

IN THE MATTER OF	*	BEFORE THE
DANIEL CARROLL GEARY, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D83056	*	Case Number: 2221-0064A
* * * * *	*	* * * * *

CONSENT ORDER

On June 15, 2022, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged **Daniel Carroll Geary, M.D.** (the "Respondent"), License Number D83056, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2021 Repl. Vol.); Health Occ. § 1-212; and Code Md. Regs. ("COMAR") 10.32.17.01 *et seq.* (2019).

Panel A charged the Respondent with violating the following statutory and regulatory provisions:

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

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

(3) Is guilty of:

...

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

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

- (a) *Adoption of regulations.* – Each health occupations board authorized to issue a license or certificate under this article shall adopt regulations that:
 - (1) Prohibit sexual misconduct; and
 - (2) Provide for the discipline of a licensee or certificate holder found to be guilty of sexual misconduct.
- (b) *Sexual misconduct.* – For the purposes of the regulations adopted in accordance with subsection (a) of this section, “sexual misconduct” shall be construed to include, at a minimum, behavior where a health care provider:
 - ...
 - (3) Has engaged in any sexual behavior that would be considered unethical or unprofessional according to the code of ethics, professional standards of conduct, or regulations of the appropriate health occupations board under this article.

COMAR 10.32.17 Sexual Misconduct.

01. Scope.

This chapter prohibits sexual misconduct by health care practitioners.

02. Definitions.

B. Terms Defined.

...

- (4) “Sexual harassment” means an unwelcome sexual advance, request for sexual favor, or other verbal or physical conduct of a sexual nature.

03. Sexual Misconduct

- A. Health care practitioners may not engage in sexual misconduct.
- B. Health Occupations Article, §§ 14-404(a)(3) . . . Annotated Code of Maryland, includes, but is not limited to, sexual misconduct.
- C. Sexual misconduct includes, but is not limited to:
 - (1) Engaging in sexual harassment of a patient, key third party, employee, student, or coworker regardless of whether the sexual harassment occurs inside or outside of a professional setting;
...
 - (8) Having nonconsensual sexual contact with a coworker or employee[.]

On August 10, 2022, Panel A was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Disciplinary Panel A finds:

I. Background and Licensing Information

1. At all relevant times, the Respondent was and is a physician licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on March 13, 2017, under license number D83056. The

Respondent's Maryland medical license is active through September 30, 2022, subject to renewal.

2. The Respondent is board-certified in emergency medicine.
3. At all relevant times, the Respondent was contracted through a third party¹ and practiced at a health care facility (the "Facility") located in Maryland.
4. The third-party contractor is an organization that contracts with various facilities to provide physician and advanced practice providers to staff the facilities.
5. In or around May 2017, the Respondent was contracted to be the Chairman of Emergency Medicine at the Facility.
6. The Respondent voluntarily resigned as Chair in May of 2020.
7. The Respondent continued to work as a physician at the Facility pursuant to his contract.
8. On September 3, 2020 a nurse at the Facility filed a complaint against the Respondent alleging that the Respondent inappropriately grabbed her buttock without her consent.
9. The Respondent voluntarily resigned from his position at the Facility after an investigation into the complaint. He also terminated his employment with the third party and ceased working at the Facility, effective on or about September 10, 2020.

¹ To ensure confidentiality and privacy, the names of individuals and entities involved in this case, other than the Respondent, are not disclosed in this document.

II. The Report

10. On or about October 8, 2020, the Board received a Mandated 10-Day Report (the “Report”) from the Facility. According to the Report, the Respondent resigned from the third-party contractor and thus from the medical staff of the Facility, effective September 10, 2020.

11. The Report states that the Respondent resigned following an incident at the Facility on September 3, 2020, involving a nurse who alleged that the Respondent had inappropriately grabbed her buttock on two occasions during her overnight shift.

III. Respondent’s Response to the Report

12. By letter dated April 7, 2021, the Board notified the Respondent of its receipt of the above Report and that it had opened a full investigation of the matter. The Board requested that the Respondent address the allegations in the Report in a written response.

13. Through counsel, the Respondent provided a written response to the Board, dated December April 28, 2021, wherein the Respondent acknowledged that he “inadvertently brushed his hand against [the nurse’s] lower back for a brief moment, not in a sexual manner but rather by instinct to guide her through the low-lit hallway.”

IV. Board Investigation

14. As part of its investigation, the Board subpoenaed the Respondent’s human resources/personnel file from the Facility as well as the third-party contractor. The file documents that the Vice President of Human Resources of the third-

party contractor initiated an investigation which included interviewing the Respondent and several Facility staff members.

15. The third-party contractor's Investigatory Summary Report (the "Report") documented a review of the complaint, the Facility's video footage, and an interview of the Respondent and several staff members. The Report stated that there was a "high likelihood" that the Respondent touched the nurse and that the Respondent committed a violation of the hospital's harassment policy. The Report stated that this would have been "unprofessional behavior" and that the Respondent would no longer be welcome to work at the Facility.

The Facility Video

16. Board staff obtained the Facility's security video which shows the Respondent and the nurse briefly walking in and out of the doctor's lounge twice. After exiting the lounge the second time, the video shows the Respondent's hand near the nurse's lower back/upper left buttock region, and shows that the nurse quickly reacts and turns her back to the wall. After this interaction, the Respondent and the nurse can be seen walking down the hall together until the Respondent enters a nearby hallway. The nurse can be seen continuing down the hallway alone. The security video does not have audio.

17. After reviewing this information, the Board conducted an investigation of the Respondent's conduct, and as part of its investigation, the Board interviewed the nurse, the third-party contractor's Vice President of Human Resources who conducted the

initial investigation, and those who were in contact with the Respondent after the complaint was filed. In addition, Board staff subpoenaed the Respondent's personnel records from the various institutions where he has worked, and also interviewed the Respondent.

The Nurse

18. On or about February 4, 2021, Board staff conducted an interview with the nurse who filed the complaint, (the "Nurse"). In the under-oath interview, the Nurse disclosed the following:

- a. On September 2, 2020, the Nurse worked the overnight shift. During the shift, the Respondent asked if she would like to go to the doctor's lounge with him. At first, she declined, but later decided to go with him to get a Pop-Tart. On the way to the doctor's lounge, while outside of exam rooms twelve (12) and thirteen (13), she thought that she felt the Respondent grab her butt. She thought maybe that was an accident. As they continued down the hallway towards the lounge, the Respondent asked her how old she was. When they arrived at the doctor's lounge, the Respondent briefly opened the door, looked in the refrigerator, and exited the lounge. The Nurse said she wanted a Pop-Tart and the Respondent went back into the lounge to get the Pop-Tart and then handed it to her. As soon as the door shut, she felt the Respondent grab her butt again. She stated, "I felt him grab my butt again, and that time it was like, not a question, like, I knew what he had done. So, I turned my back to the wall and I looked and him and said, 'what are you doing?'"
- b. The Nurse described the Respondent's act as a firm grab of her buttock. Her heart was racing, and she wanted to get back to her patients.

The Charge Nurse

19. On or about May 11, 2021, Board staff conducted an interview with the charge nurse. In the under-oath interview, the charge nurse stated:

- a. She confirmed that she was the charge nurse for the overnight shift on September 2, 2020. During that shift, the Nurse advised her that the Respondent had been “unprofessional.” The Nurse reported that the Respondent “...touched her bottom” after they went to the doctor’s lounge together.
- b. The charge nurse described the Nurse’s demeanor when she reported the incident as “panicked.” The charge nurse stated that the Nurse was “nervous...whenever she is nervous or anxious, she gets very blotchy...she has a ton of blotches all over the front of her chest and going up her neck...that’s how I always knew when I was training her that she was, something was bothering her, or she was overstressed about something.” The charge nurse reported the incident to her nursing supervisor. The Nurse provided a written statement to the Facility and was then sent home for the evening.

Respondent’s Supervisor

20. As a part of the investigation, Board staff conducted an interview with the Respondent’s Supervisor (the “Supervisor”) on June 24, 2021. In an under-oath interview, the Supervisor stated:

- a. He was contacted at approximately 1:15 a.m. on September 3, 2020 and asked to go into the Facility and relieve the Respondent of his duties because the Respondent had allegedly assaulted a nurse that morning. It was the Supervisor’s duty to relieve the Respondent after the complaint was received.
- b. Shortly after the Supervisor responded to the Facility he spoke with the Respondent. He first asked the Respondent if he was impaired and the Respondent stated that he was not. He informed the Respondent to leave the Facility immediately. The Respondent replied by asking the Supervisor if he “thought this was career ending?” The Supervisor replied that he had no idea. The Respondent did not ask the Supervisor why he was being relieved. The Respondent then made a comment about the Nurse, stating, “she is always brushing up against me.” The Supervisor did not engage in any further conversation with the Respondent.

The Respondent

21. On or about September 23, 2021, Board staff conduct an under-oath interview with the Respondent. In the interview, the Respondent stated:

- a. The Respondent confirmed that he resigned from the third-party contractor after the Nurse alleged that he touched her inappropriately. He described their relationship as amicable and “at times it was overly familiar.”
- b. He confirmed that he asked the Nurse if she wanted to go to the doctor’s lounge during his shift on September 2, 2020.
- c. He confirmed that during the walk to the doctor’s lounge he asked the Nurse how old she was.
- d. In response to the allegations, the Respondent stated, “I don’t acknowledge what’s alleged. I don’t want to deny – you know, obviously she felt this needed to be addressed so I don’t want to minimize what she is alleging. But I never, you know, inappropriately touched her. I never grabbed her or touched her. I may have inadvertently touched her. I’m not saying she’s made it up entirely. So, could there have been contact? I can’t deny that there could have been.”

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent’s actions, as described, constitute, in whole or in part, unprofessional conduct in the practice of medicine, a violation of Health Occ. § 14-404(a)(3)(ii). The Panel **dismisses** the charge of sexual misconduct under Health Occ. § 1-212 and **dismisses** the charge of a violation of the Board’s sexual misconduct regulations under COMAR 10.32.17.

ORDER

It is thus by Disciplinary Panel A of the Board, hereby:

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

ORDERED that the Respondent is placed on **PROBATION** until the Respondent completes the boundaries course condition of probation described below.² During probation, the Respondent shall comply with the following terms and conditions of probation:

1. Within **SIX (6) MONTHS**, the Respondent is required to take and successfully complete a course in appropriate workplace boundaries. 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 Respondent must provide documentation to the disciplinary panel that the Respondent successfully completed the course;
 - (c) the course may not be used to fulfill the continuing medical education credits required for license renewal;
 - (d) the Respondent is responsible for the cost of the course;
2. Within **ONE (1) YEAR**, the Respondent shall pay a civil fine of **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)**. 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; and it is further

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

² If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

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

ORDERED that, after the Respondent has complied with all terms and conditions or probation, the Respondent may submit to the Board a written petition for termination of probation. After consideration of the petition, the Respondent's probation may be administratively terminated through an order of the disciplinary panel if the Respondent has complied with all probationary terms and conditions and there are no pending complaints relating to the charges; and it is further

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

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

ORDERED that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend with

appropriate terms and conditions, or revoke the Respondent's license to practice medicine in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; and it is further

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

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

08/29/2022
Date

Signature On File

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

CONSENT

I, Daniel Carroll Geary, 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

8/25/22
Date

Daniel Carroll Geary, M.D.
Respondent

NOTARY

STATE OF md.

CITY/COUNTY OF St. Marys

I **HEREBY CERTIFY** that on this 25th day of Aug., 2022, before me, a Notary Public of the foregoing State and City/County, did personally appear Daniel Carroll Geary, M.D., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSTH my hand and seal.

BARBARA J. CURRIE
Notary Public
St. Mary's County
Maryland
My Commission Expires Feb. 06, 2024

Barbara J. Currie
Notary Public

My commission expires: 2-6-2024