

IN THE MATTER OF	*	BEFORE THE
PATRICK YAT-FU TONG, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D47821		Case Number: 2220-0198A
* * * * *	* * *	* * * * *

**CONSENT ORDER**

On December 8, 2020, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the "Board") charged **Patrick Yat-Fu Tong, M.D.** (the "Respondent") License Number D47821, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-401 *et seq.* (2014 Repl. Vol. & 2019 Supp.).

The pertinent provisions of the Act under H.O. § 14-404(a) provide as follows:

**§ 14-404. Denials, reprimands, probations, suspensions, and revocations – Grounds.**

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

- ... (3) Is guilty of:
  - ... (ii) Unprofessional conduct in the practice of medicine;
- (4) Is professionally, physically, or mentally incompetent;
- ... (19) Grossly overutilizes health care services;
- ... (22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State;

...  
(40) Fails to keep adequate medical records as determined by appropriate peer review[.]

On February 10, 2021, Panel A was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of the DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, and Order.

### **FINDINGS OF FACT**

Panel A finds:

#### **I. BACKGROUND**

1. At all relevant times, the Respondent was and is licensed to practice medicine in the State of Maryland. The Board initially issued the Respondent’s Maryland medical license on August 7, 1995, under License Number D47821. His license is active through September 30, 2021. The Respondent holds inactive licenses to practice medicine in California and Missouri.

2. The Respondent is not currently board-certified in any medical specialty. He was board-certified in ophthalmology (general); however, the certification expired on December 31, 2015.

3. The Respondent maintains an office for the practice of ophthalmology in Columbia, Maryland. His letterhead states that his practice includes “Pediatric Ophthalmology, Adult Strabismus, and Hereditary Eye Diseases.” He holds privileges at a hospital in Howard County, Maryland.

## II. COMPLAINTS

### COMPLAINT 1

4. On September 18, 2019, the Board received a written complaint from a parent (“Parent 1”) of a former patient (“Patient 1”) of the Respondent. The Respondent had treated Patient 1 for eight years, from the age of five to 13 years old.

5. Patient 1 initially presented to the Respondent in 2011, to be examined for possible color-blindness. The Respondent confirmed that Patient 1 was color-blind and also diagnosed Patient 1 with astigmatism.<sup>1</sup> For the latter condition, the Respondent prescribed glasses.

6. In or around 2012, the Respondent diagnosed Patient 1 with amblyopia.

7. Amblyopia, commonly referred to as “lazy eye,” is a disorder of sight in which the brain fails to process inputs from one eye and over time favors the other eye, resulting in decreased vision.

8. Parent 1 alleged that the Respondent advised that Patient 1’s right eye was dominant and he would lose his sight in his left eye if the right eye was not patched (occlusion therapy) or treated with atropine drops (atropine penalization) to dilate the eye.

9. Atropine drops weaken the focusing mechanism of the stronger eye, reducing the near vision to such an extent that the child’s brain “chooses” the image from the amblyopic eye rather than the blurred image from the stronger eye. The therapeutic goal of atropine penalization is to improve the visual acuity of the amblyopic eye.

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<sup>1</sup> Astigmatism is the result of an irregularly shaped cornea or lens that prevents light from focusing properly on the retina. It causes distorted or blurred vision at any distance.

10. Parent 1 further alleged that in 2017, the Respondent diagnosed Patient 1 with strabismus.

11. Strabismus, a condition commonly referred to as “cross-eyed,” is a problem with eye alignment, in which both eyes do not look at the same place at the same time.

12. The Respondent advised that Patient 1’s left eye was now dominant and needed to be corrected because his eyes were not lining up correctly.

13. The Respondent placed prisms in Patient 1’s glasses to treat his diagnosis of strabismus.

14. The Respondent increased the prism strength at regular intervals from two prism diopters to 15 prism diopters.

15. Parent 1 alleged that the Respondent was planning to perform surgery on Patient 1’s right eye to fix the muscle in place once the prisms corrected his right eye.

16. Parent 1 reported that as the Respondent increased the prism diopters for the last several times, Patient 1 complained of double vision, headaches, and being sick to his stomach. Patient 1 would often remove the prism glasses while doing schoolwork.

17. In or around August 2019, Parent 1 learned from a friend that the Respondent had recommended prisms for her daughter. The friend had sought a second opinion and was told that her daughter did not have the condition diagnosed by the Respondent and did not need prism glasses.

18. Thereafter, Parent 1 sought opinions from two pediatric ophthalmologists, both of whom advised her that Patient 1 should not be wearing prism glasses because the prisms could be damaging his eyes.

19. In her complaint, Parent 1 listed the names of several parents whose children were also treated with prism glasses by the Respondent.

#### **COMPLAINTS 2 – 5**

20. In January 2020, the Board received four anonymous complaints, all of which appeared to be filed by ophthalmologists, alleging that the Respondent prescribed medically unnecessary prism glasses to pediatric patients in the absence of clinical indication.

### **III. THE BOARD INVESTIGATION**

21. The Board initiated an investigation of the Respondent's practice regarding pediatric patients. In furtherance of its investigation, the Board requested the Respondent to respond to Parent 1's complaint and conducted under-oath interviews of Parent 1 and two of the individuals mentioned in Parent 1's complaint ("Parent 2" and "Parent 3"). The Board also subpoenaed from the Respondent the records of 10 pediatric patients ("Patients 1 – 10"), including Patient 1 and the patients named in the anonymous complaints.

22. The Board referred the patient records obtained from the Respondent and related materials to a peer review entity.

23. In addition to responding to the Complaint, the Respondent also provided written responses to the peer review reports.

#### **Parents 2 and 3 Interviews**

24. Parent 2 reported that the Respondent, within minutes after the appointment began, told her that her child's ("Child 1's") eyes were "uneven" and that Child 1 needed prism glasses after simply observing Child 1 sitting in a chair. The Respondent told Parent 2 that her child was attempting to correct the unevenness by tilting her head.

25. On the first visit, the Respondent inserted prisms in Child 1's glasses that he had cut from a sheet of plastic. The Respondent instructed Parent 2 that Child 1 was to wear the prism glasses 24 hours a day unless she was sleeping.

26. Parent 2 subsequently sought a second opinion from a pediatric ophthalmologist who advised that Child 1 did not need prism glasses.

27. Parent 3 reported that she did not observe any eye examination equipment in the Respondent's office when she took her child ("Child 2") to be examined. At the initial appointment, the Respondent observed that Child 2 tilted his head to the left. At the next visit, the Respondent applied prisms to Child 2's glasses and told Parent 3 that Child 2 should wear the glasses as much as possible.

28. Parent 3 subsequently sought a second opinion from a vision therapist who advised that Child 2's vision issues were attributable to the need to develop processing skills, not an eye misalignment.

#### **IV. RELEVANT EYE DISORDERS**

##### **A. Amblyopia**

29. The American Academy of Ophthalmology (the "AAO") describes amblyopia as "an important public health problem because of its prevalence among children and because visual impairment from amblyopia is lifelong and can be profound...With rare exception, amblyopia results in lifelong visual loss if it is untreated or inadequately treated in early childhood." AAO Preferred Practice Pattern ("PPP") Amblyopia, 2017.

30. The AAO PPP further states:

Treatment of refractive error alone can improve the visual acuity in children who have untreated anisometropic and strabismic amblyopia. Visual acuity of children who have bilateral refractive amblyopia also can substantially improve with refractive correction alone.

31. Amblyopia, as determined by the AAO PPP, is a diagnosis based on best corrected vision with more than a two-line or greater difference of optotype between the eyes. In other words, if the difference between the vision in a child's eyes is less than two lines, the child does not have amblyopia.

**B. Strabismus**

32. If untreated or treated inadequately, strabismus may cause amblyopia.

33. The AAO has advised practitioners that: "When ocular disease is present, a treatment and management plan should be established, which may involve observation, eyeglasses, topical or systemic medications, occlusion therapy, eye exercises, and/or surgical procedures." AAO Preferred Practice Pattern ("PPP") Pediatric Eye Evaluations, 2017.

34. Prism treatment is not standard of quality care in the AAO's recommendations for the treatment of either amblyopia or strabismus for children.

**V. THE PEER REVIEW**

**A. Health Occ. §14-404(a)(22) – Failure to Meet the Standard of Quality Care**

35. Two peer reviewers ("Peer Reviewers 1 and 2"), who are board-certified in ophthalmology and specialize in pediatric ophthalmology, separately reviewed the ten patient records and submitted their individual reports to the Board.<sup>2</sup>

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<sup>2</sup> Neither of the Peer Reviewers filed the aforementioned anonymous complaints.

36. Both Peer Reviewers expressed their concern that the Respondent regularly used prism glasses to treat pediatric asymptomatic patients with minimal objective findings for visual acuity conditions that the Respondent had inappropriately diagnosed using non-standard techniques, in violation of the standard of quality care.

37. For example, and not in limitation, the Respondent diagnosed and treated patients for amblyopia based on his finding that there was a one-line difference between the eyes, not a two-line difference as set forth as the standard of care by the AAO. The Respondent also diagnosed strabismus, that he would then treat with prism glasses, based on his observation of a patient's head tilt. The Respondent perused patients' Facebook postings to confirm his finding of a patient's head tilt.<sup>3</sup>

38. In a letter to the Board, the Respondent elaborated on his belief that head posture, or head tilt, is associated with vertical eye misalignment and that an individual's efforts to fuse images causes somatic health issues such as gastrointestinal distress, moodiness, and stiff necks.

39. In his supplemental response to the Peer Reviewers' reports, the Respondent continued to defend his diagnostic and treatment methods, stating,

I have uncovered new symptoms associated with any small eye misalignment, in situations where the eyes are not sufficiently misaligned to cause double vision, but sufficiently misaligned to cause symptoms. In a number of these patients, small amounts of prisms results (*sic*) in dramatic improvements.

...

When the head is straight the misalignment is larger (that is precisely the reason why the individual tilts his head to decrease the magnitude of the misalignment). Therefore, if the head is straighter, allowing the angle of

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<sup>3</sup> Both Peer Reviewers remarked that they found the Respondent's use of Facebook postings to confirm his diagnosis of a head tilt to be unusual and not standard practice.



misalignment to become larger, the individual would accept or perhaps even welcome the prismatic compensation.

40. The Respondent consistently used a mathematical “equation” of his own creation to determine the power of the prism he gave to the child. The Respondent’s equation is not based on clinical measurements. Instead, the equation uses a patient’s functional eye height, fusional effort, head tilt, and prismatic compensation. The Respondent’s equation consists of variables that cannot be measured; the equation has not been scientifically validated which calls into question its utility and appropriateness as a diagnostic tool.

41. The Respondent consistently failed to appropriately document strabismus using industry-accepted methods of measurements and failed to document adequately physical findings or complaints for which prism treatment would be appropriate.

42. Both Peer Reviewers expressed concern that the Respondent drove to a patient’s home (Patient 3) and dropped off in the family’s mailbox a pair of prism glasses in which he had increased the power from 4 to 6 diopters. The mother had not returned to the Respondent’s office to pick up the newly adjusted glasses and Patient 3 did not return after the Respondent dropped off the glasses. Both Peer Reviewers expressed concern not only that the Respondent prescribed prism glasses for an asymptomatic patient, but also that the Respondent’s delivery of the glasses to the family’s mailbox is not consistent with clinically appropriate behavior.

## PATIENT-SPECIFIC FINDINGS

43. In addition to the above general findings, the peer reviewers concurred that the Respondent failed to meet the standard of quality care for nine of the ten patients for reasons including, but not limited to:

- a. The Respondent diagnosed and treated pediatric patients with prism glasses, in the absence of symptoms or clinical indications of strabismus (Patients 1 -7, 9 – 10). Both Peer Reviewers expressed concern regarding the Respondent's frequent use of unnecessary prism glasses to treat pediatric patients based primarily on subclinical ("flick") findings. The Respondent often merely documented "head tilt" or left hypertropia with no numeric documentation of the degree of head tilt, or the amount of deviation in prism diopters (Patients 1 – 7, 9 – 10). Ophthalmologists do not diagnose or treat eye disorders based on head tilt alone;
- b. The Respondent treated asymptomatic patients with prism glasses over a long period of time, often several years. The Respondent "urged" patients to wear the prism glasses full time and during frequent office visits regularly increased the power of the prisms to unreasonable and often intolerable levels.<sup>4</sup> Patients complained of headaches, double vision or visual discomfort;
- c. The Respondent diagnosed children with amblyopia who did not meet that diagnostic definition (Patients 1, 3, 7, and 10);

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<sup>4</sup> Adults would find it difficult to tolerate two prism diopters. The Respondent had prescribed prisms up to 15 prism diopters to his pediatric patients. Although a child's brain is developing, if forced to wear unnecessary prisms, the brain can adapt, but only to a point. Some of the patients wore prism glasses as ordered by the Respondent until they could not tolerate the magnitude of image displacement, ultimately refusing to wear the glasses.

d. The Respondent's prescription of daily atropine drops to treat children whom he wrongly diagnosed with amblyopia is unnecessary and overly aggressive. In one instance (Patient 1), the treatment caused amblyopia in the aligned eye ("reverse amblyopia");

e. The Respondent advised parents, without medical substantiation, that using prism glasses will help ameliorate non-specific complaints including "moodiness," neck stiffness and gastrointestinal distress (Patients 2, 3, 6, and 10);

f. The Respondent proposed to perform eye surgery on two patients (Patients 1 and 2), both of whom were asymptomatic and did not require the prism glasses the Respondent had ordered them to wear, much less surgery for an eye problem that did not exist. Eye surgery for strabismus is based on prism measurements which the Respondent failed to perform.

**B. Health Occ. §14-404(a)(19) – Grossly Overutilizes Health Care Services**

44. The Respondent misdiagnosed pediatric patients with visual acuity conditions for which he prescribed medically unnecessary prism glasses.

45. The Respondent directed pediatric patients to return for frequent office visits to check the medically unnecessary prism glasses, often every four to six weeks for years. The Respondent billed for the unnecessary office visits.

**C. Health Occ. § 14-404(a)(40) – Fails to Keep Adequate Medical Records**

46. The Respondent's documentation in patients' records, while lengthy, contains confusing and non-standard verbiage. The Respondent's medical documentation is deficient for reasons including, but not limited to, the following:

a. The Respondent typically failed to document the standard sensory-motor examination that is used by ophthalmologists to document the exact amount of ocular misalignment;

b. The Respondent's "equation" by which he determined the need for a child to be prescribed prism glasses contains variables that cannot be measured. The Respondent failed to document how he derived the variables he used in his equations. His equation has not been scientifically validated which calls into question its utility and appropriateness as a diagnostic tool;

c. The Respondent failed to document strabismus or symptoms such as double vision that would justify the use of prism glasses in a pediatric patient;

d. The Respondent failed to document the medical justification for increasing the power of the prisms in the patients' prism glasses;

e. The Respondent failed to document a long-term treatment plan for his patients, other than increasing the power of the prisms.

#### **VI. Additional Violations of The Maryland Medical Practice Act**

##### **Health Occ. §14-404(a)(3)(ii) – Is Guilty of Unprofessional Conduct in the practice of medicine**

47. For reasons including, but not limited to, those set forth above, the Respondent's practice of prescribing medically unnecessary and unjustified prism glasses to pediatric patients for misdiagnosed visual acuity issues constitutes unprofessional conduct in the practice of medicine.

**Health Occ. §14-404(a)(4) – Is Professionally, Physically, or Mentally Incompetent**

48. For the reasons including, but not limited to those set forth above, the Respondent's practice of prescribing medically unnecessary and unjustified prism glasses to pediatric patients for misdiagnosed visual acuity issues constitutes, in whole or in part, professional incompetence. A child who wears prism glasses must force their eyes to overcome the double image the prism induces. The use of prism glasses on a pediatric patient who does not have strabismus has the potential of causing harm and long-term damage, including intractable double vision, amblyopia, possible loss of fusion (depth perception), and possible development of strabismus that would require surgery to correct. In addition, forcing the eyes to pull the two images together constantly while wearing the prism glasses causes severe physical strain on the eyes, headaches, and general discomfort, as reported by many of the children whose care was reviewed.

The Respondent proposed to perform eye surgery on two of the patients (Patients 1 and 2), both of whom were asymptomatic and did not require the prism glasses the Respondent had ordered them to wear, much less surgery for an eye problem that did not exist.

**CONCLUSIONS OF LAW**

Based on the Findings of Fact, Disciplinary Panel A concludes that the Respondent violated Health Occ. §14-404(a)(3)(ii) - Is guilty of unprofessional conduct in the practice of medicine; § 14-403(a)(4) - Is professionally, physically, or mentally incompetent; § 14-403(a)(19) - Grossly overutilizes health care services; § 14-403(a)(22) - Fails to meet

appropriate standards as determined by peer review for the delivery of quality medical and surgical performed in an outpatient surgical facility, office, hospital, or any other location in this State; and § 14-403(a)(40) - Fails to keep adequate medical records as determined by appropriate peer review.

### ORDER

It is, by an affirmative vote of a majority of a quorum of Disciplinary Panel A, hereby:

**ORDERED** that the Respondent's Order for Summary Suspension of License to Practice Medicine dated November 18, 2020, and reaffirmed on January 14, 2021, is **TERMINATED AS MOOT**; and it is further

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

**ORDERED** that the Respondent shall **PERMANENTLY CEASE** the practice of ophthalmology on pediatric patients aged 18 years or less; and it is further

**ORDERED** that on every January 31<sup>st</sup> thereafter if the Respondent holds a Maryland medical license, the Respondent shall provide the Board with an affidavit verifying that the Respondent has not practiced ophthalmology on pediatric patients age 18 years or less in the past year; and it is further

**ORDERED** that if the Respondent fails to provide the required annual verification of compliance with this condition:

(1) there is a presumption that the Respondent has violated the permanent condition; and

(2) the alleged violation will be adjudicated pursuant to the procedures of a Show Cause Hearing; and it is further

**ORDERED** that the Respondent is placed on **PROBATION** for a minimum of **SIX (6) MONTHS**.<sup>5</sup> During probation, the Respondent shall comply with the following terms and conditions of probation:

1. The Respondent is required to take an ethics course addressing ethical issues and human participant protection in human subject research (“HSR”). The following terms apply:
  - (a) it is the Respondent’s responsibility to locate, enroll in and obtain the disciplinary panel’s approval of the course before the course is begun;
  - (b) the disciplinary panel will accept a course taken in-person or over the internet during the state of emergency;
  - (c) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;
  - (d) the course may not be used to fulfill the continuing medical education credits required for license renewal;
  - (e) the Respondent is responsible for the cost of the course.

2. The Respondent shall pay a civil fine of **FIVE THOUSAND DOLLARS (\$5,000.00)**. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297. The Board will not renew or reinstate the Respondent’s license if the Respondent fails to timely pay the fine to the Board.

3. The Respondent shall not apply for early termination of probation; and it is further

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<sup>5</sup> If the respondent’s license expires during the period of probation, the probation and any conditions will be tolled.

**ORDERED** that after the Respondent has fully and satisfactorily complied with all terms and conditions of probation, and the minimum period of probation imposed by the Consent Order has passed, the Respondent may submit a written petition for termination of probation. After consideration of the petition, the probation may be terminated through an order of a disciplinary panel. The Respondent may be required to appear before the disciplinary panel to discuss his petition for termination. The disciplinary panel may grant the petition to terminate the probation, through an order of the disciplinary panel, if the Respondent has successfully complied with all of the probationary terms and conditions and if there are no pending complaints related to the charges; and it is further

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

**ORDERED** that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice medicine in Maryland. The disciplinary panel may, in



addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; and it is further

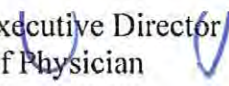
**ORDERED** that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

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

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

## *Signature on File*

04/06/2021  
Date

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

### CONSENT

I, Patrick Yat-Fu Tong, M.D., acknowledge that I have consulted with counsel before signing this document.

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

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

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

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

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

*Signature on File*

03-30-2021  
Date

Patrick Yat-Fu Tong, M.D.  
Respondent

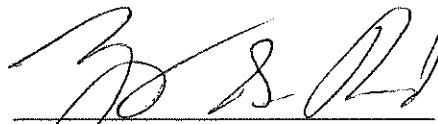
NOTARY

STATE OF MARYLAND

CITY/COUNTY OF BALTIMORE

I HEREBY CERTIFY that on this 30<sup>th</sup> day of MARCH 2021, before me, a Notary Public of the foregoing State and City/County, personally appeared Patrick Yat-Fu Tong, M.D., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

  
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Notary Public

My Commission expires: 03-29-2024

ZACHARY S REISFELD Notary Public Baltimore County Maryland My Commission Expires 3-29-2024
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