. The Board's investigation further confirmed that on or about August 4, 2017, the Applicant was found guilty in the Superior Court of the District of Columbia of

Misdemeanor Sexual Abuse of a Minor, in violation of 22 D.C. Code § 3010.01 (2001 ed.), and Simple Assault.

8. With respect to his conviction for misdemeanor Sexual Abuse of a Child or Minor, the Applicant was sentenced to 180 days' incarceration, which was suspended for all but 20 days, to be served on weekends. The Applicant was placed on supervised probation for two years, subject to special conditions, including: prohibition from working with anyone under the age of 18 years in his profession; sex offender counseling (individual) and treatment; registration as a sex offender; and no contact with the victim.

9. With respect to his conviction for Simple Assault, the Applicant was sentenced to 180 days' incarceration, which was suspended in its entirety, to be served consecutively to the sentence imposed for his conviction for misdemeanor Sexual Abuse of a Child or Minor. The Applicant was placed on supervised probation for two years, to be served concurrently with the two-year probationary period that was imposed for his conviction for misdemeanor Sexual Abuse of a Child or Minor.

### **III. The Board's Denial of the Applicant's 2017 Application**

10. Based on the above investigation, Disciplinary Panel B (Panel B") of the Board issued a *Notice of Intent to Deny Application for Licensure Under the Maryland Athletic Trainers Act* (the "2018 Notice"), dated January 3, 2018, in which it notified the Applicant of its intent to deny his 2017 Application. The 2018 Notice alleged, *inter alia*, that the Applicant's 2017 Application should be denied in that he lacked good moral character, a requirement for licensure under Health Occ. § 14-5D-08(b); and that he



violated provisions of Health Occ. § 14-5D-14, which authorized the Board to deny his 2017 Application.

11. Thereafter, the Applicant requested a hearing on the 2018 Notice before the Maryland Office of Administrative Hearings (“OAH”). The OAH convened a contested case hearing on July 24, 2018, after which, on September 26, 2018, an OAH administrative law judge issued a Proposed Decision, recommending that the Board deny the Applicant’s 2017 Application.

12. In a Final Decision and Order dated February 21, 2019, Panel A adopted the Proposed Decision and denied the Applicant’s 2017 Application, finding as a matter of law that he: lacked good moral character, a requirement for licensure under Health Occ. § 14-5D-08(b)(1); was guilty of unprofessional and immoral conduct in the practice of athletic training, in violation of Health Occ. § 14-5D-14(a)(3); and was disciplined by a licensing, certifying, or disciplinary authority or was convicted or disciplined by a court of any state for an act that would be grounds for disciplinary action under this section, in violation of Health Occ. § 14-5D-14(a)(17), with underlying grounds of Health Occ. § 14-5D-14(a)(3) (Is guilty of unprofessional or immoral conduct in the practice of athletic training).

13. The Applicant did not seek a judicial review of Panel A’s Final Decision and Order.

#### **IV. The Applicant’s 2022 Application**

14. On or about December 15, 2022, the Board received the Applicant’s 2022 Application, which was dated December 6, 2022. In response to *Character and Fitness*

*Questions* posed in the 2022 Application, the Applicant acknowledged that the Board denied his 2017 Application in 2018 based on his conviction for “sexual abuse of a child or minor.” The Applicant further disclosed that based on the District of Columbia conviction, the State of Maryland and the District of Columbia placed him on their sexual offender registries in 2017 and that those jurisdictions removed him from those registries in 2021. The Applicant stated that he appealed his convictions and that his conviction for simple assault was reversed but that his conviction for Sexual Abuse of a Child or Minor was upheld.<sup>2</sup>

15. In his responses, the Applicant stated that the charge for which he was found guilty involved “no physical contact or touching.” Court documents from the District of Columbia, however, state that the Applicant engaged in multiple acts of hugging and kissing a minor female student and that his salacious texting was “sexual in nature and for gratification.”

16. The Applicant also disclosed “[t]here were three renewal periods from 2018-2020 in which [his] credentials from the Board of Certification (“BOC”)<sup>3</sup> were under probation” based on his criminal conviction for Sexual Abuse of a Minor or Child.

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<sup>2</sup> Court records state that the Applicant appealed his convictions for Sexual Abuse of a Child or Minor and Simple Assault and that the District of Columbia Court of Appeals reversed the Simple Assault conviction and vacated and remanded the Sexual Abuse of a Child or Minor conviction for further proceedings. The matter was remanded to the Superior Court of the District of Columbia, which again found the Applicant guilty of Sexual Abuse of a Child or Minor. The United States subsequently filed a motion for summary affirmance in the District of Columbia Court of Appeals, which granted the motion and affirmed the Superior Court’s conviction.

<sup>3</sup> The Board of Certification, or BOC, is a national certifying organization for athletic trainers. According to its website, the BOC “establishes both the standards for the practice of athletic training and the continuing education requirements for BOC Certified ATs.”

## V. Grounds for Denial of 2022 Application

### *Grounds under Health Occ. § 14-5D-14*

17. Pursuant to Health Occ. § 14-205(b)(3)(i), a disciplinary panel of the Board may deny an applicant's application for licensure based on grounds under Health Occ. § 14-5D-14.

18. As set forth above, Panel A, in its Final Decision and Order, dated February 21, 2019, denied the Applicant's 2017 Application based on grounds under Health Occ. § 14-5D-14, specifically: Health Occ. § 14-5D-14(a)(3); and § 14-5D-14(a)(17), with underlying grounds under § 14-5D-14(a)(3).

### *Health Occ. § 14-5D-14(a)(3)*

19. In its previous Final Decision and Order, Panel A found that the Applicant engaged in sexual misconduct with a minor female student whom he taught and advised, and that the misconduct occurred while he was acting in his capacity as an athletic trainer at a school in the District of Columbia. The Applicant was then convicted in the District of Columbia for Sexual Abuse of a Child or Minor, for which he was sentenced to a period of incarceration followed by supervised probation for two years.

20. The Applicant's sexual abuse of a minor female student while he was acting in his capacity as an athletic trainer constitutes unprofessional or immoral conduct in the practice of athletic training, in violation of Health Occ. § 14-5D-14(a)(3).

21. Panel A intends to deny the Applicant's 2022 Application based on findings that he engaged in inappropriate sexual misconduct with a minor female student while

acting in his capacity as an athletic trainer in the District of Columbia in 2016, and that this misconduct constitutes unprofessional or immoral conduct in the practice of athletic training, in violation of Health Occ. § 14-5D-14(a)(3).

22. In addition, Panel A intends to deny the Applicant's 2022 Application in that he violated the Board's sexual misconduct regulations under COMAR 10.32.17 *et seq.* A violation of the Board's sexual misconduct regulations constitutes unprofessional or immoral conduct in the practice of athletic training, in violation of Health Occ. § 14-5D-14(a)(3). The Applicant engaged in sexual misconduct with a minor female student in 2016, in violation of the Board's sexual misconduct regulations.

23. Panel A also intends to deny the Applicant's 2022 Application in that he violated standards applicable to the profession of athletic training, which constitutes a violation of the Board's sexual misconduct regulations. *See* COMAR 10.32.17.02B(2). According to the BOC's Professional Code of Ethics, an athletic trainer: is required to maintain a relationship of trust and confidence with a patient and may not exploit a patient for personal gain, *see* § 1.5; may not engage in intimate or sexual activity with a patient, *see* § 1.6; and may not take any action that leads, or may lead, to the conviction, plea of guilty or nolo contendere to any felony or to a misdemeanor related to public health, patient care, athletics or education, *see* § 3.10 (2022). The Applicant's actions, as described above, constitute a violation of the BOC's Professional Code of Ethics.

24. Likewise, the National Athletic Trainer's Association ("NATA")<sup>4</sup> Code of Ethics (2022) requires that athletic trainers: act in a respectful and appropriate manner toward others, *see* § 1.1; place the well-being and long-term care of the patient above other stakeholders, *see* § 1.2; shall refrain from unethical practices, *see* § 2.3; shall conduct themselves personally and professionally in a manner that reflects shared professional values, does not compromise their professional responsibilities or the practice of athletic training, *see* § 4.1; and shall not participate in any arrangement that exploits a patient, *see* § 4.3. The Respondent's actions, as described above, constitute a violation of NATA's Code of Ethics.

25. Finally, Panel A intends to deny the Applicant's 2022 Application in that he was convicted of a crime involving moral turpitude. Under the Act, a crime involving moral turpitude constitutes grounds to revoke a license. The Respondent's conviction for Sexual Abuse of a Minor or Child, occurring during while he was acting in his capacity as an athletic trainer, constitutes a crime involving moral turpitude. *See* Health Occ. § 14-5D-14(b)(2).

***Health Occ. § 14-5D-14(a)(17)***

26. In its previous Final Decision and Order, Panel A denied the Applicant's 2017 Application in that he was convicted in a court of law of a crime that would be grounds for disciplinary action under Health Occ. § 14-5D-14. Panel A found that the Applicant's 2017 conviction for Sexual Abuse of a Minor or Child in the District of

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<sup>4</sup> The website for the National Athletic Trainer's Association states that it is a professional membership association for certified athletic trainers and others who support the athletic training profession.

Columbia was for an act that would be grounds for disciplinary action under Health Occ. § 14-5D-14, specifically Health Occ. § 14-5D-14(a)(3), unprofessional or immoral conduct in the practice of athletic training.

27. Panel A intends to deny the Applicant's 2022 Application in that he was convicted in a court of law for an act that would be grounds for action under Health Occ. § 14-5D-14. The Applicant's conviction for the crime of Sexual Abuse of a Child or Minor was for an act that would be grounds for disciplinary action under Health Occ. § 14-5D-14(a)(3), *i.e.*, unprofessional or immoral conduct in the practice of athletic training.

***Grounds under Health Occ. § 14-5D-08***

28. A disciplinary panel of the Board may deny an applicant's application for licensure if the applicant does not possess good moral character. Health Occ. § 14-5D-08(b)(1).

29. As set forth above, Panel A, in its Final Decision and Order, dated February 21, 2019, denied the Applicant's 2017 Application, finding that the Applicant did not possess good moral character, a requirement for licensure under Health Occ. § 14-5D-08(b)(1).

30. The Applicant's misconduct involving sexual abuse of a minor student, and his subsequent conviction for Sexual Abuse of a Child or Minor, committed while he worked as an athletic trainer at a school in the District of Columbia, as referenced above, indicates that he does not possess good moral character.

31. Panel A intends to deny the Applicant's 2022 Application in that his actions and criminal conviction, as referenced above, constitute, in whole or in part, a lack of good moral character, which constitutes a basis for a denial of his Application under Health Occ. § 14-5D-08.

**NOTICE OF AN OPPORTUNITY FOR A HEARING**

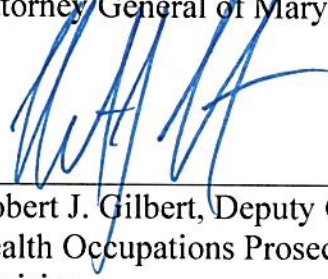
In accordance with the Administrative Procedure Act, Md. Code Ann., State Gov't §§ 10-201 *et seq.* (2021 Repl. Vol. & 2022 Supp.), Panel A hereby notifies the Applicant of his opportunity for a hearing before Panel A makes a final decision in this case. The Applicant must request a hearing **WITHIN THIRTY (30) DAYS** of the date of this notice. The request for a hearing must be made in writing to:

Christine A. Farrelly  
Executive Director  
Maryland State Board of Physicians  
4201 Patterson Avenue, 4<sup>th</sup> Floor  
Baltimore, Maryland 21215-0095  
Phone: (410) 764-4771; Fax: (410) 358-2252

If a request for a hearing is made, a conference will be scheduled before Panel A, sitting as a Disciplinary Committee for Case Resolution of the Board. In addition, a prehearing conference and a hearing before an Administrative Law Judge will be scheduled.

If Panel A does not receive a written request for a hearing within **thirty (30) days** from the date of this notice, it will sign the attached Final Order.

**ANTHONY G. BROWN**  
Attorney General of Maryland



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March 14, 2023

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Date