

IN THE MATTER OF	*	BEFORE THE MARYLAND
JOHN VITARELLO JR., M.D.	*	STATE BOARD OF
Respondent	*	PHYSICIANS
License Number: D27544	*	Case Number: 2220-0243 A

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## ORDER FOR SUMMARY SUSPENSION OF LICENSE TO PRACTICE MEDICINE

Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) hereby **SUMMARILY SUSPENDS** the license of **JOHN VITARELLO JR., M.D.** (the “Respondent”), License Number D27544, to practice medicine in the State of Maryland. Panel A takes such action pursuant to its authority under Md. Code Ann., State Gov’t § 10-226(c)(2)(i) (2014 Repl. Vol. & 2019 Supp.), concluding that the public health, safety, or welfare imperatively requires emergency action.

## INVESTIGATIVE FINDINGS

Based on information received by, and made known to Panel A, and the investigatory information obtained by, received by and made known to and available to Panel A, including the instances described below, Panel A has reason to believe that the following facts are true:<sup>1</sup>

<sup>1</sup> The statements regarding the Respondent's conduct are intended to provide the Respondent with reasonable notice of the asserted facts. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

## **I. BACKGROUND**

1. The Respondent was originally licensed to practice medicine in Maryland on February 19, 1982, under License Number D27544. The Respondent has retained continuous licensure in Maryland since that time. The Respondent's license is scheduled to expire on September 30, 2021.

2. The Respondent is board-certified in Internal Medicine with a sub-specialty certification in Cardiovascular Disease.

3. The Respondent has hospital privileges at one Maryland hospital system.<sup>2</sup>

4. At all times relevant hereto, the Respondent was the co-founder and chief executive officer at a cardiovascular medical practice (the "Practice") with four office locations in Frederick, Maryland and Urbana, Maryland.

## **II. THE COMPLAINT**

5. On or about April 9, 2020, the Board received a complaint (the "Complaint") from an employee at the Practice ("Individual A").<sup>3</sup> The Complaint alleged that the Respondent sexually assaulted her in February 2019 when the Respondent saw her as a patient.

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<sup>2</sup> To maintain confidentiality, the names of individuals and health care facilities will not be identified in this document. The Respondent may obtain the identity of the individuals and health care facilities referenced herein by contacting the administrative prosecutor.

<sup>3</sup> The Complaint contained exhibits including declarations from a former patient, current Practice employee and former Practice employee. The declaration from the former patient, identified *infra* as Individual B, detailed additional instances where the Respondent engaged in sexual misconduct. The declarations from the Practice employees, identified *infra* as Individuals D and E, provided additional details surrounding the Complaint.

6. Individual A stated that, among other things, when she started working as a new employee for the Practice, the Respondent pressured her to let him treat her heart condition and examine her, during which he requested that she expose her breasts, after which he cupped her left breast, felt her breast with his thumb, commented regarding her breast implants and blew her a kiss upon leaving the room.

### III. BOARD INVESTIGATION

7. Board investigators conducted an investigation of the Respondent's conduct at the Practice.<sup>4</sup>

8. As part of its investigation, Board investigators conducted under-oath interviews of fourteen current and former Practice employees and a former patient. In addition, records including personnel records, medical records, and law enforcement records were subpoenaed. Board investigators also notified the Respondent of the investigation and conducted an under-oath interview of the Respondent.

9. The investigation concluded that for over a decade, the Respondent engaged in a pattern of unprofessional conduct that included, but was not limited to, sexual harassment, sexual propositioning and sexual assault of at least nine female employees and one patient. The Respondent's sexual misconduct spanned a significant amount of time, in

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<sup>4</sup> Shortly after the investigation was initiated, on May 11, 2020 and May 15, 2020, the Board received additional complaints from two other former practice employees, identified *infra* as Individual C and Individual D, who alleged additional instances where the Respondent engaged in sexual misconduct.

large part due to the control and influence the Respondent had over Practice operations and senior-level personnel at the Practice.<sup>5</sup>

10. The investigation further determined that the Respondent routinely engaged in a pattern of misconduct where he offered female subordinates monetary, employment and/or legal assistance; invited them to meet with him privately to discuss his assistance; and arranged to meet in a private place where he provided alcohol, encouraged them to drink the alcohol and made aggressive sexual advances toward them.

11. The investigation also found that the Respondent regularly and publicly called the female Practice employees nicknames<sup>6</sup> instead of their names, discussed and joked about sex, commented on their physical appearance including their breasts and hugged and engaged in gratuitous touching of female employees.<sup>7</sup> Practice employees also reported that it was well known among employees that the Respondent pursued sexual relationships with female employees.

12. The investigation of the Respondent's sexual misconduct is set forth in pertinent part below.

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<sup>5</sup> The senior-level personnel included a female practice manager, employed from March 1999-April 2016 and involved in human resources matters, who employees believed and, at times, observed was in a sexual relationship with the Respondent (the "Practice Manager").

<sup>6</sup> The nicknames the Respondent used included but were not limited to, "babe," "baby," "honey," "Greek goddess" and "black Snow White."

<sup>7</sup> The Respondent reportedly touched female employees in areas including, but not limited to, their shoulders, waist, lower back, inner thighs and breasts.

*Individual A*

13. On May 7, 2020, Board investigators interviewed Individual A, an employee at the Practice since February 11, 2019. In the under-oath interview, Individual A stated:

- a. Throughout her employment, the Respondent regularly engaged in flirtatious behavior and rarely addressed her by name but instead referred to her as “baby,” “babe,” “honey” and “sweetheart.”
- b. The Respondent pressured her to become a patient after he learned of her chronic heart condition. During the examination, the Respondent was alone in the room with her when he asked her to raise her bra over her breasts, stared at her breasts for an extended amount of time, cupped and rubbed her left breast with his hand, and complimented her regarding her breast implants. Upon leaving the examination room, the Respondent blew her a kiss.
- c. In March 2019, the Respondent asked her to stay after work to discuss a work-related matter; however, the Respondent showed up alone with wine and stated that the purpose of the meeting was not about work but because he wanted to get to know her. The Respondent sat very close to her, discussed her physical appearance and romantic relationships, and initiated a hug when she stated that she needed to leave. At the conclusion of the encounter, the Respondent explained to her that she should keep their meeting a secret. Individual A declined all of the Respondent’s subsequent requests to meet with him outside of work.
- d. In or around April 2019, the Respondent gave her money to pay for movers and offered school tuition assistance. He told her to keep his financial assistance secret.
- e. In or around January 2020, she discussed the exam room incident with a Practice employee and indicated that she was considering talking with an attorney. Shortly thereafter, the Respondent called Individual A, the Respondent stated “there’s going to be hell to pay” and then came looking for her in the office in a manner that made her “fearful

for her life.”<sup>8</sup> She hid from the Respondent behind a filing cabinet until other employees helped her leave the Practice safely.

- f. Individual A had no further contact with the Respondent since that incident and, on February 20, 2020, the Practice informed her that her employment was suspended.<sup>9</sup>

*Individual B*

14. On May 11, 2020, Board investigators interviewed a former patient of the Respondent who was treated in 2009 (“Individual B”). In the under-oath interview, Individual B stated:

- a. The Respondent made sexual comments and advances to her during a post-operative appointment that were extremely upsetting to her.
- b. During the appointment, the Respondent had her leave the examination room to meet with him in his office. Upon entering the office, the Respondent closed and locked the door behind them, inquired about her relationship status, commented about her breasts and physical appearance, stated that he would be at her house later that afternoon to start “sexual therapy” and further stated that she should “be there and be ready.” As she got up to leave, he hugged and tried to kiss her.

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<sup>8</sup> The Respondent openly discussed with many Practice employees, including Individual A, that he had a gun in his office and showed them the gun.

<sup>9</sup> Individual A was told that her employment at the Practice was suspended based on allegations that she accessed patient medical records inappropriately.

*Individual C*

15. On May 21, 2020, Board investigators interviewed a physician liaison at a healthcare entity that had business dealings with the Practice ("Individual C"). In the under-oath interview, Individual C stated:

- a. In October 2017, she first met the Respondent at a business networking event. In subsequent meetings between October and December 2017, the Respondent met with her privately and after hours at the Practice as well as on drives in his car where he discussed employment opportunities for her at the Practice, provided and encouraged her to drink alcohol and made sexual advances towards her.
- b. In November 2017, the Respondent saw her as a patient and during her appointment, kissed her and groped her left breast when the nurse left the examination room.
- c. In December 2017, she told the Respondent that she was not interested in a romantic relationship with him and, thereafter, he no longer discussed business opportunities at the Practice with her.

*Individual D*

16. On May 8, 2020, Board investigators interviewed a human resources employee at the Practice from March of 2018 until February of 2020 ("Individual D"). In the under-oath interview, Individual D stated:

- a. Shortly after she began working at the Practice, and during the course of her employment, the Respondent made comments to her regarding her physical appearance, invited her to have wine with him so they could "get to know each other better and unwind," initiated conversations about sex and disclosed his sexual desires with her.
- b. She told the Respondent that his behavior was inappropriate and made her feel uncomfortable but the Respondent was "relentless."

- c. On multiple occasions, she got up and left situations where the Respondent was inappropriate. The Respondent would then follow her, ask for a hug and touch her on her waist and on one occasion, her breast.
- d. During her tenure as a human resources employee, Practice employees, including Individual A and Individual F, identified *infra*, reported to her that the Respondent engaged in sexual misconduct. She reported the Respondent's sexual misconduct to senior-level staff at the Practice on multiple occasions and, in or around January 2020, she was instructed by the Practice's legal counsel not to discuss the matters with anyone.
- e. On or around February 3, 2020, she took medical leave as the result of medical conditions caused by the Respondent's behavior and, shortly thereafter, was terminated from the Practice.<sup>10</sup>

#### *Individual E*

17. On May 19, 2020, Board investigators interviewed a current Practice employee who held multiple positions at the Practice since April 2005 ("Individual E"). In the under-oath interview, Individual E stated:

- a. Shortly after her employment in 2005, she became an office manager from 2007-2017 and then in 2017, was promoted to a senior level employee at the Practice where she was responsible for Practice operations and patient complaints.<sup>11</sup> She was aware of numerous

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<sup>10</sup> Individual D was told that her employment at the Practice was terminated because she returned her medical paperwork late.

<sup>11</sup> Individual E explained that the Respondent terminated the Practice Administrator after the Respondent learned that he was not immediately notified of Individual F's sexual harassment allegations against him, discussed *infra*, and that the Respondent further indicated that he would hire a man to handle the Practice's human relations matters.



employee complaints that were made against the Respondent regarding his sexual behavior.<sup>12</sup>

- b. She witnessed the Respondent's sexual behavior directed toward Individual D.
- c. In February 2020, the Practice's legal counsel requested that she document information regarding sexual harassment at the Practice, including the names of individuals who had reported the Respondent. She complied and shortly thereafter the Practice suspended her employment.<sup>13</sup>

#### *Individual F*

18. On June 16, 2020, Board investigators interviewed an administrative employee at the Practice from 2010 until 2018 ("Individual F"). In the under-oath interview, Individual F stated:

- a. The Respondent saw her once as a patient after he insisted that he treat her for migraines. When conducting his examination, the Respondent stared at her breasts.
- b. In 2016, she discussed a legal matter with the Respondent, who stated that he could assist her. The Respondent offered to meet her to further discuss the matter, took her to a secluded area in a park, grabbed her arms and repeatedly tried to kiss her. After she declined the Respondent's sexual advances, the Respondent stopped offering assistance with her legal matter.
- c. After she reported the incident to other Practice employees, including Individual D and Individual E, the Respondent never spoke to her again. She was also asked to leave the Practice, offered a severance package and asked to sign a non-disclosure agreement.

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<sup>12</sup> Individual E discussed the names and allegations that were reported to her, including those reported by Individuals A, C, D and F. Individual E was also aware of Individual B's allegations and that the Practice instituted a chaperone policy specifically for the Respondent shortly thereafter.

<sup>13</sup> Individual E was told that her employment at the Practice was suspended based on allegations that she mishandled medical records.

*Individual G*

19. On June 18, 2020, Board investigators interviewed a health care employee at the Practice from 2004-2014 ("Individual G"). In the under-oath interview, Individual G stated:

- a. During the course of her employment the Respondent's sexual advances toward her escalated, making conversations about patient care uncomfortable and caused her to avoid being alone with him "at all costs."
- b. The Respondent was aware that she was a single parent and regularly invited her to meet him at a local hotel and offered her "favors" in return for sexual contact such as oral sex.
- c. She was aware that the Respondent engaged in sexual relationships with office staff and on multiple occasions she observed the Respondent engaging in sexual conduct with the Practice Administrator.
- d. When she reported the Respondent's sexual misconduct to the Practice Administrator she was told, "keep your mouth shut and stay away from him."

*Individual H*

20. On May 12, 2020, Board investigators interviewed the Respondent's medical assistant, who worked for him from November 22, 2015 until January 28, 2016 ("Individual H"). In the under-oath interview, Individual H stated:

- a. In January 2016, the Respondent approved her request for an advance on her paycheck so she could get her car repaired.
- b. Shortly thereafter, the Respondent repeatedly asked to take her out for a drink and to keep it a secret; told her to cancel her ride home because he would take her home; and then called her into his office, inquired

if she “liked white boys” and told her to “put on something nice tonight.”

- c. This incident caused her to leave work early and immediately terminate her employment at the Practice.

21. Individual H’s personnel file documents that she reported the Respondent’s sexual harassment to senior personnel at the Practice, including the Practice Administrator, in February 2016.

*Individual I*

22. On October 20, 2020, Board investigators interviewed a front desk scheduler and medical assistant to the Respondent who worked at the Practice from 2011 until 2014 (“Individual I”). In the under-oath interview, Individual I stated:

- a. A few days into her employment, the Respondent learned that she received flowers at the Practice and he called her back into his office, shut the door, complimented her and asked if she “wanted a side piece.” He explained that he was married, had a girlfriend and had a mistress.
- b. In another encounter with the Respondent, the Respondent asked her again if she wanted a “side piece” and asked her to perform oral sex on him.
- c. She never reported the Respondent because she feared retaliation.

*Individual J*

23. On August 19, 2020, Board investigators interviewed a front office employee who worked at the Practice from 2005 until 2010 (“Individual J”). In the under-oath interview, Individual J stated:

- a. Shortly after she began her employment at the Practice, the Respondent asked her where she lived and told her several times that he was going to come by her house.<sup>14</sup>
- b. In 2007, the Respondent learned that she moved in with her parents, whom the Respondent knew. The Respondent then went to her parents' house to see her but she was not home. Near the time she left the Practice, the Respondent again told her that he was going to come to her house and that if she told anyone about his visit, she would be fired.
- c. At company dinners, the Respondent encouraged drinking and offered rides home to certain female employees. She also observed the Respondent put his hand between female employees' thighs while he sat down and visited with them at their table. The Respondent attempted to touch her without her consent or invitation but she was able to maneuver her body to avoid him and he moved on.
- d. As a result, she avoided him and would only enter his office to conduct work-related business when the Respondent was treating patients.
- e. She never reported the Respondent because she was afraid that she would not be believed and she would lose her job.

*Individual K*

24. On May 28, 2020, Board investigators interviewed an employee who worked in the billing department at the Practice from approximately 2002 until 2012 ("Individual K"). In the under-oath interview, Individual K stated:

- a. In 2007 or 2008, she was in the Respondent's office with the Respondent conducting work-related business with the door closed, when he asked whether she performed oral sex and enjoyed it. She felt intimidated during the conversation and the Respondent told her to keep their conversation a secret.

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<sup>14</sup> The Respondent subsequently told Individual J that he biked past her house and was going to stop by but he did not think she was home since he didn't see her car.

- b. She immediately told another employee, identified *infra* as Individual L. She did not report the incident to senior personnel because it only happened once.

*Individual L*

25. On August 25, 2020, Board investigators interviewed an administrative employee who worked at the Practice from 2003 until 2020 ("Individual L"). In an under-oath interview, Individual L stated:

- a. She was present when the Respondent learned that Individual A was going to file a sexual harassment claim against him and described the incident as "very disturbing." She saw Individual A in a panic asking for Individual D and, shortly thereafter, she observed the Respondent "infuriated" and looking around the office for Individual A. She later found Individual A crouched down near a filing cabinet in her office, crying and hyperventilating.
- b. "I couldn't believe how scared [Individual A] was and how much of a fury [the Respondent] was like looking for her."
- c. She helped Individual A safely leave the office.
- d. She recalled Individual K telling her that the Respondent had asked her if she liked oral sex.

**CONCLUSIONS OF LAW**

Based upon the foregoing Investigative Findings, Panel A of the Board concludes that the public health, safety, or welfare imperatively requires emergency action, pursuant to State Gov't § 10-226(c)(2) (2014 Repl. Vol. & 2019 Supp.) and COMAR 10.32.02.08B(7).

## **ORDER**

Based upon the Investigative Findings and Conclusions of Law, it is thus, by Panel A of the Board, hereby:

**ORDERED** that pursuant to the authority vested in Panel A by State Govt. § 10-226(c)(2) and COMAR 10.32.02.08B(7), the Respondent's license to practice medicine in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is thus further

**ORDERED** that, during the summary suspension, the Respondent shall not practice medicine in the State of Maryland; and it is further

**ORDERED** that in accordance with COMAR 10.32.02.08B(7) and E, a post-deprivation hearing on the summary suspension will be held on **Wednesday, January 13, 2021, at 11:15 a.m.** at the Board's offices, located at 4201 Patterson Avenue, Baltimore, Maryland, 21215-0095; and it is further

**ORDERED** that after the **SUMMARY SUSPENSION** hearing before Panel A, the Respondent, if dissatisfied with the result of the hearing, may request, within ten (10) days, an evidentiary hearing, such hearing to be set within thirty (30) days of the request, before an Administrative Law Judge at the Office of Administrative Hearings, Administrative Law Building, 11101 Gilroy Road, Hunt Valley, Maryland 21031-1301; and it is further

**ORDERED** that a copy of the Order for Summary Suspension shall be filed by Panel A immediately in accordance with Health Occ. § 14-407 (2014 Repl. Vol.); and it is further

**ORDERED** that this is an Order of Panel A, and as such, is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Md. Code Ann., Gen. Prov. § 4-333(b)(6).

12/29/2020  
Date

***Signature on File***

Ellen Douglas Smith, Deputy Director  
Maryland State Board of Physicians