

IN THE MATTER OF

*

BEFORE THE

KAK RAE KIM, M.D.

*

MARYLAND STATE

Respondent

*

BOARD OF PHYSICIANS

License No. D68389

*

Case No. 2222-0086A

* * * * *

CONSENT ORDER

On June 7, 2023, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) charged **KAK RAE KIM, M.D.** (the “Respondent”), License No. D68389, with violating the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. § 14-101 *et seq.* (2021 Repl. Vol). Panel A charged the Respondent under the following provision of the Act:

Health Occ. § 14-404. License denial, suspension, or revocation.

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

(3) Is guilty of:

...

(ii) Unprofessional conduct in the practice of medicine[.]

One form of unprofessional conduct in the practice of medicine is “disruptive behavior.” The American Medical Association (the “AMA”) and The Joint Commission have addressed this in ethics opinions:¹

THE JOINT COMMISSION SENTINEL EVENT ALERT - “BEHAVIORS THAT UNDERMINE A CULTURE OF SAFETY” (2008)

On July 9, 2008, The Joint Commission issued a Sentinel Event Alert entitled, “Behaviors that Undermine a Culture of Safety,” which stated in pertinent part:

Intimidating and disruptive behaviors can foster medical errors . . . contribute to poor patient satisfaction and to preventable adverse outcomes . . . increase the cost of care . . . and cause qualified clinicians, administrators and managers to seek new positions in more professional environments . . . Safety and quality of patient care is dependent on teamwork, communication, and a collaborative work environment. To assure quality and to promote a culture of safety, health care organizations must address the problem of behaviors that threaten the performance of the health care team.

Intimidating and disruptive behaviors include overt actions such as verbal outbursts and physical threats, as well as passive activities such as refusing to perform assigned tasks or quietly exhibiting uncooperative attitudes during routine activities. Intimidating and disruptive behaviors are often manifested by health care professionals in positions of power. Such behaviors include reluctance or refusal to answer questions, return phone calls or pages; condescending language or voice intonation; and impatience with questions . . . Overt and passive behaviors undermine team effectiveness and can compromise the safety of patients . . . All intimidating and disruptive behaviors are unprofessional and should not be tolerated.²

¹ The Board and the disciplinary panels may consider the Principles of Ethics of the American Medical Association, but those principles are not binding on the Board or the disciplinary panels. *See* COMAR 10.32.02.16.

² In 2016, the Joint Commission noted that “while the term ‘unprofessional behavior’ is preferred instead of ‘disruptive behavior;’ the suggested actions in this alert remain relevant.”

AMA OPINION 9.045 (JUNE 2000)

AMA Opinion 9.045, entitled, *Physicians with Disruptive Behavior*, adopted in June 2000, states in pertinent part:

- (1) Personal conduct, whether verbal or physical, that negatively affects or that potentially may negatively affect patient care constitutes disruptive behavior. (This includes but is not limited to conduct that interferes with one's ability to work with other members of the health care team.) However, criticism that is offered in good faith with the aim of improving patient care should not be construed as disruptive behavior.

AMA OPINION 9.4.4 (JUNE 2016)

AMA Code of Medical Ethics: Professional Self-Regulation Opinion 9.4.4, adopted in June 2016, pertaining to Physicians with Disruptive Behavior, states in pertinent part:

The importance of respect among all health professionals as a means of ensuring good patient care is foundational to ethics. Physicians have a responsibility to address situations in which individual physicians behave disruptively, that is, speak or act in ways that may negatively affect patient care, including conduct that interferes with the individual's ability to work with other members of the health care team, or for others to work with the physician.

On September 13, 2023, Panel A was convened as a Disciplinary Committee for Case Resolution ("DCCR") in this matter. Based on negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

Disciplinary Panel A finds the following:

I. Introduction

1. On or about December 9, 2021, a medical facility (the “Medical Facility”)³ in Baltimore, Maryland terminated the Respondent’s employment as a vascular surgeon after several incidents in which the Respondent exhibited unprofessional conduct between approximately 2014 and 2021. The Board’s investigation revealed that the Respondent’s unprofessional conduct included but was not limited to the following:

- a. Leaving the clinic for hours or for the remainder of the day, even though his patients were waiting for their scheduled appointments;
- b. Slamming a door in the office so hard that it created a hole in the wall;
- c. Slamming a door in a staff member’s face;
- d. Breaking a trash can in the office by kicking it;
- e. Berating and/or criticizing staff members in front of patients;
- f. Yelling and/or screaming at staff members, which caused them to be fearful and avoid speaking to him, even if they had questions about patients.

2. Prior to the Respondent’s termination, his employer added a provision to his employment agreement that allowed for his immediate termination if he failed to: “promote an ethical culture and to maintain professional standards such as having only professionally appropriate interactions with staff, avoid[] acting in a manner that is likely to cause

³ To maintain confidentiality, the names of all witnesses, facilities, employees, and patients will not be used in this Order.

Employer's staff to feel intimidated or retaliated against, avoid[] acting in a manner that reflects poorly on Employer's reputation with patients, and avoid[] unplanned clinic cancellations."

II. Licensing and Practice Information

3. At all times relevant hereto, the Respondent has been licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on or about November 19, 2008, under license number D68389. His license is currently active through September 30, 2024, subject to renewal.

4. The Respondent is board-certified in vascular surgery.

5. The Respondent does not currently have any hospital privileges.

6. From on or about February 2, 2012 until on or about December 9, 2021, the Respondent was a vascular surgeon at the Medical Facility.

III. Allegations

7. On or about December 16, 2021, the Board received a Mandated 10-Day Report (the "Report") from an employee of the Medical Facility, which alleged that on or about December 9, 2021 the Medical Facility terminated the Respondent's employment due to "ongoing hostile and demeaning conduct towards staff[.]"

8. The Report described an incident in January 2021 in which the Respondent "engaged in an angry confrontation with nursing and administrative staff members[.]" and an incident in September 2021 in which "he became upset with the scheduling of an add-on surgery case[.]" The Report alleged that, during the latter incident, the Respondent

“indicated that the charge nurse was misleading the patient” and “accused the surgery team that would perform the procedure of incompetence” in front of the patient.

9. The Report alleged that “[t]eam members, including medical assistants, have reported (and [the Respondent] acknowledged) that he engaged in intimidating and hostile behaviors from belittling and yelling at staff, to threatening to rescind recommendation letters previously submitted for staff members, to slamming a door in a team member’s face.”

IV. Board Investigation

10. The Board initiated an investigation into the Report.

11. On or about January 19, 2022, the Board notified the Respondent of the Report, informed him that an investigation had been initiated, and requested a written response to the allegations.

12. On or about February 10, 2022, the Board received the Respondent’s written response to the Report in which he denied the allegations.

13. In furtherance of its investigation, Board staff subpoenaed the Respondent’s quality assurance/risk management file from the Medical Facility, and conducted under-oath interviews with many current and former employees of the Medical Facility. Board staff also conducted an under-oath interview with the Respondent.

Individual 1

14. On or about March 11, 2022, Board staff conducted an interview with Individual 1, a surgical coordinator at the Medical Facility. In the under-oath interview, Individual 1 stated in part:

- a. She has been employed at the Medical Facility since September 1998 and she worked with the Respondent from 2012 until December 2021. As surgical coordinator, she scheduled the Respondent's surgeries.
- b. In 2014 or 2015, the Respondent "started screaming . . . and yelling" at Individual 1 in the office about the operating room ("OR"). He "proceeded to ball his fists up[.]" He was screaming, "[Individual 1], you do what . . . I say, you put me in the room."
- c. In 2016 or 2017, while Individual 1 was on the phone, there was a loud noise in the office. Individual 1 hung up the phone, stood up in her office and saw the Respondent "walking, pacing the floor." The Respondent "went out to his waiting area and . . . told the patients there will be no clinic today, get out of my office, go home. His exact words were . . . quote, unquote, my entire staff is incompetent."
- d. Individual 1 and other employees "walked [the patients] out and told them that [they] had their names . . . and [they]'ll call them."
- e. The Respondent occasionally played loud music in his office. Some employees approached him while he was playing loud music and "he did not say a word, he just kept the music loud."
- f. On one of the Respondent's clinic days, Individual 1 had a question about one of his patients. She noticed that "the music [was] low . . . so [she] said okay, so I guess I can ask him a question, I have a question about a patient . . . He said no."
- g. Individual 1 observed the Respondent "screaming and yelling" at another employee ("Individual 3")⁴ in Individual 1's office. He "just kept saying you keep everything in the vascular center, you tell nothing, don't tell our business." Individual 3 "walked away to go back to her office," and the Respondent followed her to her office.
- h. Individual 1 observed the Respondent "go at" another employee ("Individual 8")⁵ in the office "on several occasions." Individual 1 "witnessed [the Respondent] tell [Individual 8] that she didn't exist, you don't exist to me." Individual 8 "was crying and [Individual 1]

⁴ Individual 3 is a practice manager at the Medical Facility, discussed *infra*.

⁵ Individual 8 was a director of operations at the Medical Facility, discussed *infra*.

calmed her down[.]”

- i. The Respondent got upset once or twice each week. Individual 1 said that when “those episodes happened, you don’t know who you’re getting. You don’t know how to approach that . . . you don’t know if I say something, will that trigger him to do that.”

Individual 2

15. On or about March 11, 2022, Board staff conducted an interview with Individual 2, a senior operations employee at the Medical Facility. In the under-oath interview, Individual 2 stated in part:

- a. In December 2017, staff reported to Individual 2 that the Respondent got “very angry in the middle of a patient clinic” and “kicked the trash can into the wall and the trash can broke.”
- b. Then the Respondent “took his office door and slammed it multiple times, just sort of stood there opening and slamming, opening and slamming, while being upset.”
- c. Then the Respondent “said he wasn’t going to see any more of the patients that were in the clinic for their visit and left.”
- d. Individual 2 spoke to the Respondent about this incident after it was reported to her and “he did say he did all those things.” The Respondent agreed to apologize to staff and he did so.
- e. When Individual 2 spoke to the Respondent, she told him “that it can be scary for people when you’re angry like that[.]” She “think[s] that [the Respondent] acknowledged that in the apology.”
- f. Not long after this incident, there was another incident “where [the Respondent] just got angry in clinic and sort of the same behavior repeated again.”
- g. On or about August 20, 2020, the Respondent got upset that an employee (Individual 3) was providing information to Individual 2 that she requested. Individual 3 told Individual 2 that the Respondent “went to [her] office and said, “you don’t know anything, you don’t send anything . . . you don’t do anything without . . . clearing it with

me. I'm leaving for the day. Cancel all my patients." The Respondent "again . . . canceled patients."

- h. The Respondent told Individual 3 that if she does things without telling him, he would have her fired.
- i. Individual 3 reported to Individual 2 that on or about August 24, 2020, the Respondent got upset over a staffing issue and "said he was gone for the day, he wasn't going to see patients[.]" Staff "had to cancel clinic patients again for that."
- j. When the Respondent gets mad "he'll ball his fists up, but they're down by his side . . . his anger is palpable[.]"

16. On or about August 21, 2020, Individual 2 wrote notes when Individual 3 reported the Respondent's behavior to her. Individual 2's notes state, "Occurred on 8/20/20, reported 8/21/20 . . . left office slammed his door . . . [the Respondent] you don't know nothing[,] you don't send anything[,] you don't discuss . . . I'm leaving for day [and] cancel all my patients. Got PAs to see rest of them."

17. On or about August 24, 2020, Individual 2 wrote notes regarding staff reports to her about the Respondent. She wrote, "Be quiet, stop talking, let me talk[.] Incompetent . . . F it, I'm gone for the day[,] Walked out again[,] had to call patients."

Individual 3

18. On or about March 11, 2022, Board staff conducted an interview with Individual 3, a practice manager at the Medical Facility. In the under-oath interview, Individual 3 stated in part:

- a. Individual 3 began working at the Medical Facility in September 2019.
- b. She worked with the Respondent. Some days, working with him was "fine[.]" but "[m]ore often than not he was . . . a bully[.]"

- c. Individual 3 was “afraid to . . . tell him if there was a problem with a patient . . . because then you just never knew what the response would be.”
- d. On one occasion, the Respondent called Individual 3 before they had to start a clinic day at an office location in Baltimore County with “a really heavy schedule” and he was “yelling and screaming[.]” The Respondent “walks out . . . and he says cancel his patients for the day.”
- e. The Respondent left the clinic full of patients “multiple times . . . he would just walk out and . . . he had a whole list . . . a whole schedule full of patients that day and he just, he left.”
- f. On another occasion, the Respondent “[ran] down the hallway to [Individual 3] and he is nose to nose . . . [she] could feel his breath in [her] face.” The Respondent was “yelling don’t talk to [Individual 2] about anything about our practice.” Individual 3 felt concerned for her safety.
- g. After this incident, Individual 3 was so upset that she left work for the day and took off of work the next day.
- h. Individual 3 started working from home on the Respondent’s clinic days “because [she] just didn’t want to be in there with him anymore.”

Individual 4

19. On or about March 29, 2022, Board staff conducted an interview with Individual 4, a nurse manager at the Medical Facility. In the under-oath interview, Individual 4 stated in part:

- a. Individual 4 worked as an OR nurse manager at the Medical Facility from April 2020 until early 2022. She interacted with the Respondent once or twice a week.
- b. On one occasion, the Respondent became upset with Individual 4 because she could not schedule an add-on procedure for one of his patients. The OR was very busy and the procedure was not an emergency. Individual 4 was talking to her director in her office

when the Respondent “came in angrily and upset.”

- c. Individual 4’s director told the Respondent that they could not schedule his add-on procedure. The Respondent “was yelling at [them] and angry, and . . . he left her office and then went out the stairwell and slammed the door so hard against the wall that it busted the wall open.”
- d. A couple of months later, Individual 4 again could not schedule an add-on procedure for one of his patients. The Respondent “had admitted this patient and told her a time” but, according to Individual 4, they could not do the procedure until later in the day.
- e. The Respondent asked Individual 4 to talk to the patient with him. Individual 4 told the patient that they were “going to get to [her] procedure when it’s a safe time, when [they] have the available . . . resources and staff[.]”
- f. The Respondent turned to Individual 4 while “clenching his fists” and said that she was “inappropriate[.]” The Respondent left the patient’s room. Individual 4 stayed in the room and tried to calm the patient down.
- g. When Individual 4 left the patient’s room, the Respondent “was outside waiting for [her] . . . looked very angry . . . yelled at [her] and told [her that she] was completely inappropriate in the room.”
- h. The Respondent followed Individual 4 down the hall, then stopped and held the elevator open for Individual 4, but she “did not go into the elevator with him because [she] was fearful of going in to the elevator with him[.]”
- i. Individual 4 “ran down to [her] director’s office . . . sat there and cried[.]” She said, “I’ve been in the OR for a long time . . . I’ve dealt with a lot of surgeons . . . and I’ve never had a surgeon berate me in front of a patient.”
- j. Individual 4 went home for the day after the incident because she was “really upset[.]”
- k. The Respondent later apologized to Individual 4 when they were “in the middle of coding a patient[.]” He said, “I’m sincerely sorry. I was extremely inappropriate.”

- l. Individual 4 said that when she expected that the Respondent was going “to blow up” about something, she needed the charge nurse and the chief of surgery as “backup.” She said, “[F]eeling like you have to get all of these people in line just to have one decision made, that can definitely affect things[.]”

Individual 5

20. On or about May 2, 2022, Board staff conducted an interview with Individual 5, a medical assistant at the Medical Facility. In the under-oath interview, Individual 5 stated in part:

- a. Individual 5 began working at the Medical Facility in June 2021. From June 2021 until December 2021, Individual 5 worked with the Respondent on his clinic days generally once a week.
- b. The Respondent wanted Individual 5 and other medical assistants “to gather data for him about his patients on top of [their] regular duties.” The Respondent also wanted Individual 5 to “look into a lawyer for him because he wanted to start a foundation[.]”
- c. When Individual 5 told the Respondent that she found a lawyer for him to meet, he “got upset with [her] for not focusing on data collection[.]” Individual 5 told him that the medical assistants divided up the work, but the Respondent said “no, everybody should be doing the data collection and proceeded to slam the door in [her] face.”
- d. It “was always like walking on eggshells with [the Respondent], especially during clinic days with other [medical assistants].” The Respondent “would snap in front of patients to [a medical assistant.]”
- e. On one occasion, when the Respondent “snapped” on another medical assistant in front of Individual 5 and a patient, Individual 5 “kept trying to redirect the patient’s attention to [herself] and make sure the patient was . . . not listening to [the Respondent] snap on [the medical assistant].”
- f. During a research meeting with the medical assistants, the Respondent “threatened everybody . . . with potentially pulling letters of recommendation he had written.”

- g. One of the medical assistants could not attend the research meeting because he was sick, but the Respondent “had [that medical assistant] call in via FaceTime” anyway.
- h. The Respondent did pull a letter of recommendation for that medical assistant.
- i. About once a week or once every two weeks, the Respondent “would walk off in the middle of his clinic and be gone for like an hour [with] patients in the room.”
- j. The medical assistants tried to send the Respondent text messages telling him that patients are present, but the Respondent would sometimes not respond and “be gone for hours.”

Individual 6

21. On or about May 2, 2022, Board staff conducted an interview with Individual 6, a nurse and operating room coordinator at the Medical Facility. In the under-oath interview, Individual 6 stated in part:

- a. Individual 6 has worked at the Medical Facility since 2008. She worked with the Respondent at the Medical Facility.
- b. On one occasion, Individual 4 asked Individual 6 to go with her to tell the Respondent that they could not do his add-on case in the OR immediately and that it would have to happen later in the day. Individual 6 went with her.
- c. The Respondent told them “that he wasn’t going to wait, it had to happen, and [they] needed to find a space for him, [they] better bump somebody.”
- d. That same day, while Individual 6 was at lunch, the Respondent asked Individual 4 to go with him to talk to the patient about the scheduling of the add-on procedure.
- e. When Individual 4 was back in her office after seeing the patient with the Respondent, Individual 6 went to Individual 4’s office and observed that Individual 4 was “visibly upset and shaken[.]”

- f. Individual 6 spoke to the chief of surgery (“Physician B”) and informed him that the Respondent insisted that Individual 4 go with him to see the patient. Physician B told Individual 6, “[T]hat’s not appropriate.”

Individual 7

22. On or about August 22, 2022, Board staff conducted an interview with Individual 7, a nurse and operating room director at the Medical Facility. In the under-oath interview, Individual 7 stated in part:

- a. Individual 7 has been employed at the Medical Facility for more than three years. She worked with the Respondent at the Medical Facility and interacted with him about once a week.
- b. Generally, the Respondent would be “jovial” in the morning, and then have a change in character later in the day as evidenced by “his frustration and elevated voice, clenched fists.”
- c. The Respondent frequently had concerns related to staffing in the operating room. Sometimes he “would get visibly upset, and . . . sometimes he would elevate his voice, even in the office with [Individual 7.]”
- d. In January 2021, there was an incident in which the Respondent “was so upset he came down to [Individual 7’s] office” where she was with Individual 4 and a hospital administrator. “[They] were explaining to him . . . why his team was the best possible team given the circumstances. He left that office, made the corner, and slammed the door open hard enough that he put a hole in the wall that [they] had to get some drywall to repair on the next day.”
- e. Individual 7 “felt uncomfortable a lot.” She “would always make sure that [she] was either in a room where [she] could move out of the way or someone else would be with [her], because after an outburst [where the Respondent slammed the door so hard it put a hole in the wall, she] definitely did feel uneasy.”
- f. In September 2021, Individual 7 was working with Individual 4 on

the day that the Respondent asked Individual 4 to go with him to see the patient to explain why the OR could not accommodate her add-on procedure immediately. Regarding the scheduling of that add-on case, Individual 7 said, “We even contacted [Physician B] . . . to see how he felt about it . . . but really this case was not an emergent case, based on at least the assessments that we had[.]”

- g. Individual 4 went to Individual 7’s office when she came back from visiting the patient with the Respondent. Individual 4 said the Respondent “impl[ied] [to the patient] that it was somehow [Individual 4’s] fault that inadequate staffing was going to be provided, and that somehow she didn’t have the right staff, but at the same time, he still wanted to do the case, and that [Individual 4] was the barrier.”
- h. After returning from the patient’s room, Individual 7 observed that Individual 4 was “visibly upset.” She “mentioned that she didn’t want to get in an elevator with [the Respondent.]”

Physician A

23. On or about August 31, 2022, Board staff conducted an interview with a physician and director at the Medical Facility (“Physician A”). In the under-oath interview, Physician A stated in part:

- a. Physician A has worked at the Medical Facility since 2002. He worked with the Respondent from the date that he started there.
- b. The Medical Facility terminated the Respondent because “there was a pattern of . . . unprofessional and just poor behavior in general.”
- c. Staff came to Physician A with reports about the Respondent’s conduct. Physician A said there were “repeated offenses over time.”
- d. Staff told Physician A they must “walk on eggshells” around the Respondent. They also described the Respondent as a “ticking time bomb.”
- e. Individual 3 reported to Physician A that the Respondent “was intimidating and stood in her face and raised his voice to her.” She was “visibly shaken[.]”

- f. After this incident, Individual 3 used Physician A as a “buffer” in between her and the Respondent. Physician A “would relay some information” to the Respondent.
- g. Physician A is aware of an incident where the Respondent held a meeting with the medical assistants, which “did not go well” because it “amounted to be bullying and intimidating behavior[.]” The Respondent was “[s]hout[ing]” and “threatening . . . rescind[ing] letters of recommendation[.]”
- h. The Respondent mandated that one of the medical assistants, who was absent from work due to illness that day, call into the meeting. The meeting was about research and could have been delayed.
- i. The Respondent did rescind a letter of recommendation for that medical assistant, “which was absolutely appalling to [Physician A.]”
- j. In about 2016, Physician A was performing a procedure in the operating room with the Respondent. The Respondent “just stopped operating, stopped what he was doing, put his instruments down, ripped his gown off and walked out of the operating room. And then all [they] heard was a kick, which was probably the scrub sink.” The Respondent returned “about two minutes later, scrubbed back in . . . as if nothing happened.”
- k. Physician A “was infuriated . . . we have a patient on the table.”
- l. Physician A said the Respondent has left his clinic full of patients after having an angry outburst on two occasions. Physician A discussed this with the Respondent and told him, “[Y]ou can’t abandon patients in clinic. That is totally not acceptable”
- m. The Respondent told Physician A that “sometimes he gets a feeling like things are forming a wall around him and he gets extremely frustrated and needs to get away.”
- n. Physician A told him, “But you absolutely cannot walk out of clinic with patients there.” Physician A has “never seen that in [his] entire 30 year medical career.”

Physician B

24. On or about August 31, 2022, Board staff conducted an interview with a physician and chief of surgery at the Medical Facility (“Physician B”). In the under-oath interview, Physician B stated in part:

- a. Physician B has been working as a physician at the Medical Facility for 35 years. The Respondent was under Physician B’s department.
- b. The Medical Facility terminated the Respondent because “there had been some disruptive behavior[.]”
- c. Physician B spoke to the Respondent after he brought Individual 4 up to the patient’s room to explain why the patient’s procedure, which was an add-on procedure, could not happen immediately.
- d. Physician B told the Respondent, “[T]hat’s not an appropriate behavior. We don’t put nurses on the line that way. We all get frustrated, but that is not appropriate to do that. . . . That’s not going to be tolerated.”

Individual 8

25. On or about November 23, 2022, Board staff conducted an interview with Individual 8, a former director of operations at the Medical Facility. In the under-oath interview, Individual 8 stated in part:

- a. Individual 8 worked at the Medical Facility from December 2014 through February 2020. Individual 8 worked “side by side” with the Respondent.
- b. The Respondent “had difficulty maintaining his frustration. . . . [W]hen he got upset he was very known to do the silent treatment. There were months in [her] job that he refused to speak to [her].” It “became very difficult for [Individual 9] to do [her] job” because of that.
- c. On one occasion, the Respondent “walked out into a patient waiting

room saying I'm sorry my staff is so incompetent and walked out for the rest of the day. . . . [H]e was going to send all the patients home." There were "probably 20 [patients] between [the] PAs and [the Respondent]."

- d. On another occasion, the Respondent "slammed the door so hard it cracked the wall behind it. [Individual 8] was sitting at her desk. [She] was the only one there."
- e. In 2019, the Respondent was upset and Individual 8 was on the phone in her office. He "reached over and hung up the phone on [her]." Then, he "was kicking the trash can[.]"

Physician C

26. On or about December 28, 2022, Board staff conducted an interview with Physician C, an administrator at the Medical Facility. In the under-oath interview, Physician C stated in part:

- a. Physician C began working at the Medical Facility in 2000.
- b. Physician C worked on the language for an amendment to the Respondent's employment agreement due to "another behavioral incident that he had[.]"
- c. Physician C met with the Respondent about the amendment. The Respondent told Physician C that "he wanted the language to be stronger. He said that the amendment wasn't forceful enough and that he believed that he needed to have the words be stronger, so he proposed what they should be because he needed to . . . be sure in his mind that he could never have any additional negative incidents. So he said he wanted it for his own self to be very clear that if he did that again that he needed to go."
- d. Physician C does not think that the amendment changed the Respondent's behavior.
- e. Physician C is aware of "several incidents" that may have been connected to the amendment. She said, "[I]t was possibly the incident that he canceled the clinic in the middle of the day[.]"

- f. Physician C met with the Respondent after he canceled the clinic in the middle of the day. They “had several meetings.” Physician C told him that the behavior was inappropriate and not acceptable.
- g. Physician C is aware of another incident where the Respondent was “upset or angry in a clinic . . . and he stomped on a trash can and . . . broke it[.]”

27. On or about December 6, 2022, the Board obtained the Respondent’s employment agreements pursuant to a *subpoena duces tecum* issued to the Medical Facility.

28. On or about December 30, 2020, the Respondent, Physician C and another employee signed the “Eleventh Amendment to Employment Agreement,” which states:

“2. Termination. Section 5.4 is hereby amended to read as follows:

If either party should materially fail to perform his or its duties as required under the terms of this Agreement . . . the other party may terminate this Agreement upon thirty (30) days written notice . . . It is further understood and agreed upon by the parties hereto that Employer may terminate this Agreement immediately and without advance notice under the following circumstances: . . . (h) if the Doctor is found to have failed to comply with Section 2.7. of the Original Agreement, including without limitation the requirements to promote an ethical culture and to maintain professional standards such as having only professionally appropriate interactions with staff, avoiding acting in a manner that is likely to cause Employer’s staff to feel intimidated or retaliated against, avoiding acting in a manner that reflects poorly on Employer’s reputation with patients, and avoiding unplanned clinic cancellations.”

V. The Respondent’s Interview

29. On or about January 26, 2023, Board staff conducted an interview with the Respondent. In the under-oath interview, the Respondent stated in part:

- a. He started working at the Medical Facility in 2012.

- b. In November 2021, the Respondent asked for an add-on procedure to be performed immediately in the OR with “[his] team.” The team “was pulled to do breast biopsy cases[.]” Individual 4 told him that the add-on procedure could be performed in the OR at 9:00 p.m.
- c. The Respondent brought Individual 4 to the patient’s room because he “felt that [the patient] needed to hear from OR standpoint . . . because I couldn’t give her an adequate explanation on my own to justify pushing the case back until 9:00.”
- d. The Respondent feels he was “an advocate for the patient, and it doesn’t . . . change much how [he] would react differently.”
- e. The Respondent thinks that Individual 4 “saying that [the OR staff at 9:00 p.m.] are a competent group of people to do the procedure was certainly not true.”
- f. When asked whether the Respondent slammed a door so hard that it left a hole in the wall after leaving Individual 7’s office, the Respondent said, “I suppose that’s possible but that was not aware to me until like a year later.”
- g. The Respondent further said, “And if I did clinch [*sic*] my fist at the time I wish I didn’t. . . . Did I have some moments of that? I suppose I did.”
- h. When asked why he would leave the clinic in the middle of the day while patients were waiting, the Respondent said, “To my recollection I did it twice that I can remember. Maybe there was more but I can remember twice.”
- i. There were 25 to 30 patients scheduled to see the Respondent on a typical clinic day.
- j. On one of the days he recalls leaving the clinic, the Respondent stated he left because Individual 8 kept interrupting him. On that day, he had about 25 patients, and he “think[s] in that day [he] left in the afternoon[.]” so he would have had about six to 10 patients in the afternoon.
- k. When asked about how he left the clinic on clinic days with Individual 8, the Respondent said, “I left. I remember those days well because I felt like I was being watched by her so I left very

quietly. She was writing me up. . . . I left very quietly. Didn't want to deal with her. Did not want to deal with other things."

- l. On the other day that the Respondent left clinic, Individual 3 was there.
- m. During a research meeting with the medical assistants, the Respondent told them that if they do not do what they are supposed to do, he would rescind their letters of recommendation. The Respondent "certainly . . . could see that in their perspective that could be like threatening."
- n. The Respondent recalls that he or one of the staff asked a medical assistant who was out sick to join the research meeting via teleconference.
- o. The Respondent rescinded that medical assistant's letter of recommendation.
- p. Individuals 2 and 8 told the Respondent, "there's a significant amount of staff who feel intimidated and . . . walking on eggshells . . . when you're around."
- q. The Respondent remembers working with Physician C on the Eleventh Amendment to Employment Agreement regarding termination that he signed on or about December 30, 2020. He "wanted to do that" and thought "that was a reasonable request from them."
- r. The Respondent had "frequent conversation" with Physician C and these were "difficult times."
- s. The Respondent gave a book to staff members about "self-reflection and empathy." The Respondent said, ". . . I could see how that book seemed derogatory or arrogant of me to give them that book because I was the one who needed it most. It certainly wasn't in that line. . . . I thought I gave it to my [medical assistants] only but I guess I gave it to more than that because that was a very nice book to read."

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent is guilty of unprofessional conduct in the practice of medicine, in violation of § 14-404(a)(3)(ii) of the Health Occupations Article.

ORDER

It is thus by a majority of a quorum of Disciplinary Panel A of the Board hereby:

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum of **ONE YEAR**. During probation, the Respondent shall comply with the following terms and conditions of probation:

(1) The Respondent shall enroll in the Maryland Professional Rehabilitation Program (MPRP) as follows:

- (a) Within 5 business days, the Respondent shall contact MPRP to schedule an initial consultation for enrollment;
- (b) Within 15 business days, the Respondent shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP;
- (c) the Respondent shall fully and timely cooperate and comply with all MPRP's referrals, rules, and requirements, including, but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by MPRP;
- (d) the Respondent shall sign and update the written release/consent forms requested by the Board and MPRP, including release/consent forms to authorize MPRP to make verbal and written disclosures to

the Board and to authorize the Board to disclose relevant information from MPRP records and files in a public order. The Respondent shall not withdraw his/her release/consent;

- (e) the Respondent shall also sign any written release/consent forms to authorize MPRP to exchange with (i.e., disclose to and receive from) outside entities (including all of the Respondent's current therapists and treatment providers) verbal and written information concerning the Respondent and to ensure that MPRP is authorized to receive the medical records of the Respondent, including, but not limited to, mental health and drug or alcohol evaluation and treatment records. The Respondent shall not withdraw his/her release/consent;
- (f) the Respondent's failure to comply with any of the above terms or conditions including terms or conditions of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s) constitutes a violation of this Consent Order;

(2) Within **SIX (6) MONTHS**, the Respondent is required to take and successfully complete two courses. One course on **professionalism** and one course in **anger management**. The following terms apply:

- (a) it is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the courses before the courses are begun;
- (b) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the courses;
- (c) the courses may not be used to fulfill the continuing medical education credits required for license renewal;
- (d) the Respondent is responsible for the cost of the courses.

(3) Within **ONE (1) YEAR**, the Respondent shall pay a civil fine of **\$5,000.00 (FIVE THOUSAND DOLLARS)**. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217,

Baltimore, Maryland 21297. The Board will not renew or reinstate the Respondent's license if the Respondent fails to timely pay the fine to the Board; and it is further

ORDERED that a violation of probation constitutes a violation of the Consent Order;

ORDERED that the Respondent shall not apply for early termination of probation; and it is further

ORDERED that, after the Respondent has complied with all terms and conditions of probation, the Respondent may submit a written petition for termination of probation. The Respondent's probation may be administratively terminated through an order of the disciplinary panel if the Respondent has complied with all probationary terms and conditions including receiving four satisfactory supervisory reports and there are no pending complaints relating to the charges, but will not be terminated if the Board has not received four satisfactory supervisory reports; and it is further

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

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

the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

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

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director or her designee signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order; and it is further

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

03/04/2024
Date

Signature On File

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

CONSENT

I, Kak Rae Kim, M.D., acknowledge that I have consulted with counsel before signing this document.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* concerning the pending charges. I waive this right and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order.

I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

I sign this Consent Order, without reservation, and fully understand the language and meaning of its terms.

2/28/24

Date

Signature On File

Kak Rae Kim, M.D.

NOTARY

STATE OF MARYLAND

CITY COUNTY OF Baltimore

I HEREBY CERTIFY that on this 28th day of February,
²⁴ 2023, before me, a Notary Public of the State and County aforesaid, personally appeared
Kak Rae Kim, M.D., and gave oath in due form of law that the foregoing Consent Order
was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Sierra Silkman
Notary Public SIERRA SILKMAN

My Commission Expires: 9/22/2025