IN THE MATTER OF	*	**BEFORE THE**
YEWANDE OLASIMBO, PA-C	*	**MARYLAND STATE**
Respondent	*	**BOARD OF PHYSICIANS**
License Number: C04996	*	**Case Number: 2219-0194B**

* * * * * * * * * * * *

FINAL DECISION AND ORDER

INTRODUCTION AND PROCEDURAL HISTORY

On July 23, 2020, Disciplinary Panel B of the Maryland State Board of Physicians (the "Board") issued charges against Yewande Olasimbo, PA-C alleging that she violated § 15-314(a)(3)(ii) and (11) and § 14-602 of the Health Occupations Article, Maryland Code Ann., for unprofessional conduct in the practice of medicine, willfully making or filing a false report or record in the practice of medicine, and misrepresenting to the public that she is authorized to practice medicine in this State. The State charged that, on multiple occasions, Ms. Olasimbo incorrectly recorded or failed to record patients' blood pressure and used an email address with "Dr." in the title, thereby holding herself out to the public as a physician.

On July 20 and 21, 2021, Ms. Olasimbo received an evidentiary hearing before an Administrative Law Judge ("ALJ") at the Office of Administrative Hearings. At the hearing, the State introduced 23 exhibits and presented testimony from: (1) the manager of the facilities at Facility 1; (2) a former co-worker chiropractor ("Chiro A"); and (3) from Ms. Olasimbo.[1] Ms. Olasimbo introduced 16 exhibits, testified on her own behalf, and presented testimony from two former co-worker chiropractors, Patient B, and a physician who was accepted as an expert in internal medicine.

[1] To maintain confidentiality, the names of all witnesses, facilities, co-workers, and patients will not be used in this Final Decision and Order.

On October 19, 2021, the ALJ issued a proposed decision, upholding the charges pertaining to Patient A, Patient C, and Patient D, dismissing the charge pertaining to Patient B and dismissing the charge that Ms. Olasimbo intentionally misrepresented herself as a physician.[2] The ALJ recommended a sanction of a reprimand and a 24-month probation with a $5,000 fine and courses in (1) vital signs and how to take them, (2) medical ethics, and (3) medical record keeping/documentation.

Ms. Olasimbo filed a Motion to Supplement the Record with four additional exhibits and filed written exceptions to the ALJ's Proposed Decision, and the State filed an opposition to the Motion to Supplement the Record and a Response to the exceptions. The State did not file any exceptions. Both parties appeared before Disciplinary Panel A of the Board (the "Panel" or "Panel A") for the motions hearing and an oral exceptions hearing on March 8, 2022. After hearing arguments from both parties, the Panel admitted the additional records, pursuant to COMAR 10.32.02.05B(3)(b)(i). After considering the entire record, including the evidentiary record made before the ALJ, the additional four exhibits, the written exceptions and oral arguments by both parties, Panel A issues this Final Decision and Order.

FINDINGS OF FACT

The Panel adopts the ALJ's Proposed Findings of Fact for the five stipulated Findings of Facts and the fifty-two undisputed paragraphs (numbered ¶¶ 1, 3-9, 12, 14, 16-18, 20, 22-31, 33-40, 46-54, and 56-66) that the ALJ found by a preponderance of the evidence. As explained below, the Panel also adopts Proposed Findings of Fact ¶¶ 10, 13, 15, 19, 21, 32, and 55 and the first sentence of ¶ 2. These paragraphs are incorporated by reference into the body of this document as if set forth in full. *See* attached ALJ Proposed Decision, Exhibit 1. Also, as

[2] A charge related to Patient E was not pursued at the hearing by the State.

explained below, the second sentence of ¶ 2 and ¶¶ 11 and 41-45 are not adopted. The Findings of Fact were proven by the preponderance of the evidence. The Panel will now review and discuss the disputed findings of fact discussed in Ms. Olasimbo's exceptions.

CONSIDERATION OF EXCEPTIONS

In her written exceptions, Ms. Olasimbo took exception to thirteen of the ALJ's sixty-six Proposed Findings of Fact (paragraphs 2, 10, 11, 13, 15, 19, 21, 32, 41, 42, 44, 45, and 55). She also took exception to the conclusions of law pertaining to Patient A, Patient C, and Patient D. Finally, she took exception to the proposed sanction recommended by the ALJ. These exceptions can be categorized as follows: (1) technical corrections; (2) violations pertaining to Patient A; (3) facts related to Patient B; (4) violations pertaining to Patient C; and (5) violations pertaining to Patient D.

To briefly summarize, Ms. Olasimbo worked at Facility 1 where patients were evaluated and treated for injuries sustained in automobile and work-related accidents. Ms. Olasimbo's role for the listed patients was to perform a preliminary evaluation. In several instances, Ms. Olasimbo was alleged to have failed to take a blood pressure reading and, in some cases, to have fabricated a reading. Blood pressure is significant because it can detect or indicate abnormalities within the body, such as hypertension. A blood pressure is measured as a fraction with systolic as the numerator and diastolic as the denominator. A normal systolic range is 90 to 120 and a normal diastolic range is 60 to 80.

Technical corrections (Exceptions to ¶¶ 2, 10, 11, 13)

Several of Ms. Olasimbo's exceptions are technical corrections to factual findings that provide helpful background but do not directly impact the conclusions of law related to the alleged violations.

The ALJ stated that Ms. Olasimbo "would typically alternate between three different locations on a weekly basis, depending on which facility she was needed." Proposed Decision at 7 ¶2. Ms. Olasimbo states that this is incorrect and that she would often travel to multiple locations on the same day. The ALJ's description does not necessarily imply that she was at a location for a full week, but the Panel acknowledges that the ALJ's finding for ¶2 is ambiguous and potentially confusing. The Panel replaces the second sentence of ¶2 with the following: "The Respondent would typically alternate between different locations, depending on which facility she was needed."

Ms. Olasimbo excepted to the findings in ¶¶ 10 and 11 which stated that PAs used digital wrist blood pressure monitors while doctors used traditional arm cuff monitors, instead stating that all medical professionals used wrist cuffs. It appears that there was a wall mounted arm blood pressure monitor cuff at the office where Chiro A worked. Ms. Olasimbo is also correct that often there were only wrist cuffs available at some locations and chiropractors and the medical professionals needed to share blood pressure cuffs. There does not appear to be any error in ¶ 10 and the exception is denied pertaining to ¶10. The exception pertaining to ¶ 11 is granted and ¶ 11 is not adopted.

Ms. Olasimbo also filed exception to ¶ 13 which stated that she worked at Hospital A on Wednesday, Thursday, and Friday. She claims that she worked night shifts at Hospital A. The Proposed Finding of Fact ¶ 13 does not specify what time she worked and was correct. The exception is denied.

Violations Pertaining to Patient A
(Exceptions to ¶¶ 15, 19, 21 and to Grounds 14-404(a)(3)(ii) and (11))

On April 15, 2019, Patient A came to Facility 1 after a motor vehicle accident. Ms. Olasimbo recorded the patient's blood pressure of 130/95. About 15 to 30 minutes later, Chiro A

evaluated Patient A and took her blood pressure. The level was 166/122, which was too high for physical therapy. When Chiro A asked Patient A about whether Ms. Olasimbo had taken her blood pressure, Patient A insisted that Ms. Olasimbo had not taken her blood pressure.

The ALJ concluded that Ms. Olasimbo had not taken Patient A's blood pressure based on the significant difference in the blood pressure recorded by Ms. Olasimbo and by Chiro A and based on Patient A's statement to Chiro A that her blood pressure had not been taken.

Ms. Olasimbo challenges the ALJ's proposed conclusion. She argues that she testified that she took Patient A's blood pressure and claims that an innocent explanation explains the discrepancies. First, Ms. Olasimbo states that the patient was unfamiliar with the wrist device and, therefore, incorrectly believed that her blood pressure had not been taken. Second, she states that the different reading was due to the patient's walk down the hallway and stress. Ms. Olasimbo also notes that the patient was an obese smoker and speculates that the walk down the hallway could have caused Patient A's blood pressure to rise. In addition, Ms. Olasimbo also challenges Chiro A's testimony based on what she described as inconsistencies, exaggerations, and embellishments in Chiro A's three accounts of events pertaining to Patient A: Chiro A sent emails to managers, on April 16, 2019; made a statement in an interview with the Board, on March 6, 2020; and testified at the OAH hearing, on July 20, 2021. Finally, Ms. Olasimbo claims that Chiro A had an obvious bias and wanted to get Ms. Olasimbo fired.

The disputed facts in this matter largely concern directly conflicting testimony between Ms. Olasimbo and Chiro A. The ALJ found that Chiro A's account was accurate and truthful based on Chiro A's "straightforward, matter-of-fact demeanor, signifying her truthfulness." Proposed Dec. at 18. The ALJ also found it unlikely that Chiro A would have involved upper management in an issue that she had with Ms. Olasimbo if it were baseless because it might have

jeopardized Chiro A's own position. The ALJ also rejected Ms. Olasimbo's claim that Chiro A had bias against Ms. Olasimbo based on Ms. Olasimbo's complaints against Chiro A because Chiro A was unaware of any complaint against her by Ms. Olasimbo and was not acting in a retaliatory manner.

The Panel agrees with the ALJ. As an initial matter, the Panel is required to defer to the ALJ on demeanor-based credibility findings unless strong reasons exist for rejecting them. "[W]here credibility is pivotal to the agency's final order, ALJ's findings based on the demeanor of witnesses are entitled to substantial deference and can be rejected by the agency only if it gives strong reasons for doing so." *Department of Health & Mental Hygiene v. Shrieves*, 100 Md. App. 283, 302 (1994). Further, "[d]emeanor most often is a factor in deciding the credibility of a fact witness who is testifying about a fact that may be true or false." *State Board of Physicians v. Bernstein*, 167 Md. App. 714, 760 (2006). To reiterate, the ALJ made credibility findings in this case about what Chiro A observed and heard as a fact witness, finding Chiro A's "straightforward, matter-of-fact demeanor, signif[ied] her truthfulness." *See* Proposed Dec. at 18. The Panel finds that no strong reasons exist for rejecting the ALJ's demeanor-based credibility determinations thus the panel credits Chiro A's testimony and has relied upon it.

Moreover, the Panel would have reached this conclusion even without the heightened deference to the ALJ's credibility determination. First, the record shows that Chiro A immediately called her regional manager and offered to have Patient A confirm the details. Second, while Ms. Olasimbo claims that the patient was simply confused about whether her blood pressure had been taken because most patients are unfamiliar with the wrist cuff, Chiro A testified that she showed the cuff to Patient A and explicitly asked the patient if Ms. Olasimbo had placed anything on her wrist. Third, Ms. Olasimbo claims that Chiro A exaggerated the

story and that her three accounts were different. Contrary to Ms. Olasimbo's characterization, the record reveals that Chiro A's letter to management, Chiro A's interview with the Board in March 2020, and her testimony before the ALJ in July 2021, though occurring years apart, were consistent regarding Patient A's insistence that she had not had her blood pressure taken by Ms. Olasimbo and consistent that the blood pressure recorded by Ms. Olasimbo differed significantly from what Chiro A had recorded. In sum, the Panel denies Ms. Olasimbo's exceptions.

By failing to take Patient A's blood pressure on April 15, 2019, and by documenting an inaccurate reading in Patient A's medical records, the Panel finds that Ms. Olasimbo acted unprofessionally in the practice of medicine, in violation of Health Occ. § 15-314(a)(3)(ii), and willfully made a filed a false report in the practice of medicine, in violation of Health Occ. § 15-314(a)(11).

Violations Pertaining to Patient B (Exception to ¶ 32)

The ALJ found that there was no violation pertaining to Patient B because Ms. Olasimbo took Patient B's blood pressure. Ms. Olasimbo recorded a blood pressure of 110/70 for Patient B and Chiro A later took the blood pressure and obtained an identical reading of 110/70. At the hearing, Chiro A testified that Patient B insisted to Chiro A that Patient B's blood pressure had not been taken. However, Patient B testified at the hearing that her blood pressure along with other vitals had been taken by Ms. Olasimbo. At the hearing, Patient B also contradicted herself by first testifying on cross-examination that she had told Chiro A that her blood pressure had not been taken by Ms. Olasimbo and then testifying to the contrary on redirect examination by declaring that she had not told Chiro A that her blood pressure had not been taken by Ms. Olasimbo. The ALJ found that Ms. Olasimbo took Patient B's blood pressure, but also found that Patient B told Chiro A that her blood pressure had not been taken. The State did not file

exceptions. Ms. Olasimbo filed an exception to the ALJ's factual finding that Patient B testified that she did not tell Chiro A that her blood pressure was not taken.

Patient B and Chiro A's testimony are in conflict, however, Patient B's testimony is also internally inconsistent and inconsistent with undisputed facts. First, Patient B testified on cross-examination at the hearing that her blood pressure was taken around her arm the "regular[]" way you get blood pressure taken. Both Chiro A and Ms. Olasimbo agree that Patient B's blood pressure was not taken using an arm cuff, but was taken using a wrist cuff. Second, Patient B testified during cross-examination that she told Chiro A that her blood pressure was not taken by Ms. Olasimbo and later, on redirect examination, said that she did not tell Chiro A that her blood pressure was not taken. It is also likely that Patient B did not remember who she had talked to. When asked if she told Chiro A that her blood pressure was not taken, Patient B testified on redirect that "I never told him that." (emphasis added). Because Chiro A is a woman, Patient B may have been confused as to the identity of Chiro A at the hearing. This raises further doubt regarding the accuracy of Patient B's testimony about what she told Chiro A. In sum, the ALJ correctly found that there was insufficient evidence to find that Ms. Olasimbo failed to take the Patient B's blood pressure. However, the Panel finds that the credible testimony from Chiro A is likely more accurate than the inconsistent and contradictory testimony from Patient B. The Panel concludes that the ALJ did not err in finding that Patient B told Chiro A that her blood pressure was not taken. This exception is denied. In any event, the Panel does not find a violation related to Patient B.

Violation Pertaining to Patient C
(Exceptions to ¶¶ 41, 42, 44, 45 and to Ground 14-404(a)(3)(ii))

Patient C came to Facility 1 on two days - Friday, May 3, 2019, and Monday May 6, 2019. It is undisputed that on May 3, Patient C had high blood pressure recorded and the

scheduled chiropractor did not perform physical therapy on that date. On May 6, Chiro A saw Patient C and recorded a blood pressure of 153/84 and noted that Patient C's blood pressure needed to be monitored consecutively until consistently stabilized.

The ALJ found that Ms. Olasimbo was not at Facility 1 on May 3, and that Ms. Olasimbo failed to take a blood pressure reading for Patient C on May 6. This was, in part, based on the fact that Ms. Olasimbo worked a second job on May 3, and thus, the ALJ concluded, Ms. Olasimbo could not have seen the patient on that day.

Ms. Olasimbo argues that the ALJ erred. The medical records signed by Ms. Olasimbo were all dated May 3. Ms. Olasimbo explained that she worked overnight at Hospital A, so her work at the other facility does not demonstrate that she was not at Facility 1 on May 3. At the exceptions hearing, Ms. Olasimbo presented additional evidence that included her schedule and her mileage and reimbursement request from May 3, to further demonstrate that she saw Patient C at Facility 1 on May 3 and not May 6.

The State presented a witness who claimed that the dates on the typed transcribed records did not necessarily demonstrate when the examination occurred because the transcriber may have been copying the error. The State argues that Ms. Olasimbo could have signed the document after the date on the document. The ALJ found this testimony persuasive. In response to the exceptions, the State claims that the only issue is whether Ms. Olasimbo took Patient C's blood pressure on May 6 and the issues related to May 3 are irrelevant.

The Panel finds Ms. Olasimbo's exception persuasive based on the medical records, testimony, and additional documents. The medical records dated May 3 completed by Ms. Olasimbo were initial visit forms, not follow-up forms. Two of the forms with Ms. Olasimbo's name were dated May 3. Ms. Olasimbo's testimony that she saw the patient on May 3 is

supported by the medical records in the case and her subsequent exhibits. There are no records for Patient C indicating that Ms. Olasimbo saw Patient C on May 6. Chiro A's presumption that Ms. Olasimbo had seen Patient C on May 6 and not May 3 was based on her assumption that Ms. Olasimbo was not in the office on May 3, because, in general, Monday was the date that initial evaluations were performed at Facility 1. It was not based on any direct knowledge or observation. The ALJ's conclusion that Ms. Olasimbo could not have seen the Patient on May 3 because she was working elsewhere was refuted by testimony of Ms. Olasimbo that she worked the night shift at Hospital A. The records do not reflect that Ms. Olasimbo saw Patient C on May 6. As such, there simply is insufficient evidence to demonstrate a violation related to Patient C. The Panel finds that there is insufficient evidence that Ms. Olasimbo saw Patient C on May 6 and failed to take her blood pressure on that date, therefore, Ms. Olasimbo's exception is granted.

Violation Pertaining to Patient D
(Exception to ¶¶ 55 and to Ground 14-404(a)(3)(ii))

The ALJ found that Ms. Olasimbo failed to take and record Patient D's blood pressure on May 6, 2019. Patient D had been in a car accident and on April 29, 2019 was taken to the emergency room based on her high blood pressure. On May 6, during Patient D's first time back in the office since the emergency room visit, Ms. Olasimbo examined Patient D but did not take or record the patient's blood pressure.

In her exceptions, Ms. Olasimbo argues that the chart has missing pages and that the page that was supposed to include blood pressure was completely blank.

The Panel adopts the ALJ's finding of fact and discussion in full. There is no evidence that there are missing pages wherein the blood pressure has been recorded. Chiro A testified that on May 6, there was no record of Patient D's blood pressure when she saw Patient D. Chiro A reported Ms. Olasimbo's failure to record a blood pressure reading for Patient D to her

superiors that same day. This is not an instance where a record was lost or otherwise not produced to the Board, rather, Chiro A's contemporaneous reporting supports the ALJ's determination that the blood pressure was not recorded. In sum, Ms. Olasimbo did not take or record Patient D's blood pressure on May 6. Her failure to do so constitutes unprofessional conduct in the practice of medicine, in violation of Health Occ. § 15-314(a)(3)(ii). This exception is denied.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and discussion of Ms. Olasimbo's exceptions, Disciplinary Panel A concludes as a matter of law that Ms. Olasimbo violated the following provisions of the Act under Health Occ. § 15-314(a): (3)(ii) Is guilty of unprofessional conduct in the practice of medicine with respect to Patient A and Patient D; and (11) Willfully makes a files a false report or record in the practice of medicine pertaining to Patient A. The Panel does not find a violation of the Act pertaining to Patient B, Patient C, and Patient E. The Panel also dismisses the charge that Ms. Olasimbo violated Health Occ. § 14-602 for misrepresenting herself as a physician based on her email address.[3]

SANCTION

The ALJ recommended a sanction of a reprimand and a twenty-four-month probation, with conditions that included three courses and a $5,000 fine. Ms. Olasimbo suggested an advisory letter or a sanction of a reprimand without probation. Ms. Olasimbo notes that she has no prior disciplinary record, she admitted voluntarily that she sometimes did not record blood pressure readings, she has been cooperative, she has implemented remedial measures (stating that she will not work somewhere that requires the use of wrist cuffs), and no patient was

[3] The State did not file exceptions to this ground, so the Panel adopts the ALJ's reasoning and conclusion in full, and dismisses that charge.

harmed. She also notes that the practice contributed to disorganized records. The State responds that the ALJ's recommended sanction is appropriate because Ms. Olasimbo's conduct potentially jeopardized patient health.

The Panel concludes that a sanction between the proposed sanction recommended by the ALJ and a reprimand as suggested by Ms. Olasimbo is appropriate. While the Panel does not find in these particular instances that significant patient harm was imminent, the Panel is concerned that if Patient A had participated in physical therapy with her high blood pressure, such participation created a potential for harm to the patient. That potential for harm merits more than a mere reprimand. The Panel finds that Ms. Olasimbo would benefit from further coursework in recordkeeping and medical ethics and will impose a period of probation until the coursework is complete.

The Panel will reprimand Ms. Olasimbo, will place Ms. Olasimbo on probation, but instead of imposing a two-year probation, will only impose probation until she completes courses in recordkeeping and medical ethics. The Panel will not impose a course in vital signs or impose a fine.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by an affirmative vote of a majority of a quorum of Disciplinary Panel A, hereby

ORDERED that Yewande Olasimbo, PA-C, License Number **C04996,** is **REPRIMANDED**; and it is further

ORDERED that Ms. Olasimbo is placed on **PROBATION**[4] until she has complied with the following probationary terms and conditions:

[4] If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

Within **SIX (6) MONTHS**, Ms. Olasimbo is required to take and successfully complete **TWO COURSES**, one in medical recordkeeping and a second course in professional ethics. The following terms apply:

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

(b) Ms. Olasimbo must provide documentation to the disciplinary panel that she has successfully completed the courses;

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

(d) Ms. Olasimbo is responsible for the cost of the courses; and it is further

ORDERED that after Ms. Olasimbo has successfully completed both courses and submitted proof of completion of the two courses, Ms. Olasimbo may submit to the Board a written petition for termination of probation. After consideration of the petition, the probation may be administratively terminated through an order of the disciplinary panel. The disciplinary panel may grant the petition to terminate the probation, through an order of the disciplinary panel, if Ms. Olasimbo has complied with all probationary terms and conditions, and there are no pending complaints relating to the charges; and it is further

ORDERED that a violation of probation constitutes a violation of this Order; and it is further

ORDERED that Ms. Olasimbo is responsible for all costs incurred in fulfilling the terms and conditions of this Final Decision and Order; and it is further

ORDERED that the effective date of the Final Decision and Order is the date the Final Decision and Order is signed by the Executive Director of the Board. The Board's Executive Director signs the Final Decision and Order on behalf of the Panel; and it is further

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

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

Signature On File

06/22/2022
Date

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

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Md. Code Ann., Health Occ. § 15-315(b), Ms. Olasimbo has the right to seek judicial review of this Final Decision and Order. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Final Decision and Order. The cover letter accompanying this final decision and order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

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

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

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

David Finkler
Assistant Attorney General
Maryland Department of Health
300 West Preston Street, Suite 302
Baltimore, Maryland 21201

Exhibit 1

MARYLAND STATE BOARD OF	*	BEFORE LEIGH WALDER,
PHYSICIANS	*	AN ADMINISTRATIVE LAW JUDGE
v.	*	OF THE MARYLAND OFFICE
YEWANDE OLASIMBO, PA-C	*	OF ADMINISTRATIVE HEARINGS
RESPONDENT	*	OAH No.: MDH-MBP1-74-20-23011
LICENSE No.: C04996	*	

* * * * * * * * * * * * *

PROPOSED DECISION

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

STATEMENT OF THE CASE

On July 23, 2020, Disciplinary Panel B (Panel B) of the Maryland State Board of Physicians (Board) issued charges against Yewande Olasimbo, PA-C (Physician Assistant – Certified) (Respondent) for alleged violations of the Maryland Medical Practice Act and the Maryland Physician Assistants Act. Md. Code Ann., Health Occ. §§ 14-101 *et seq.*, 15-101 *et seq.* (2021). As its basis for the charges, Panel B cited the following provisions of the Health Occupations Article:

> **§ 15-314. Discipline of physician assistants**
> (a) *Grounds.* - Subject to the hearing provisions of § 15-315 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum, may reprimand any physician assistant, place any physician assistant on probation, or suspend or revoke a license if the physician assistant:
> . . .
> (3) Is guilty of:
> . . .

(ii) Unprofessional conduct in the practice of medicine;

. . .

(11) Willfully makes or files a false report or record in the practice of medicine[.]

§ 14-602. Misrepresentation as practitioner of medicine

. . .

(b) *Certain representations prohibited.* - Except as otherwise provided in this article, a person may not use the words or terms "Dr.", "doctor", "physician", "D.O.", or "M.D." with the intent to represent that the person practices medicine, unless the person is:

(1) Licensed to practice medicine under this title;

(2) A physician licensed by and residing in another jurisdiction, while engaging in consultation with a physician licensed in this State;

(3) A physician employed by the federal government while performing duties incident to that employment;

(4) A physician who resides in and is licensed to practice medicine by any state adjoining this State and whose practice extends into this State; or

(5) An individual in a postgraduate medical program that is approved by the Board.

In support of the charges, Panel B went on to state forty-three Allegations of Fact. Panel B scheduled a meeting with the Respondent, to take place on September 23, 2020, to explore the possibility of a resolution. Code of Maryland Regulations (COMAR) 10.32.02.03E(9). On October 20, 2020, the matter was delegated to the Office of Administrative Hearings (OAH) to conduct a hearing and to issue proposed findings of fact, proposed conclusions of law, and a proposed disposition.

I held a hearing on July 20 and 21, 2021, at the OAH in Hunt Valley, Maryland.[1] Health Occ. § 14-405(a) (2021); COMAR 10.32.02.04. Catherine A. Potthast, Esquire, and David J. McManus, Esquire, participated on behalf of the Respondent, who was present. Victoria H. Pepper, Assistant Attorney General and Administrative Prosecutor, represented the State of Maryland (State). At the outset of the hearing, the State explained – by agreement of the parties

[1] A hearing was originally scheduled to commence on March 15, 2021. On January 29, 2021, the State requested that the hearing be postponed because Ms. Pepper would be out on extended medical leave. The Respondent had no objection to postponing the hearing and, on January 29, 2021, I granted the postponement. COMAR 28.02.01.16C.

– it amended the charges against the Respondent. The amended charges, contained within the record and submitted July 22, 2021, supersede the charges previously issued on July 23, 2020.

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

ISSUES

(1) Did the Respondent engage in unprofessional conduct in the practice of medicine in violation of section 15-314(a)(3)(ii) of the Health Occupations Article?

(2) Did the Respondent willfully make or file a false report or record in the practice of medicine in violation of section 15-314(a)(11) of the Health Occupations Article?

(3) Did the Respondent intentionally misrepresent herself as a physician in violation of section 14-602 of the Health Occupations Article?

(4) If so, what is the appropriate sanction?

SUMMARY OF THE EVIDENCE

Exhibits

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

State Ex. 1 – PA Primary Supervising Physician Delegation Agreement for Core Duties, February 6, 2017

State Ex. 2 – Email from the Board to the Respondent – Delegation Agreement Received, February 15, 2017

State Ex. 3 – Termination of Delegation Agreement, May 15, 2019

State Ex. 4 – Letter from the Board to the Respondent, May 29, 2019

State Ex. 5 – The Respondent's response to the Board's letter, June 25, 2019

State Ex. 6 – Not offered (retained in exhibit binder)

State Ex. 7 – Email from the Board to Physician 1 with *Subpoena Duces Tecum* attached, January 14, 2020

State Ex. 8 – Response to the Board's January 14, 2020 letter, January 21, 2020

State Ex. 9 – Not admitted (retained for the record)

State Ex. 10 – *Subpoena Duces Tecum* for records of Patients C, D, and E, February 4, 2020

State Ex. 11 – Medical Records for Patient C, various dates

State Ex. 12 – Medical Records for Patient D, various dates

State Ex. 13 – Medical Records for Patient E, various dates

State Ex. 14 – *Subpoena Duces Tecum* for records of Patients A and B, February 25, 2020

State Ex. 15 – Medical Records for Patient A, various dates

State Ex. 16 – Medical Records for Patient B, various dates

State Ex. 17 – Email attaching Incident Report, February 19, 2020

State Ex. 18 – Transcript of Respondent's interview, February 27, 2020, with attached *Subpoena Ad Testificandum*, February 6, 2020

State Ex. 19 – Transcript of [redacted]'s interview, March 6, 2020; with attached *Subpoena Ad Testificandum*, March 5, 2020

State Ex. 20 – Not offered (retained in exhibit binder)

State Ex. 21 – Advisory Letter from the Board to the Respondent, January 5, 2018

State Ex. 22 – Charges Under the Maryland Medical Practice Act, July 23, 2020

State Ex. 23 – License Renewal, May 13, 2015

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

Resp. Ex. 1 – Medical Records for Patient A, various dates

Resp. Ex. 2 – Medical Records for Patient B, various dates

Resp. Ex. 3 – Medical Records for Patient C, various dates

Resp. Ex. 4 – Medical Records for Patient D, various dates

Resp. Ex. 5 – Medical Records for Patient E, various dates

Resp. Ex. 6 – Medical Records for Patient E released pursuant to OAH subpoena, various dates

Resp. Ex. 7 – Complaint regarding wrist cuffs with photographs, April 17, 2019

Resp. Ex. 8 – Covered Service Request, August 1, 2020

Resp. Ex. 9 – Email from the Respondent to her employer, April 17, 2019

Resp. Ex. 10 – *Curriculum Vitae* of [redacted], M.D., undated; Dr. [redacted]'s Report, undated

Resp. Ex. 11 – Dr. [redacted]'s Supplemental Report, undated; References, undated

Resp. Ex. 12 – Medical journal article found on UpToDate website, December 15, 2020

Resp. Ex. 13 – Records produced by [redacted] pursuant to OAH subpoena, various dates

Resp. Ex. 14 – Records produced by [redacted] pursuant to OAH subpoena, January 27, 2021

Resp. Ex. 15 – Not offered (retained in exhibit binder)

Resp. Ex. 16 – Automatic blood pressure monitor (demonstrative)

Testimony

The following witnesses testified on behalf of the State:

(1) [redacted], D.C., the Respondent's former colleague;

(2) [redacted], Manager, [redacted]; and

(3) The Respondent;

The Respondent testified in her own behalf, and presented the following witnesses:

(1) Patient B;

(2) [redacted], D.C., the Respondent's former colleague;

(3) [redacted], D.C., the Respondent's former colleague; and

(4) [redacted], M.D., who was accepted as an expert in internal medicine.

PROPOSED FINDINGS OF FACT

The State and the Respondent stipulated to the following Findings of Fact:

1. At all times relevant hereto, the Respondent was and is licensed to practice medicine as a PA in the State of Maryland. The Respondent was originally licensed as a PA on February 4, 2013. Her license is scheduled to expire on June 30, 2023.

2. From January 13, 2017 through May 8, 2019, the Respondent practiced as a PA at a group medical office (Facility 1) located in Baltimore, Maryland. Facility 1 evaluates and treats patients who have been injured in automobile or work-related accidents.

3. On May 15, 2019, the Board received from Facility 1 the termination of the Respondent's delegation agreement (Termination of Employment Report).

4. The Termination of Employment Report stated that the Respondent had been terminated for "failure to measure and/or record patients' vital signs."

5. After receiving the charging document and with the assistance of her attorney, the Respondent hired Allcovered to change her email address so that anyone using the address will be notified that the address is a nonworking address.

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

General

1. Prior to coming to the United States, the Respondent was a medical doctor in Nigeria.

2. The Respondent worked for a practice that, at the time, had approximately seventy locations. The Respondent would typically alternate between three different locations on a weekly basis, depending on which facility she was needed.

3. The Respondent would examine between fifty to sixty patients per day.

4. The Respondent worked alongside chiropractors and medical doctors. One of the chiropractors who worked at one of the facilities the Respondent worked in was [redacted] D.C.

5. One of the Respondent's duties was to perform initial patient medical evaluations, which includes taking patients' blood pressure (BP) to ensure that they were healthy enough to receive physical therapy services. A patient with a malignant BP[2] would be referred to get immediate medical assistance elsewhere (such as an emergency room).

6. BP is measured as a fraction; the top number is the systolic and the bottom number is the diastolic.[3]

7. A normal BP measurement is 120/80.

8. Chiropractors at the facilities provided physical therapy to patients who were determined healthy enough to receive such services.

9. To be eligible to receive physical therapy services, a patient should not have a systolic reading above 170, or a diastolic reading above 105.

10. At the facilities, a BP reading is taken by PAs using a digital wrist monitor. The wrist monitor wraps around a patient's wrist with the monitor on the radial artery (bottom of the wrist). The wrist monitor gives a systolic and diastolic reading, as well as a pulse rate reading.

[2] Malignant readings are readings that need to be addressed as soon as possible.
[3] Systolic is when the heart contracts, diastolic is when the heart relaxes.

11. The medical doctors at the facility utilize a traditional arm cuff to measure a patient's BP.

12. On January 5, 2018, the Respondent received an Advisory Letter from the Board recommending that the Respondent consider taking additional training and/or continuing education courses in electronic medical records. This Advisory Letter was not considered a disciplinary action.

13. In 2019, the Respondent worked at [redacted] (not affiliated with the facilities) on Wednesdays, Thursdays, and Fridays.

14. On February 27, 2020, the Respondent was interviewed, under oath, by the Board. The Respondent denied any misconduct pertaining to taking Patients A, B, C, or D's BP.

15. On March 6, 2020, Dr. [redacted] was interviewed, under oath, by the Board. When Dr. [redacted] was asked to explain what transpired with Patients A, B, C, and D, Dr. [redacted] gave explanations that were consistent with what she wrote in emails that she previously sent out to those who manage the facilities on April 16 and May 8, 2019.

Patient A

16. Patient A is a female patient, in her forties, who had been in an accident on April 13, 2019.

17. On April 15, 2019, Patient A visited the facility for treatment. Patient A reported a history of hypertension and a recent stroke.

18. The Respondent made a notation in Patient A's chart that she took Patient A's BP with a reading of 130/95.

19. The Respondent did not take Patient's BP.

20. Patient A was seen by Dr. [redacted] approximately fifteen to thirty minutes after being evaluated by the Respondent.

21. Dr. [redacted] looked over Patient A's chart and saw the recorded BP reading of 130/95. Dr. [redacted] remarked to Patient A that her BP reading "looked good." Patient A appeared confused and asked Dr. [redacted] how Dr. [redacted] could know her BP. Dr. [redacted] responded that she is going off what the Respondent recorded on Patient A's chart. Patient A told Dr. [redacted] that the Respondent never took her BP. Dr. [redacted] explained the process for recording a BP to jog Patient A's memory. Patient A was adamant that the Respondent never took her BP.

22. Dr. [redacted] checked Patient A's BP using a wrist cuff and got a reading of 166/122, which is a malignant reading.

23. Dr. [redacted] proceeded to take her own BP with the same wrist cuff she used on Patient A to confirm that the wrist cuff was properly working. Dr. [redacted] determined that the wrist cuff was properly working.

24. Dr. [redacted] learned that Patient A was out of her hypertension medication and recommended that Patient A contact a medical professional to obtain a refill of her medication.

25. Patient A's BP of 166/122 was too high to make her a candidate for physical therapy on April 15, 2019.

26. Dr. [redacted] proceeded to call Dr. [redacted], the Respondent's direct supervisor, to report what occurred with Patient A. Dr. [redacted] did not pick up the phone. So, Dr. [redacted] called [redacted], Regional Manager for the facilities, to tell her that the Respondent did not take Patient A's BP. Patient A was still at the facility (along with

Patient B), and Dr. [redacted] asked Ms. [redacted] if she would like to speak to Patient A to confirm what transpired. Ms. [redacted] declined to speak to Patient A.

27. On April 16, 2019, Dr. [redacted] wrote an email to Ms. [redacted], as well as [redacted] and [redacted], who serve as Operations Managers for the facilities, [redacted], Manager of the facilities, [redacted], Supervising Chiropractor, and Dr. [redacted]. In the email, Dr. [redacted] summarized what occurred with Patient A.

Patient B

28. Patient B is a female, in her late teens who had been in an accident on April 13, 2019.

29. On April 15, 2019, Patient B visited the facility for a physical therapy evaluation.

30. The Respondent took Patient B's BP and recorded a reading of 110/70.

31. Dr. [redacted] came to treat Patient B. Dr. [redacted] looked over Patient B's chart and commented that Patient B's BP "looked good" based off what was written on the chart.

32. Patient B told Dr. [redacted] that nobody ever took her BP.

33. Dr. [redacted] showed Patient B a wrist monitor to try to jog her memory of someone wrapping the monitor around her wrist.

34. Dr. [redacted] did not ask Patient B any additional questions about whether the Respondent took her BP.

35. Dr. [redacted] took Patient B's BP and recorded a reading of 110/70.

36. Dr. [redacted] confronted the Respondent and inquired if she took Patient B's BP. Both Dr. [redacted] and the Respondent were angry at one another during this confrontation, causing Dr. [redacted] to storm out of the Respondent's office, calling the Respondent a liar, and slamming the Respondent's door. The Respondent left the facility and sat in her car.

37. Dr. [redacted] proceeded to call Dr. [redacted] to report what occurred with Patient B. Dr. [redacted] did not pick up the phone. So, Dr. [redacted] called Ms. [redacted] to tell her that the Respondent did not take Patient B's BP. Patient B was still at the facility (along with Patient A), and Dr. [redacted] asked Ms. [redacted] if she would like to speak to Patient B to confirm what transpired. Ms. [redacted] declined to speak to Patient B.

38. On April 16, 2019, Dr. [redacted] wrote an email to Mss. [redacted], [redacted], [redacted], Mr. [redacted] and Drs. [redacted] and [redacted] summarizing what occurred with Patient B.

Patient C

39. Patient C is a female patient in her seventies who had been in an accident on April 27, 2019.

40. Patient C reported a history of hypertension.

41. On May 3, 2019, Patient C went to the facility for an initial evaluation from Dr. [redacted], a chiropractor.

42. May 3, 2019 fell out on a Friday, a day that the Respondent was scheduled to work at [redacted] (not affiliated with the facility).

43. Dr. [redacted] examined Patient C and recorded Patient C's BP as 209/118. Dr. [redacted] did not perform physical therapy on Patient C.

44. On May 6, 2019, Patient C returned to the facility and went for a medical evaluation. Patient C was examined by the Respondent and the Respondent did not note Patient C's BP level on Patient C's medical chart.

45. The Respondent did not take Patient C's BP.

46. Patient C went to Dr. [redacted]'s room and Dr. [redacted] noticed that the Respondent did not record Patient C's BP level on Patient C's medical chart.

47. Dr. [redacted] examined Patient C and recorded a BP reading of 153/84 and noted that Patient C's BP needed to be monitored consecutively until consistently stabilized.

48. On May 8, 2019, Dr. [redacted] wrote an email to Ms. [redacted] and Mr. [redacted], summarizing what occurred with Patient C.

Patient D

49. Patient D is a female in her fifties who had been in an automobile accident on April 26, 2019.

50. On April 29, 2019, Patient D visited the facility for an evaluation. Dr. [redacted] took Patient D's BP and recorded readings of 217/134 (left wrist) as well as 238/152 (left wrist), and 222/129 (right wrist).

51. Patient D called her husband to come pick her up from the facility and transport her to the nearest emergency room.

52. While waiting for Patient D's husband to come pick her up, the Respondent performed an evaluation and took Patient D's BP, recording a reading of 240/140.

53. Dr. [redacted] instructed the Respondent to note in Patient D's chart that Patient D's physical therapy would be on pause until Patient D's BP stabilized.

54. Patient D was transported to a hospital by her husband due to malignant BP.

55. On May 6, 2019, Patient D returned to the facility. The Respondent examined Patient D but did not record her BP in Patient D's chart. The Respondent made a notation in Patient D's chart to continue physical therapy.

56. The Respondent did not take Patient D's BP.

57. Dr. [redacted] noted that the Respondent did not take Patient D's BP. So, Dr. [redacted] took Patient D's BP and recorded a reading of 176/111 (left wrist) as well as 155/103 (left wrist)[4], and 145/100 (right wrist).

58. On May 8, 2019, Dr. [redacted] wrote an email to Ms. [redacted] and Mr. [redacted], summarizing what occurred with Patient D.

Email Address

59. Between approximately 2000 to 2020, the Respondent used the email address drolasimbo@gmail.com.

60. The Respondent used drolasimbo@gmail.com as her email address on a License Renewal submitted to the Board on May 13, 2015.

61. The Respondent used drolasimbo@gmail.com as her email address on a PA / Primary Supervising Physician Delegation Agreement for Core Duties that was submitted to the board in February 2017.

62. The Respondent used this email address on her resume.

63. In 2019, the Respondent's supervisor, Dr. [redacted] suggested that the Respondent change her email address.

64. The Respondent has never used drolasimbo@gmail.com as an email address to communicate with any of her patients and never held herself out to be a doctor to any of her patients.

65. The Respondent used the email drolasimbo@gmail.com to receive email from her family in Nigeria, to communicate with her children's school, and to keep up with her license

[4] This second left wrist BP reading was taken after Dr. [redacted] tried to make Patient D more relaxed and was taken a few minutes after Dr. [redacted] took the first left wrist BP.

renewals in Nigeria. The Respondent did not change her email address out of fear that she would lose contact with those who she corresponded with in the past.

66. On August 8, 2020, the Respondent changed her email address, and the emails that are sent to the Respondent's drolasimbo@gmail.com email address are forwarded to the Respondent's new email address with a message to the sender that the drolasimbo@gmail.com is no longer in use.

DISCUSSION

The Board seeks to discipline the Respondent based on allegations that the Respondent engaged in unprofessional conduct in the practice of medicine, willfully made or filed a false report or record in the practice of medicine, and intentionally misrepresented herself as a physician. In pursuit of disciplinary action, the State relies on the following provisions of the Health Occupations Article:

> **§ 15-314. Discipline of physician assistants**
> (a) *Grounds.* - Subject to the hearing provisions of § 15-315 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum, may reprimand any physician assistant, place any physician assistant on probation, or suspend or revoke a license if the physician assistant:
> . . .
> (3) Is guilty of:
> . . .
> (ii) Unprofessional conduct in the practice of medicine;
> . . .
> (11) Willfully makes or files a false report or record in the practice of medicine[.]
>
> **§ 14-602. Misrepresentation as practitioner of medicine**
> . . .
> (b) *Certain representations prohibited.* - Except as otherwise provided in this article, a person may not use the words or terms "Dr.", "doctor", "physician", "D.O.", or "M.D." with the intent to represent that the person practices medicine, unless the person is:
> (1) Licensed to practice medicine under this title;
> (2) A physician licensed by and residing in another jurisdiction, while engaging in consultation with a physician licensed in this State;

(3) A physician employed by the federal government while performing duties incident to that employment;

(4) A physician who resides in and is licensed to practice medicine by any state adjoining this State and whose practice extends into this State; or

(5) An individual in a postgraduate medical program that is approved by the Board.

When not otherwise provided by statute or regulation, the standard of proof in a contested case hearing before the OAH is a preponderance of the evidence, and the burden of proof rests on the party making an assertion or a claim. Md. Code Ann., State Gov't § 10-217 (2021); 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 Cty. Police Dep't*, 369 Md. 108, 125 n.16 (2002). In this case, the State bears the burden by a preponderance of the evidence. COMAR 28.02.01.21K(1)-(2)(a).

In essence, the State's case centers around whether the Respondent appropriately took and reported the BP of four different patients, and whether the Respondent willfully misrepresented herself as a practitioner of medicine by using an email address containing the abbreviation "dr." I will address each contention.

Patient A

The State argued that the Respondent neglected to take Patient A's BP on April 15, 2019. As support, the State relies on Dr. [redacted] who testified that when she spoke to Patient A about the 130/95 BP reading recorded by the Respondent, that Patient A was resolute that her BP was never taken. As a result, Dr. [redacted] retook Patient A's BP which she recorded as 166/122. Dr. [redacted] testified that this is particularly worrying because Patient A had a history of hypertension and that physical therapy should not be performed on an individual who is experiencing high BP at the time the physical therapy is performed. Dr. [redacted] explained the concerns inherent in performing physical therapy on someone with high BP as follows:

> . . . [BP], it's the pressure of blood that goes through the arterial walls. It actually hits the arterial walls. And, so if it's consistently a high pressure hitting the arterial walls, it actually jeopardize[s] the integrity of the walls. So, . . . when we perform physical therapy, it does increase blood pressure . . . . Electrical stimulation, it promotes self proliferation, which increases [BP . . . to get to the different areas. So, it could be that one increment of millimeters of mercury that could actually go over the threshold and actually something catastrophic can happen . . . . [I]t could burst a blood vessel. We just don't know. So, . . . if the [BP] is malignant and uncontrolled, we [are] just going to halt [performing physical therapy].

(Tr. 60: 8-24).

The Respondent testified and argued that she took Patient A's BP and got a reading of 130/95. The Respondent could not think of any reason why Dr. [redacted] would accuse her of fabricating the 130/95 BP reading. Additionally, the Respondent called Dr. [redacted] to opine how the Respondent could get a BP reading of 130/95 when Dr. [redacted] got a very different reading of 166/122. Dr. [redacted] testified as follows:[5]

> It can be a difference of the way the blood pressure was taken. Or it could be variations in the blood pressure at that particular time. The first blood pressure that had been taken before [136/86] is much like the lower blood pressure [130/95]. The one that's out of line is of course that very high blood pressure [166/122]. So, I don't know. Two out of three are in the 130s. The third one is this much higher one, the 160s over 120. So, it could be a difference in the cuff size. It could be the anxiety of the patient at that particular time. There are a lot of factors they could account for. And I only see one blood pressure that's out of line. I don't see repeats.

(Tr. 357: 7-17).

Despite the Respondent's denials and insistence that she took Patient A's BP, I find Dr. [redacted]'s account of what occurred with Patient A credible. Dr. [redacted]'s account of what occurred remained consistent in an email that she sent to individuals who manage the facilities

[5] Incorporated in Dr. [redacted]'s opinion is a third BP reading of 136/86 that was taken on April 13, 2019, when Patient A went to a hospital.

(State Ex. 17), as well as what she detailed to the Board in her interview on March 6, 2020 (State Ex. 19), and what she described at the hearing. (Tr. 39-43).

Patient A's records reveal that the Respondent recorded Patient A's BP as 130/95 on April 15, 2019. (State Ex. 15, p. 286). I am not convinced that the Respondent actually took Patient A's BP on this date, rendering the BP of 130/95, recorded by the Respondent, a fabrication. Dr. [redacted] convincingly testified that Patient A was adamant that the Respondent never took her BP on April 15, 2019. Dr. [redacted] even tried to jog Patient A's memory by explaining to Patient A the process the Respondent would have used to capture her BP. Despite this reminder, Patient A continued to assert that the Respondent never took her BP.

I further believe Dr. [redacted]'s account that the Respondent failed to take Patient A's BP and wrote an incorrect BP level on Patient A's chart because Dr. [redacted] immediately called Ms. [redacted], the regional manager, to report what occurred and offered to have Patient A discuss the details with Ms. [redacted]. Although Patient A was not called to testify in this proceeding, I find it more likely than not that Patient A would confirm what Dr. [redacted] relayed since Dr. [redacted] was willing to put Patient A on the telephone with Ms. [redacted] to recount what happened. I doubt that Dr. [redacted] would have offered to have Patient A discuss what transpired with Ms. [redacted] if she was not persuaded that Patient A would communicate similar details.

Finally, to add further credence to Dr. [redacted]'s account of what occurred, mere minutes after the Respondent noted Patient A's BP as 130/95, Dr. [redacted] took and recorded Patient A's BP as 166/120, which is a very different reading that made Patient A ineligible to receive physical therapy on April 15, 2019. (*Compare* State Ex. 15, p. 286 *with* State Ex. 15, pp. 324 & 332). Although I recognize that there are various reasons why a person's BP may fluctuate, as explained by Dr. [redacted] considering that Patient A was adamant that the Respondent did not take

her BP, compounded by the fact that Dr. [redacted] got a very different BP reading from what the Respondent recorded just minutes beforehand, I cannot attribute the discrepancy in these two readings to user error or the patient's condition; rather, I find that the Respondent failed to take Patient A's BP and, instead, recorded a fabricated reading.

I will note here, but it is applicable to all four patients at issue, the Respondent argued that Dr. [redacted]'s testimony should not be afforded significant weight because Dr. [redacted] has a bias against the Respondent. Specifically, the Respondent asserts that she emailed Ms. [redacted] on April 17, 2019, complaining about Dr. [redacted]'s behavior towards other patients at the facilities. (Resp. Ex. 9). I am unpersuaded that this email impacted Dr. [redacted]'s neutrality. Importantly, Dr. [redacted] was unaware that the Respondent sent this email to Ms. [redacted] prior to preparing for this hearing, and nobody in management ever brought this email to Dr. [redacted]'s attention. (Tr. 93-94). The accusations made in this email do not pertain to any of the patients in this matter. (Resp. Ex. 9). Moreover, Dr. [redacted]'s testimony at the hearing is consistent with information she relayed in emails sent to management at the facilities in 2019, which is well before Dr. [redacted] would have had knowledge about the Respondent's complaints. (State Ex. 17). As such, I cannot find that this email negatively influenced Dr. [redacted]'s testimony in this case.

I also am unconvinced that Dr. [redacted] had a vendetta against the Respondent based on the few interactions she had with the Respondent. (Tr. 152: 9-19). Although Dr. [redacted] and the Respondent got into a verbal altercation with one another – which I will address later in this Decision – I found that Dr. [redacted] testified in a straightforward, matter-of-fact demeanor, signifying her truthfulness. Dr. [redacted]'s testimony was buttressed by the emails that she sent to those who manage the facilities. (State Ex. 17). I find it unlikely that Dr. [redacted] would involve

upper management in any issue she had with the Respondent if such issues were baseless. Reporting allegations with no merit could jeopardize Dr. [redacted]'s own position.

By not taking Patient A's BP on April 15, 2019, and documenting an inaccurate BP reading in Patient A's medical records, the Respondent violated section 15-314(a)(11) of the Health Occupations Article, which prohibits an individual from willfully making or filing a false report or record in the practice of medicine. I find the Respondent's action willful in that she specifically wrote an inaccurate BP measure on Patient A's chart. (State Ex. 15, p. 286). I find that Patient A's BP reading that the Respondent recorded, 130/95, was false because the Respondent did not take Patient A's BP on April 15, 2019. (*Id*).

Further, by failing to take Patient A's BP and recording a fabricated BP measure in Patient A's chart, I also find that the Respondent engaged in unprofessional conduct in the practice of medicine, in violation of section 15-314(a)(3)(ii) of the Health Occupations Article. It is entirely unprofessional for the Respondent to shirk her duties as a PA by failing to take Patient A's BP and by documenting an inaccurate reading in Patient A's medical records. This was especially true considering that Patient A had a history of hypertension and it could have been very dangerous for Dr. [redacted] to perform physical therapy on Patient A had Dr. [redacted] relied on the BP measure that the Respondent recorded. (Tr. 60: 8-24).

Patient B

Similar to Patient A, the State argued that the Respondent failed to take Patient B's BP on April 15, 2019. As support, the State relies on Dr. [redacted] who testified that when she spoke to Patient B about an unknown BP reading recorded by the Respondent, that Patient B said that the Respondent never took her BP. In response, Dr. [redacted] testified that she took Patient B's BP and got a reading of 110/70. Further, Dr. [redacted] testified that she confronted the Respondent

about Patient B's statement and the Respondent admitted during the confrontation to not taking Patient B's BP due to Patient B's younger age.

The Respondent testified and argued that she took Patient B's BP and got a reading of 110/70. As support, the Respondent presented the testimony of Patient B who testified that she remembered the Respondent taking her BP. Additionally, the Respondent denied ever telling Dr. [redacted] that she failed to take Patient B's BP.

Frankly, as will be discussed below, the circumstances surrounding Patient B are confusing and convoluted. After reviewing the evidence, especially the testimony of Patient B, I believe the Respondent that she took Patient B's BP and recorded an appropriate BP reading of 110/70. (State Ex. 16, p. 349). I also believe Dr. [redacted]'s testimony that Patient B told her that the Respondent did not take her BP, causing Dr. [redacted] to report the Respondent's behavior.

Dr. [redacted]'s testimony regarding Patient B was confusing. In its current state, Patient B's chart shows a BP reading of 110/70. (State Ex. 16, p. 349). Dr. [redacted] testified that when she reviewed Patient B's chart on April 15, 2019, she observed a BP reading that she could not recollect and that is not documented in any of the State's exhibits. Although Dr. [redacted] testified that the original BP shown on Patient B's chart was something different from 110/70, Dr. [redacted] was unable to explain who wrote 110/70 on Patient B's chart. (Tr. 166: 10-15). Dr. [redacted] explained that after Patient B told her that the Respondent did not take her BP, Dr. [redacted] took Patient B's BP with a result of 110/70. (Tr. 71: 24-25). On the other hand, the Respondent testified that she took Patient B's BP and got a result of 110/70 which she documented on Patient B's chart. (Tr. 281-82: 13-25, 1-6). Since Dr. [redacted] is unable to recall what BP reading she initially observed on Patient B's chart, and is unable to explain who wrote 110/70 on Patient B's chart, I am unable to conclude that the Respondent wrote a fabricated

number on Patient B's chart. Patient B's BP reading that is currently recorded on her chart is the same BP reading that Dr. [redacted] took. (*Compare* State Ex. 16, p. 349 *with* Tr. 71: 24-25). As such, I conclude that the Respondent did not fabricate Patient B's BP.

I also discount Dr. [redacted]'s assertion that the Respondent admitted to her that she did not take Patient B's BP. This admission was supposedly made when Dr. [redacted] confronted the Respondent on April 15, 2019. Based on how both Dr. [redacted] and the Respondent described this confrontation, it is apparent that things became contentious between these two. (Tr. 152-55 and 273-76). During this confrontation accusations were made, arguments ensued, and tempers flared. The crescendo of this confrontation was when Dr. [redacted] called the Respondent a liar and slammed the Respondent's door, and the Respondent stormed out of the facility and sat in her car. By the sound of it, I do not think either Dr. [redacted] or the Respondent were actively listening to what the other said while they were arguing. As such, I am unable to afford weight to any remarks that were made during this argument.

Importantly, Patient B testified about what she recalled about April 15, 2019. Patient B recognized the Respondent and testified "[the Respondent] took all of the tests that she needed; blood pressure, vitals and stuff like that." (Tr. 221: 10-11). Strangely, for some unknown and unexplored reason, Patient B also admitted that she told Dr. [redacted] that the Respondent did not take her BP. (Tr. 223: 16-18). Even stranger, minutes after Patient B acknowledged telling Dr. [redacted] that the Respondent did not take her BP, she testified that she made no such statement to Dr. [redacted] (Tr. 224: 15-17). I am baffled by such inconsistencies in this record; however, as Patient B recognized the Respondent and remembered her taking her BP, I find that the Respondent took Patient B's BP on April 15, 2019. At the same time, I do not discredit Dr. [redacted]'s belief that the Respondent did not take Patient B's BP as it seems that Patient B made

such a statement to Dr. [redacted] However, as the crux of the issue is whether the Respondent took Patient B's BP, I conclude that Dr. [redacted] was misled by Patient B and the Respondent took Patient B's BP.

As the State is unable to demonstrate that the Respondent failed to take Patient B's BP and also failed to demonstrate that the Respondent fabricated Patient B's BP reading, I conclude that – as it pertains to Patient B – the Respondent did not violate section 15-314(a)(3)(ii) or section 15-314(a)(11) of the Health Occupations Article.

Patient C

The State argued that the Respondent neglected to take Patient C's BP on May 6, 2019. As support, the State relies on Dr. [redacted] who testified that Patient C was seen by the Respondent on May 6, 2019 and that the Respondent never recorded Patient C's BP. The State also relies on Patient C's chart which has a section where Patient C's BP should be recorded; however, that section is left blank. (State Ex. 11, p. 45).

The Respondent testified and argued that she never examined Patient C on May 6, 2019. Instead, the Respondent contends that she examined Patient C on May 3, 2019, alongside Dr. [redacted] where she recorded Patient C's BP as 209/118. (State Ex. 11, p. 64). To support her assertion that she examined Patient C on May 3, 2019, as opposed to May 6, 2019, the Respondent points to Patient C's medical records where her signature appears on a page dated May 3, 2019, as well as a transcription of Patient C's medical records where her name appears along with the date: May 3, 2019. (State Ex. 1, pp. 48, 54-57).

After reviewing all evidence pertaining to Patient C, I agree with the State that the Respondent neglected to take and record Patient C's BP on May 6, 2019. Primarily, it is evident just by looking at Patient C's chart that there is no recorded BP in the appropriate area; the line

where one would find a recorded BP is left entirely blank. (State Ex. 11, p. 45). Dr. [redacted] credibly explained that the Respondent was entrusted to take Patient C's BP on May 6, 2019, but failed to do so. (Tr. 85-87). According to Dr. [redacted], Patient C initially presented to the facility on May 3, 2019, and was evaluated by Dr. [redacted] who recorded a high BP of 209/118. (State Ex. 11, p. 64). Due to this high BP reading, Dr. [redacted] was unable to perform physical therapy on Patient C. When Patient C returned to the Facility on May 6, 2019, she was due to receive a medical evaluation from the Respondent, which included a check of her BP; however, the Respondent did not document Patient C's BP. (State Ex. 11, p. 45). Dr. [redacted] explained that the Respondent's failure to take Patient C's BP was particularly an issue because "on this particular patient, again, this was a patient who presented with malignant blood pressure reading from a previous reading who also already has a history of high blood pressure, hypertension." (Tr. 88: 11-15). Because Patient C's chart does not contain a recorded BP reading, I conclude that the Respondent failed to take Patient C's BP on May 6, 2019. (State Ex. 11, p. 45).

I am unpersuaded that the Respondent performed Patient C's evaluation on May 3, 2019. Both Dr. [redacted] and Mr. [redacted] gave plausible explanations as to why the Respondent's name appeared connected to Dr. [redacted]'s May 3, 2019 examination. Dr. [redacted] explained that although the Respondent's signature is found under Dr. [redacted]'s signature on State Exhibit 11, page 48, this occurred because the Respondent signed her name on this page to demonstrate that she reviewed Dr. [redacted]'s entries. (Tr. 144-45). Mr. [redacted] explained that the reason the Respondent's name appeared on a transcription of Patient C's medical records, dated May 3, 2019, is because the transcriber reviewed Patient C's medical records, including State Exhibit 11, page 48, saw the Respondent's name on page 48, and incorporated her name in the transcribed notes. (Tr. 171-173; *see also* State Ex. 11, pp. 54-57). Mr. [redacted] explained that the May 3,

2019 date was then memorialized as the date Patient C's medical evaluation occurred when billed by the insurance companies. (State Ex. 11, p. 78). Moreover, Patient C admitted that in May 2019, she worked at [redacted] on Wednesdays, Thursdays, and Fridays. (Tr. 315: 3-12). Since May 3, 2019 fell on a Friday, the Respondent would not have been working at the facility on that date. For these reasons, I am unable to accept the Respondent's contention that she examined Patient C on May 3, 2019.

Pertaining to Patient C, there is no allegation that the Respondent willfully made or filed a false report or record in the practice of medicine. However, by failing to take Patient C's BP on May 6, 2019, I find that the Respondent engaged in unprofessional conduct in the practice of medicine, in violation of section 15-314(a)(3)(ii) of the Health Occupations Article. It was unprofessional for the Respondent to evade her duties as a PA by failing to take Patient C's BP. This was especially true considering that on May 3, 2019 (just days prior to May 6, 2019), Patient C presented with high BP and was deemed ineligible to receive physical therapy. (State Ex. 11, p. 64). Luckily, Dr. [redacted] noticed that Patient C's BP was not recorded, causing Dr. [redacted] to take Patient C's BP. Nevertheless, it was the Respondent's responsibility to take Patient C's BP as to ensure that Patient C's BP was stable enough for Patient C to safely endure physical therapy.

Patient D

Similar to Patient C, the State argued that the Respondent neglected to take Patient D's BP on May 6, 2019. As support, the State relies on Dr. [redacted] who testified that Patient D was seen by the Respondent on May 6, 2019 and that the Respondent never recorded Patient D's BP. The State also relies on Patient D's chart which has a section where Patient D's BP should be recorded; however, that section is left blank. (State Ex. 12, p. 107).

The Respondent testified and argued that she took Patient D's BP and that the State's records are incomplete and do not contain the chart that she would have filled out to record Patient D's BP.

After reviewing all the evidence pertaining to Patient D, I agree with the State that the Respondent neglected to take and record Patient D's BP on May 6, 2019. Primarily, it is evident just by looking at Patient D's chart that there is no recorded BP in the appropriate area; the line where one would find a recorded BP is left entirely blank. (State Ex. 12, p. 107). Dr. [redacted] credibly explained that the Respondent was entrusted to take Patient D's BP on May 6, 2019 but failed to do so. (Tr. 89-93). According to Dr. [redacted], Patient D initially presented to the facility on April 29, 2019, and was evaluated by Dr. [redacted] who recorded high BP readings of 217/134 (left wrist) as well as 238/152 (left wrist), and 222/129 (right wrist). (State Ex. 12, p. 198). Due to this high BP reading, Patient D's husband had to transport her to an emergency room and Patient D's physical therapy was put on pause. (*Id.*). When Patient D returned to the Facility on May 6, 2019, she was examined by the Respondent; however, the Respondent did not document Patient D's BP, yet the Respondent noted that Patient D could resume physical therapy. (State Ex. 12, pp. 106-07). Dr. [redacted] explained that the Respondent's failure to take Patient D's BP was particularly concerning since, just a week prior (April 29, 2019), Patient D had to be sent to the emergency room due to high BP and, upon her return on May 6, 2019, the Respondent neglected to take her BP. (Tr. 92-93). Because Patient D's chart does not contain a recorded BP reading, I conclude that the Respondent failed to take Patient D's BP on May 6, 2019. (State Ex. 12, p. 107).

There is no evidence to support the Respondent's assertion that she took Patient D's BP on May 6, 2019. Again, the appropriate place where Patient D's BP would be recorded is left

blank. (*Id.*). I recognize that the majority of the page where Patient D's BP should be recorded is left blank; however, at the very top of this page, Patient D's name, accident date, and visit date are clearly handwritten. (*Id.*). The Respondent did not offer a cogent reason why this page remains mostly blank, and why whatever page she asserted she filled out in its place is not contained in Patient D's medical record. As such, I am unable to accept the Respondent's testimony that she appropriately took and documented Patient D's BP on May 6, 2019.

Pertaining to Patient D, there is no allegation that the Respondent willfully made or filed a false report or record in the practice of medicine. However, by failing to take Patient D's BP on May 6, 2019 and nonetheless noting that Patient D was eligible to resume physical therapy, I find that the Respondent engaged in unprofessional conduct in the practice of medicine, in violation of section 15-314(a)(3)(ii) of the Health Occupations Article. It was unprofessional for the Respondent to evade her duties as a PA by failing to take Patient D's BP. This was especially true considering that on April 29, 2019 (a week prior to May 6, 2019), Patient D presented with such a high BP reading that she had to be transported by her husband from the facility to the emergency room. (State Ex. 12, p. 198). Luckily, Dr. [redacted] noticed that Patient D's BP was not recorded, causing Dr. [redacted] to take Patient D's BP. Nevertheless, it was the Respondent's responsibility to take Patient D's BP as to ensure that Patient D's BP was stable enough for Patient D to safely endure physical therapy.

Email Address

The State argued that the Respondent willfully misrepresented herself as a practitioner of medicine by using the email address drolasimbo@gmail.com, which is an email address containing the term "dr." As support, the State argued that the Respondent used this email address on a renewal applications sent to the Board and on a PA / Primary Supervising Physician

Delegation Agreement submitted to the Board. (State Exs. 1 & 23). The State asserts that Dr. [redacted] cautioned the Respondent about using this email address. (State Ex. 18, p. 469). Further, the State asserts that the Board suggested that the Respondent should change her email address during the Board's interview with the Respondent on February 27, 2020. (State Ex. 18, p. 470).

The Respondent testified and argued that she never misrepresented herself as a doctor when she used the email address drolasimbo@gmail.com. Instead, the Respondent explained that she used this email address for approximately twenty years, that it was created when she lived in Nigeria (where she is a doctor), and that she maintained this email address as her way of continuing communications with her family members, to keep up with her licensure in Nigeria, and to receive information from her children's school. (Tr. 188-90). Importantly, the Respondent also testified that she never used this email address to communicate with any of her patients, and never held herself out to be a doctor to any of her patients. (*Id*). Finally, the Respondent has since changed her email address. (Resp. Ex. 8).

A violation of section 14-602 of the Health Occupations Article requires "intent to represent that the person practices medicine[.]" Here, the State failed to demonstrate that the Respondent intentionally misrepresented herself as a doctor. I am persuaded by the Respondent's testimony that the Respondent created this email address in Nigeria, where she worked as a doctor, and only continued to use this email address in the United States solely based on convenience and not in attempts to represent herself as a practitioner of medicine in the United States. The Respondent explained: "I thought I was going to lose contact with all my email contacts including my school -- my kids school . . . . I thought we all will be missing out information from our past, which we might need in future." (Tr. 305-06). While the State points

to discussions Dr. [redacted] and the Board had had with the Respondent about continued use of the drolasimbo@gmail.com email address, these interactions are not enough to demonstrate that the Respondent intended to represent that she practiced medicine by using this email address. Although the wording of the Respondent's email address suggests that the Respondent is a doctor, there is no evidence that the Respondent used this email address to interact with patients and, importantly, there is no evidence that the Respondent held herself out to be a doctor in the United States in any email correspondence sent through drolasimbo@gmail.com. As such, I cannot find that the Respondent violated section 14-602 of the Health Occupations Article.

Sanctions

The Board is authorized to seek sanctions against those under its supervision for a plethora of reasons. Md. Code Ann., Health Occ. § 14-404(a), (d) (2021); COMAR 10.32.02.09. The sanctioning guidelines are set out in COMAR 10.32.02.10. "Any sanction may be accompanied by conditions reasonably related to the offense or to the rehabilitation of the offender." COMAR 10.32.02.09A(5). Further, [i]f a licensee has violated more than one ground for discipline as set out in the sanctioning guidelines . . . [t]he sanction with the highest severity ranking should be used to determine which ground will be used in developing a sanction[.]" COMAR 10.32.02.09A(6)(a). "Depending on the facts and circumstances of each case . . . the disciplinary panel may consider the aggravating and mitigating factors[6] set out in . . . [COMAR 10.32.02.09] and may in its discretion determine . . . that an exception should be made and that the sanction in a particular case should fall outside the range of sanctions listed in the sanctioning guidelines." COMAR 10.32.02.09B(1).

[6] COMAR 10.32.02.09 contains a list of aggravating and mitigating factors that can be considered, but the language of the regulation makes clear that these lists are non-exhaustive by including the language "may include, but are not limited to[.]"

The maximum sanction for unprofessional conduct in the practice of medicine that is deemed unethical is license revocation and a $50,000.00 fine. COMAR 10.32.02.10B(3)(c). The corresponding minimum sanction is a reprimand and a $5,000.00 fine. *Id.*

The maximum sanction for willfully making or filing a false report or record in the practice of medicine is revocation and a $50,000.00 fine. COMAR 10.32.02.10B(11). The corresponding minimum sanction is a reprimand and a $10,000.00 fine. *Id.*

Although section 14-404 of the Health Occupations Article makes clear that the Board may discipline anyone who "violates any provision[7] of [Title 14 of the Health Occupations Article], any rule or regulation adopted by the Board, or any State or federal law pertaining to the practice of medicine," the sanctioning guidelines found in COMAR 10.32.02.10 do not contain any maximum or minimum sanctions for violating section 14-602 of the Health Occupations Article (misrepresentation as practitioner of medicine).

In this case, the Board seeks to impose the following disciplinary sanctions: (1) a reprimand; (2) two-year probation; (3) mandatory attendance at Board-approved courses[8] concerning: (a) vital signs and how to take them, (b) medical ethics, and (c) medical record keeping/documentation; and (4) and a $5,000.00 fine. Md. Code Ann., Health Occ. § 14-404(a) (2021); COMAR 10.32.02.09; COMAR 10.32.02.10.

In seeking the above sanction, the State did not indicate why the Board is not pursing a $10,000.00 fine, as opposed to a $5,000.00 fine, as would be permitted under COMAR 10.32.02.09A(6)(a).[9] Perhaps this is due to the discretionary language contained within this

[7] With the exception of Subtitle 3A.

[8] These courses would be paid for by the Respondent and could not count towards her continuing medical education credits.

[9] A violation of filing a false report or record in the practice of medicine has a minimum fine of $10,000.00 compared to engaging in unprofessional conduct in the practice of medicine which has a minimum fine of $5,000.00. COMAR 10.32.02.09A(6)(a) authorizes the Board to pursue a fine with the highest severity.

regulation that "the highest severity ranking *should be used* to determine which ground will be used in developing a sanction[.]" COMAR 10.32.02.09A(6)(a) (emphasis added).

Considering that I have found that the Respondent engaged in unprofessional conduct in the practice of medicine as it relates to Patients A, C, and D, and filed a false report or record in the practice of medicine as it relates to Patient A, I agree with the Board that such conduct warrants a reprimand. The Respondent's conduct potentially jeopardized the health of Patients A, C, and D, which is incredibly serious and not appropriately remedied with any lesser action. A reprimand in this instance is permissible and authorized in the sanctioning guidelines. COMAR 10.32.02.10B(3)(c), B(11).

Despite the State's inability to prove the allegations concerning Patient B or the Respondent's email address, I am not inclined to reduce the amount of the fines or probationary period levied against the Respondent. The Respondent failed to take the BP of three patients and falsified Patient A's medical record. Such behavior was not just unprofessional, but potentially dangerous. Thus, the imposition of a $5,000.00 is warranted. The Board has already demonstrated leniency in its sanctioning by not just choosing to impose the minimum fine that could be imposed in such circumstances, but by also deciding to pursue a lesser amount than what it could potentially collect. *See* COMAR 10.32.02.09A(6). Similarly, based on the serious nature of what occurred with Patients A, B, and C, I find no reason to reduce the probationary period below twenty-four months.

Further, I find that mandatory attendance at Board approved courses concerning: (a) vital signs and how to take them; (b) medical ethics; and (c) medical record keeping/documentation, is warranted. Considering the nature of the Respondent's transgressions, such attendance is reasonably related to the offense or to the rehabilitation of the Respondent. *See* COMAR

10.32.02.09A(5). All three courses are tailored to assist the Respondent in avoiding similar unprofessional conduct in the future.

PROPOSED CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude as a matter of law, as follows:

The Respondent engaged in unprofessional conduct in the practice of medicine by failing to accurately record the blood pressure readings of Patients A, C, and D. Md. Code Ann., Health Occ. § 15-314(a)(3)(ii) (2021).

The Respondent did not engage in unprofessional conduct in the practice of medicine by failing to accurately record the blood pressure reading of Patient B. Md. Code Ann., Health Occ. § 15-314(a)(3)(ii) (2021).

The Respondent willfully made or filed a false report or record in the practice of medicine by recording a fabricated blood pressure reading for Patient A. Md. Code Ann., Health Occ. § 15-314(a)(11) (2021).

The Respondent did not willfully make or file a false report or record in the practice of medicine by recording a fabricated blood pressure reading for Patient B. Md. Code Ann., Health Occ. § 15-314(a)(11) (2021).

The Respondent did not intentionally misrepresent herself as a physician. Md. Code Ann., Health Occ. § 14-602 (2021).

The Respondent is subject to disciplinary sanctions of: (1) a reprimand; (2) twenty-four-month probation; (3) mandatory attendance at Board approved courses concerning: (a) vital signs and how to take them, (b) medical ethics, and (c) medical record keeping/documentation; and (4)

and a $5,000.00 fine. Md. Code Ann., Health Occ. § 14-404(a) (2021); COMAR 10.32.02.09; COMAR 10.32.02.10.

PROPOSED DISPOSITION

I **PROPOSE** as follows:

(1) The charges filed by the Maryland State Board of Physicians against the Respondent, pertaining to Patient A, Patient C, and Patient D, be **UPHELD**;

(2) The charges filed by the Maryland State Board of Physicians against the Respondent, pertaining to Patient B, be **DISMISSED**;

(3) The charges filed by the Maryland State Board of Physicians against the Respondent, pertaining to intentionally misrepresenting herself as a physician, be **DISMISSED**;

(4) That the Respondent be sanctioned by the issuance of a reprimand;

(5) That the Respondent further serve a twenty-four--month probation;

(6) That the Respondent further attend courses approved by the Board of Physicians in the following subject matters:

(a) vital signs and how to take them;

(b) medical ethics; and

(c) medical record keeping/documentation;

such courses are to be funded by the Respondent and are not to count towards her continuing medical education credits; and

(7) That the Respondent be ordered to pay a fine of $5,000.00.

Leigh Walder

October 19, 2021
Date Decision Issued

Leigh Walder
Administrative Law Judge

LW/cj
#194833

NOTICE OF RIGHT TO FILE EXCEPTIONS

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

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

Copies Mailed To:

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

Victoria H. Pepper, Assistant Attorney General
Administrative Prosecutor
Office of the Attorney General
Health Occupations Prosecution and Litigation Division
300 West Preston Street, Suite 207
Baltimore, MD 21201

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

Catherine A. Potthast, Esquire
Law Office
2324 West Joppa Road, Suite 425
Lutherville, MD 21093

David J. McManus, Esquire
Baxter, Baker, Sidle, Conn & Jones, PA
120 East Baltimore Street, Suite 2100
Baltimore, MD 21202

Yewande Olasimbo, PA-C
[redacted]

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