IN THE MATTER OF	*	**BEFORE THE**
JOHN S. DALTON, II, M.D.	*	**MARYLAND STATE**
Respondent	*	**BOARD OF PHYSICIANS**
License Number: D30542	*	**Case Number: 2016-0489B**

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FINAL DECISION AND ORDER

On September 2, 2016, Disciplinary Panel B of the Maryland State Board of Physicians ("Board") charged John S. Dalton, II, M.D., with unprofessional conduct in the practice of medicine. *See* Maryland Code Annotated, Health Occupations § 14-404(a)(3)(ii). The charges alleged that Dr. Dalton acted unprofessionally in two separate instances.

On March 6, 2017, after a two-day evidentiary hearing before an Administrative Law Judge ("ALJ") at the Office of Administrative Hearings, the ALJ issued a proposed decision concluding that Dr. Dalton was guilty of unprofessional conduct in the practice of medicine. The ALJ recommended suspending Dr. Dalton's medical license for one year, referring him to the Maryland Professional Rehabilitation Program ("MPRP") to assess whether any additional rehabilitative or remedial measures are necessary to address Dr. Dalton's conduct, requiring him to undergo a neurocognitive evaluation, and having him reappear before a Panel of the Board to determine whether any further steps are necessary.

Dr. Dalton filed exceptions, and the State filed a response. On June 14, 2017, Disciplinary Panel A of the Board (the "Panel") held a hearing on Dr. Dalton's exceptions.

FINDINGS OF FACT

Unless stated otherwise, the Panel adopts the ALJ's Proposed Findings of Fact ¶¶ 1-24 and Discussion (pages 7-19), which are incorporated by reference into the body of this document as if set forth in full. *See* attached ALJ Proposed Decision, Exhibit 1. The factual findings were proven by the preponderance of the evidence.

Dr. Dalton was originally licensed to practice medicine in Maryland in 1984, and has continuously renewed his license. He is board-certified in internal medicine and nephrology. At all relevant times to this matter, he maintained a medical office in Catonsville, Maryland, where the incidents occurred.

The charges against Dr. Dalton concerned two separate incidents. The first incident concerns S.W., a personal care assistant, who was working for Company A, a company that provides personal aides to mentally disabled adults. On December 5, 2015, S.W. accompanied Patient A to visit Dr. Dalton, because Patient A was suffering from cold-like symptoms. S.W., who is a Muslim, wore a burqa to the visit.[1]

After conducting a history and physical examination of Patient A, Dr. Dalton asked S.W. if she had heard about the December 2, 2015, shooting attack in San Bernardino, California, where a married couple, who were radical followers of Islam, killed fourteen people and wounded twenty-two. S.W. said that she had not heard of the attack. Dr. Dalton repeatedly asked her if she denounced the attack or supported the attackers' actions. S.W. expressed that the attacks were against the tenets of Islam. Dr. Dalton, nonetheless, lectured her that murder is illegal in the United States. He then criticized her for wearing her burqa in the office. He told S.W. that the attackers were "doing jihad in the name of Allah," and became extremely agitated

[1] A burqa is a head-to-toe outer garment worn by women in some Islamic traditions.

and belligerent. In a raised voice, he repeatedly told her "there will be no jihad in this office," and he slammed a newspaper on the desk.

S.W. asked if Dr. Dalton was finished examining her client, and when he did not answer, she walked into the hallway to call her supervisor to ask how she should handle the situation. S.W. told her supervisor that Dr. Dalton was being unprofessional. Dr. Dalton followed her into the hallway and, with his hand raised, walked towards her and asked, "You said what?" S.W.'s supervisor testified that he heard Dr. Dalton yelling at S.W. while he and S.W. were talking on the telephone. As Dr. Dalton walked towards her, S.W. felt fearful that he would hit her. S.W. asked Dr. Dalton if she could have her client leave with her, and Dr. Dalton told S.W. to leave his office, at which point, he went back into the examination room with Patient A and locked the door. The Supervisor advised S.W. to call the police and call a higher-level supervisor at Company A. S.W. called the police and another Company A supervisor. The police arrived and took statements from S.W. and Dr. Dalton. Another care provider from Company A arrived at Dr. Dalton's office and took home Patient A. S.W. also completed an incident report with her supervisors at Company A.

The second incident concerns S.B., a Certified Nursing Assistant, who worked for Company B, a company which provides medical adult day care for disabled adults, including transportation to medical appointments. On February 22, 2016, S.B. transported Patient B, a wheelchair-bound patient suffering from scabies, a contagious skin condition, to an appointment with Dr. Dalton. S.B. wore gloves around Patient B to avoid skin-to-skin contact. At Dr. Dalton's clinic, after helping Patient B from her wheelchair to the bed, S.B. moved the wheelchair into the hallway and removed her gloves. Shortly after, S.B. heard Dr. Dalton talking, but S.B. thought that Dr. Dalton was talking to the patient. Then Dr. Dalton said to S.B.,

"I said come over here and help me!" Dr. Dalton yelled at S.B. that she needed to help rotate Patient B on the examination table. S.B told him that she needed to put on a pair of gloves first. Dr. Dalton, however, did not wait for her to put on gloves. Instead, he yelled at her to get out of the office and repeatedly pushed her shoulder with his hand. Dr. Dalton then took the wheelchair that was in the hallway and pushed it into the back of S.B.'s legs. S.B. called her supervisor to report what had happened and asked what she should do. At that point, Dr. Dalton had locked Patient B in the room, while S.B. was in the hallway. The Supervisor told her to call the police and sent another employee. The police arrived and took statements from S.B. and Dr. Dalton, and another employee retrieved Patient B.

The ALJ correctly noted that many facts are not in dispute. On both December 5, 2015, and February 22, 2016, Dr. Dalton engaged in verbal confrontations with S.W. and S.B., which resulted in Dr. Dalton "locking their clients in examination rooms" and "both women called the police to aid in de-escalating the situation." Before this Panel, Dr. Dalton states that he disagrees with the specific findings, as found by the ALJ, but admits there is evidence in the record from which the ALJ made her factual findings. In his exceptions, Dr. Dalton does not dispute any of the facts pertaining to the incident with S.W. Dr. Dalton, however, disputes much of the incident with S.B. He denies that he pushed S.B.'s shoulder and that he pushed a wheelchair into S.B. Dr. Dalton notes that he and his assistant both denied that he pushed her or pushed the wheelchair into S.B.

The ALJ noted that S.B.'s supervisor, who was a patient of Dr. Dalton and had a favorable history with him, provided testimony against Dr. Dalton. The supervisor testified that S.B. contemporaneously reported that Dr. Dalton pushed her and pushed a wheelchair into her. S.B. has consistently reported this assault, not only contemporaneously to her supervisor, but

also the same day, to the police, at a Board interview, and during her testimony at the hearing before the ALJ. The ALJ found S.B.'s account credible and not exaggerated. In contrast, the ALJ found Dr. Dalton not credible and found that his assistant was biased because she was a long-time employee of Dr. Dalton.[2] The ALJ heard live testimony from each of the witnesses and accepted S.B.'s testimony as accurate. The Panel has carefully reviewed the testimony and accepts the ALJ's credibility determinations.

CONCLUSIONS OF LAW

Unprofessional conduct includes conduct that is "unbecoming a member in good standing of a profession." *Finucan v. Maryland Bd. of Physician Quality Assur.*, 380 Md. 577, 593 (2004). Here, there is no question Dr. Dalton's conduct was unbecoming a member in good standing of the medical profession.

Based on S.W.'s religious apparel, Dr. Dalton hectored her with inappropriate and offensive queries on whether she agreed with the perpetrators of the San Bernardino shooting. Dr. Dalton's questioning of S.W. about her religious beliefs was offensive, demeaning, and disturbing. His escalation, yelling that "there will be no jihad in this office," is, of course, also unacceptable. Dr. Dalton's behavior was also physically threatening. He followed S.W. and advanced toward her with his hand raised while screaming. Then he locked the patient in an examination room away from his caregiver. His behavior is a clear case of unprofessional conduct.

Then Dr. Dalton's conduct got worse, considering his interaction with S.B. He yelled at S.B., physically intimidated her, and physically pushed her, and pushed a wheelchair into her.

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[2] The Panel does not accept the reasoning that "[Dr. Dalton] has a vested interest in downplaying the negative aspects of his interactions with S.B." ALJ Proposed Decision at 14. Dr. Dalton's credibility should not automatically be found to be diminished by his testifying on his own behalf.

Based on the Findings of Fact, and for the reasons described above, the Panel concludes that Dr. Dalton is guilty of unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(ii).

SANCTION

The ALJ recommended a one-year suspension; referral to MPRP for MPRP to assess whether any additional rehabilitative or remedial measures are necessary to address Dr. Dalton's conduct; a neurocognitive evaluation; and, after the suspension, that he appear before the Panel for a determination of any further steps. Dr. Dalton takes exception to the proposed sanction, arguing that the sanction is excessive and would effectively end his practice and close his clinic. Dr. Dalton discusses the aggravating and mitigating factors from the Board's Sanctioning Guidelines and argues that the sanction is punitive and inconsistent with the mission of the Board.

Dr. Dalton's conduct was egregious and troubling. He admitted having thin skin and being "easily provoked." In his interview with the Board, Dr. Dalton suggested that S.W. provoked him by wearing a burqa in his office. This rationalization is cause for concern. Based on S.W.'s attire, Dr. Dalton initiated a non-germane conversation about the San Bernardino shooting and then escalated the encounter to where he was yelling at and physically intimidating her, ultimately locking her out from the patient she was attending while screaming at her to leave his office. This response to S.W.'s burqa deeply concerns the Panel. As a medical professional, Dr. Dalton must be able to maintain his professionalism and composure even in stressful or confrontational situations. That he became so angry and aggressive towards S.W. based on nothing other than what she was wearing, leads the Panel to have grave concerns about his ability to control himself in situations where any conflict might arise.

His conduct pertaining to S.B. was similarly, if not more, troubling. Dr. Dalton did not deem S.B. sufficiently responsive to his request for help. He responded by yelling, cursing, and physically assaulting her. The Panel finds that Dr. Dalton's behavior was out-of-control, unacceptable, and clear evidence that he needs remediation.

Moreover, Dr. Dalton's inappropriate conduct is not new. The Board issued a Final Decision and Order in 2010, disciplining him for two instances of aggressive behavior, one towards a patient and one towards a patient's family. In this prior decision, the Board issued a suspension but stayed the suspension while he underwent treatment for anger management. Dr. Dalton downplays the prior violation and notes that he was compliant with the terms of that Order and had no incidents between those incidents and the ones at issue in this case. Dr. Dalton argues that the ALJ "essentially ignored" the period between the incident from the 2010 decision and the incidents at issue here. While the Panel is unaware of any incident for this period, his most recent behavior cannot be minimized. In the current case, within a three-month period, Dr. Dalton had two entirely independent incidents where he became so aggressive that the patients' aides had to retreat from Dr. Dalton's advances and call their supervisors and the police.

Dr. Dalton argues that his prior discipline is the only aggravating factor in this case. The Panel finds otherwise. First, Dr. Dalton argues that previous attempts to rehabilitate him were successful. These newest incidents, however, demonstrate the contrary. Dr. Dalton committed similar aggressive and unprofessional conduct, as before, with one that resulted in physical assault. Similarly, Dr. Dalton claims that "[w]hen viewed over the past years, the incidents were isolated." As described above, two incidents, demonstrate repeated, not isolated, conduct.

Finally, Dr. Dalton suggests that a one-year suspension would be a punitive measure, meant to provide justice for the victims' mistreatment and would not advance patient safety. Dr.

Dalton acts, on occasion, with threats, intimidation, and, in one case, acted with physical force. His prior discipline in 2010 was an insufficient deterrent to such conduct. The Panel believes that a minimum six-month suspension is sufficient to protect the public if he is evaluated and deemed safe to practice. The Panel, thus, is requiring that Dr. Dalton enroll in MPRP for evaluation and treatment. The Panel will also suspend Dr. Dalton's license for a minimum of six months. After six months and after MPRP's report regarding whether Dr. Dalton is safe to practice, the Panel will assess MPRP's recommendations and determine whether to reinstate Dr. Dalton's license, and if reinstated, whether to impose any reasonable conditions deemed necessary, potentially including probation and further treatment by MPRP.

ORDER

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

ORDERED that John S. Dalton, II, M.D.'s license to practice medicine in Maryland is **SUSPENDED** for a minimum period of **SIX MONTHS.**[3] The suspension goes into effect on **OCTOBER 2, 2017**, to permit Dr. Dalton sufficient time to help his patients find alternative provider arrangements while his license is suspended; and it is further

ORDERED that Dr. Dalton shall enroll in the Maryland Professional Rehabilitation Program ("MPRP"). By **September 18, 2017**, Dr. Dalton shall contact MPRP to schedule an initial consultation. By **October 2, 2017**, Dr. Dalton shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP. Dr. Dalton shall fully and timely cooperate and comply with all of MPRP's referrals, rules, and requirements, including but not

[3] The suspension will not be terminated if Dr. Dalton fails to renew his license. If Dr. Dalton's license expires while his license is suspended, the suspension period is tolled. COMAR 10.32.02.05C(3).

limited to, the terms and conditions of any Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered into with MPRP and shall fully participate and comply with all therapy, treatment, evaluations, and toxicology screenings as directed by MPRP; and it is further

ORDERED that Dr. Dalton shall sign written release/consent forms, and update them, as required by the Board and MPRP. Dr. Dalton shall sign written release/consent forms to authorize MPRP to make verbal and written disclosures to the Board, including disclosure of any and all MPRP records and files possessed by MPRP; and it is further

ORDERED that, during the suspension period, Dr. Dalton shall undergo an evaluation by MPRP, or its agents, to determine whether he is fit to resume clinical practice and under what conditions, if any; and it is further

ORDERED that, after six months from the beginning of his Suspension, Dr. Dalton may submit a written petition to the Board requesting termination of his suspension. The Administrative Prosecutor may submit a response to the request. Dr. Dalton shall then appear before the Board panel sitting as a Reinstatement Inquiry Panel to determine whether his license should be reinstated from suspension and, if reinstated, what terms and conditions, if any, which may include probation, shall be imposed upon the termination of suspension. The Reinstatement Inquiry Panel shall consider Dr. Dalton's request, the response from the Administrative Prosecutor, any MPRP's reports, MPRP's evaluation regarding whether Dr. Dalton is safe to return to practice, and any information from the Reinstatement Inquiry Panel meeting while making its decision. After consideration of the petition, the suspension may be terminated or continued through an order of the Board panel; and it is further

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

ORDERED that if Dr. Dalton allegedly fails to comply with any term or condition of this Final Decision and Order, Dr. Dalton shall be given notice and an opportunity for a hearing. If 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. If there is no genuine dispute as to a material fact, Dr. Dalton shall be given a show cause hearing before the Board or Panel A; and it is further

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

ORDERED that, unless stated otherwise in the order, any time period prescribed in this Final Decision and Order begins when the Final Decision and Order goes into effect. The Final Decision and Order goes into effect upon the signature of the Board's Deputy Director, who signs on behalf of the Panel; and it is further

ORDERED that this is a public document.

9/11/17
Date

Ellen Douglas Smith, Deputy Director
Maryland State Board of Physicians

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Md. Code Ann., Health Occ. § 14-408(a), Dr. Dalton 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 date on 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 Dr. Dalton 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
Department of Health and Mental Hygiene
300 West Preston Street, Suite 302
Baltimore, Maryland 21201

EXHIBIT 1

MARYLAND STATE	*	**BEFORE LATONYA B. DARGAN,**
BOARD OF PHYSICIANS	*	**AN ADMINISTRATIVE LAW JUDGE**
v.	*	**OF THE MARYLAND OFFICE**
JOHN S. DALTON, II, M.D.,	*	**OF ADMINISTRATIVE HEARINGS**
RESPONDENT,	*	**OAH Case No.: DHMH-MBP-71-16-32064**
LICENSE NO.: D30542	*	**MBP Case No.: 2016-0489B**

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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 September 2, 2016, Disciplinary Panel B (Panel B) of the Maryland State Board of Physicians (Board) issued charges against John S. Dalton, II, M.D., (Respondent) under the Maryland Medical Practice Act (the Act), Maryland Code Annotated, Health Occupations Article, §§ 14-101 through 14-507, and 14-601 through 14-607 (2014 & Supp. 2016). Specifically, the Respondent was charged with being guilty of unprofessional conduct in the practice of medicine. Md. Code Ann., Health Occ., § 14-404(a)(3)(ii) (Supp. 2016). Panel B forwarded the charges to the Office of the Attorney General for prosecution and delegated the matter to the Office of Administrative Hearings (OAH) for the issuance of a proposed decision. COMAR 10.32.02.03E(8), 10.32.02.04B(1).

I held a hearing on December 12 and 13, 2016 at OAH headquarters in Hunt Valley, Maryland. Md. Code Ann., Health Occ. § 14-405(a) (2014); COMAR 10.32.02.04. Robert J. Gilbert, Deputy Counsel, Office of the Attorney General, Health Occupations Prosecution and Litigation Division, represented the State of Maryland (State). Thomas Schetelich, Esquire, represented the Respondent, who was present.

The contested case provisions of the Administrative Procedure Act, the Rules for Hearings before the Board of Physicians, and the Rules of Procedure of the OAH govern this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2016); COMAR 10.32.02; COMAR 28.02.01.

ISSUES

1. Is the Respondent guilty of engaging in unprofessional conduct in the practice of medicine, in violation of § 14-404(a)(3) of the Act; and,
2. If so, what is the appropriate sanction?

SUMMARY OF THE EVIDENCE

Exhibits

A complete exhibit list is attached as an appendix.

Testimony

The State presented the following witnesses: S.W.;[1] S.B., CNA;[2] [redacted] Residential Supervisor, [redacted]; [redacted] Director of Transportation, [redacted] and, Molly Dicken, Compliance Analyst, Maryland Board of Physicians.

[1] The complainant witnesses are identified by their initials to preserve confidentiality.
[2] S.B. is a Certified Nursing Assistant.

The Respondent testified and presented the following witnesses: [redacted] Facility Administrator, [redacted] Executive Director, [redacted] and, [redacted]

PROPOSED FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. At all relevant times, the Respondent was licensed to practice medicine in the State of Maryland, under License No. D30542.
2. The Respondent is board-certified in internal medicine and nephrology. At all relevant times, the Respondent maintained an office for the practice of medicine in Catonsville, Maryland.
3. On December 5, 2015, S.W., employed by an entity called [redacted] was working as a personal care assistant (PCA) for Patient A. Part of S.W.'s duties as a PCA included taking Patient A to and remaining with Patient A during medical appointments.
4. [redacted]'s clients are mentally disabled adults.
5. S.W. is an adherent to the faith of Islam; she has been a practicing Muslim her whole life. In keeping with the tenets of Islam, which partly call for worshipers to conduct themselves with modesty while in public, S.W. wears a burqa, an outer garment which covers her body from head to toe. The particular burqa worn by S.W. has a veil, or niqab, which enables her eyes to be seen even as the rest of her body is covered.
6. On December 5, 2015, S.W. wore a burqa when she escorted Patient A to the Respondent's office for a check up, after Patient A exhibited symptoms consistent with a cold or other respiratory ailment.

7. The Respondent was Patient A's primary care physician.

8. At the outset of Patient A's examination, the Respondent was calm and cordial towards S.W. as he took down Patient A's history.

9. When it was time to conduct the physical examination of Patient A, the Respondent asked S.W. if they could move to the larger exam room and she agreed. Once they were set up in the second room and the Respondent began the physical examination of Patient A, the Respondent asked S.W. if she had heard about the December 2, 2015 shooting attack in San Bernardino, California, in which a married pair of perpetrators, rumored to be radical followers of Islam, opened fire on visitors and workers at the Inland Regional Center, killing fourteen people and wounding twenty-two others.

10. When S.W. responded she had not heard about the San Bernardino attack, the Respondent's demeanor towards her changed. He became agitated and raised his voice, and repeatedly asked her if she denounced the attack, or, alternatively, if she supported the attackers' actions. He remarked about the female attacker wearing a burqa and told S.W. the attackers were "doing jihad in the name of Allah." (State Ex. 4, p. 3.) S.W. tried to tell the Respondent that the attackers' actions were not representative of the teachings of Islam, but the Respondent talked over her, advising her that murder is illegal in the United States, iterating "there will be *no* jihad in this office" multiple times, and criticizing her for "daring" to wear a burqa to his office.

11. Although S.W. made efforts to placate the Respondent, he continued to argue with her about the attackers, jihad in the name of Islam, and her wearing a burqa. S.W. asked the Respondent if he was finished examining Patient A. When the Respondent did not answer, but continued his tirade, S.W. stepped into the hallway outside the examination room to call her supervisor at [redacted] for advice on how to proceed.

12. At some point during her phone call with the supervisor, S.W. indicated the Respondent was behaving unprofessionally towards her, which further agitated the Respondent. In response, he came into the hallway and walked towards S.W. with his hand raised, asking in a loud voice, "What? What did you say?" As the Respondent continued moving towards her, S.W. asked again if the Respondent was finished with Patient A. The Respondent replied by telling S.W. to get out of his office, returning to the examination room, in which Patient A was still waiting, and closing and locking the door to the room.

13. While S.W. and the Respondent were in the hallway, [redacted] the [redacted] supervisor whom S.W. called, could hear the Respondent yelling at S.W. When S.W. advised Mr. [redacted] that the Respondent had locked Patient A inside of the exam room, Mr. [redacted] advised her to call the police and then to call Mr. [redacted] supervisor to report what had happened.

14. S.W. called the police and another [redacted] supervisor to report what occurred. Two uniformed officers eventually arrived on the scene. One officer remained with S.W. to get her account of the events, while the other spoke with the Respondent. The Respondent advised the police officer that he did not want S.W. back in his office.

15. At some point on December 5, 2015, another care provider from [redacted] arrived at the Respondent's office to retrieve Patient A and take him home.

16. S.W. filed an incident report with her supervisors at [redacted] on December 5, 2015 at approximately 10:18 p.m.

17. S.B. is a Certified Nursing Assistant employed by [redacted] a company which provides medical adult day care for disabled adults, including transportation to medical appointments.

18. On February 22, 2016, S.B. was responsible for transporting Patient B, who was wheelchair-bound, to an appointment with the Respondent. On that date, Patient B was suffering from scabies, a contagious skin condition. As a precaution, S.B. wore latex gloves when dealing with Patient B to avoid the spread of the disease.

19. After S.B. and Patient B arrived at the Respondent's office, Patient B had to be lifted from the wheelchair onto the examination table. This was accomplished using a piece of medical equipment referred to as a Hoyer lift. The Respondent advised S.B. to hold onto the wheelchair while Patient B was transferred from the chair to the seat of the Hoyer lift. As the examination room was not large enough to accommodate the lift, the patient, the Respondent and S.B., S.B. moved the wheelchair into the hallway while the Respondent performed his examination of Patient B. S.B. waited in the doorway to the exam room. After placing the wheelchair in the hallway, S.B. removed the gloves she was wearing and discarded them.

20. At some point, the Respondent, in a loud voice, said to S.B., "I *said* come over here and help me!" (Testimony, S.B.) S.B. was surprised because she believed the Respondent was talking to Patient B. The Respondent yelled at S.B. that she needed to assist him in turning Patient B around on the examination table. When S.B. advised the Respondent she needed to put on a pair of gloves first, he yelled at her to "get the fuck out of" the office. (Testimony, S.B.) S.B. advised that she could not leave without Patient B, but the Respondent continued yelling at her to get out of the

office. He advanced towards her, and pushed her in the shoulder with his hand while telling her to get out of the office.

21. S.B. called her supervisor, [redacted] to report what was happening and for advice on how to proceed. At some point, when both she and the Respondent were in the hallway leading to the examination room, the Respondent locked the door to the exam room while Patient B was still inside. At that point, Mr. [redacted] listening over the phone, advised S.B. to call the police, which she did.

22. At some point while S.B. and the Respondent were in the hallway, the Respondent pushed the wheelchair into the back of S.B.'s legs.

23. At some point on February 22, 2016, another employee of [redacted] had to be dispatched to the Respondent's office to retrieve Patient B.

24. The Respondent was previously disciplined by the Board for unprofessional conduct in the practice of medicine in June 2010. The discipline included placement of the Respondent on a three-year period of probation, with eight conditions of probation the Respondent was required to satisfy before he could petition for the termination of his probationary status.

DISCUSSION

Legal Framework

The relevant grounds for reprimand or probation of a licensee, or suspension or revocation of a license under the Act, include the following:

> (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[.]

Md. Code Ann., Health Occ. § 14-404(a)(3)(ii) (Supp. 2016). Unprofessional conduct refers to conduct that breaches rules or ethical codes of professional conduct, or is conduct unbecoming a member in good standing in the profession. *Finucan v. Maryland Bd. of Physician Quality Assurance*, 380 Md. 577, 593 (2004).

In a physician disciplinary proceeding, the Act, at Section 14-405(b)(2), places upon the State the burden of proving its charges by a preponderance of the evidence. For the reasons set forth below, I conclude the State has satisfied its burden with respect to the charges under the Act at § 14-404(a)(3)(ii).

Arguments of the Parties

The State argued the Respondent engaged in unprofessional conduct in the practice of medicine towards both S.W. and S.B., who were acting in their professional capacity as health care workers on the relevant dates. The Respondent was verbally aggressive and physically intimidating towards S.W. on December 5, 2015, and made remarks to her about her religious faith that were bigoted and inappropriate. The Respondent further behaved unprofessionally when he locked Patient A, who was S.W.'s responsibility, in the examination room and refused to give S.W. access to Patient A. By doing this, the Respondent interfered with the relationship between S.B. and Patient A as healthcare worker and client.

According to the State, the Respondent's treatment of S.B. was equally unprofessional. He raised his voice to her, swore at her, advanced towards her in a physically threatening manner and physically assaulted her by pushing her in the shoulder and shoving a wheelchair into her. The Respondent's behavior was an extreme overreaction to his perception that S.B. was not helping him deal with Patient B. Further, the Respondent again interfered in the health care

worker-client relationship when he locked the examination room door while Patient B was still in the exam room, thus separating Patient B from S.B., who was responsible for maintaining custody and control over the patient. The State argued that neither S.W. nor S.B. engaged in any aggravating behavior that made the Respondent's behavior either understandable or justifiable.

As a sanction, the State recommended the following to address the Respondent's behavior: (1) the Respondent undergo a neurocognitive evaluation to determine whether there is an organic, physiological alteration to his cognition which causes him to engage in inappropriate emotional outbursts; (2) the Respondent be suspended for a period of one year; and, (3) the Respondent be referred to the Maryland Professional Rehabilitation Program (MPRP), for MPRP to assess whether any additional remediation or rehabilitation is needed for the Respondent before he returns to the practice of medicine. The State argued such sanctions are appropriate because this is the second time the Respondent has been disciplined for engaging in unprofessional conduct in the practice of medicine. Alternatively, if I find that the Respondent is not capable of being rehabilitated or is not susceptible to remediation measures, the State recommended the revocation of his medical license as an appropriate sanction.

For his part, the Respondent acknowledged that he has "thin skin" (Tr.,[3] p. 364) and can be easily provoked, and he conceded that his behavior towards both S.W. and S.B. escalated into situations that were "regrettable" and "unfortunate." (Tr., p. 438.) The Respondent denied pushing the wheelchair into S.B.'s legs or pushing her in the shoulder. He denied saying the word "fuck" to S.B., although he admitted he felt she was being unhelpful and that was a source of frustration for him. He further admitted he sometimes is not aware of how he comes across to others and thus did not realize how his behavior was perceived by S.W. and S.B.

[3] The abbreviation "Tr." Stands for "transcript."

The Respondent argued a one-year suspension of his license to practice would wreak a significant negative effect not only on him, but on his patients. In addition to his private practice, the Respondent also volunteers a substantial amount of his time to serving as the primary clinician for the [redacted] a Christian, non-profit shelter that services approximately 243 homeless clients in Baltimore City. [redacted]s clientele is diverse, with multiple ethnicities and religious faiths represented among those to whom the shelter provides services. The Respondent is the director of [redacted]s medical clinic. On a weekly basis, he supervises approximately ten to fifteen medical students in providing medical care to [redacted]'s clients. If the Respondent were to be suspended for a year, his private practice would close, as would [redacted]s medical clinic. In short, a suspension of the Respondent's license hurts, rather than helps, the public. The Respondent was willing to accept a referral to the MPRP, and was willing to undergo any other rehabilitative or remedial programming recommended by the Board.

Analysis

Unprofessional Conduct in the Practice of Medicine

I note at the outset there is no dispute between the parties that the Respondent was a licensed physician who was on duty and attending to his professional obligations on December 5, 2015 and February 22, 2016. There is further no dispute that the Respondent engaged in some form of verbal confrontation with S.W. on December 5, 2015 and with S.B. on February 22, 2016, that resulted in (1) him locking their clients in his examination room, out of their reach and sight; and, (2) both women calling the police to aid in de-escalating the situation. At the heart of this case lies the question of whether the Respondent's conduct is properly characterized as unprofessional conduct in the practice of medicine on one or both of the dates in question.

Taking all the presented evidence into consideration, I find it is more likely than not the Respondent engaged in unprofessional conduct towards both S.W. and S.B.

Incident on December 5, 2015

The evidence demonstrates that on December 5, 2015, the Respondent engaged in escalating and inappropriate behavior towards S.W.; the Respondent's behavior, whether he intended it to do so or not, reflected a bias towards S.W.'s religious faith that understandably made her uncomfortable. The Respondent compounded that error in judgment by becoming increasingly verbally aggressive towards S.W., to the point she called her supervisor to report the Respondent's behavior and seek advice on how to proceed. The Respondent further inflamed the situation by interfering with S.W.'s ability to retain custody and control of her client, Patient A, when he locked Patient A in an exam room out of S.B.'s reach and sight, which prompted S.W. to call the police. From the moment the Respondent started questioning S.W. about the attack in San Bernardino to the moment he locked the exam room door, his behavior towards her was the opposite of professional or even reasonable.

S.W. came to the Respondent's practice on December 5, 2015 so her client could be examined in relation to a cold or other respiratory ailment. She was not there to provoke the Respondent, or to submit to an examination about her religious beliefs and practices. Even if it was reasonable for the Respondent to make colloquial "small talk" with S.W. about the week's biggest news event – the San Bernardino attack – it was neither reasonable, nor related to the purpose of her visit, for the Respondent to ask her if she denounced the attackers' actions or to lecture her about the laws of the United States. In his testimony, the Respondent explained that he believed it was his duty to advise S.W. that under the laws of the United States, it is illegal to murder people. (Tr., pp. 374-376; State Ex. 8.) The Respondent conceded he had no reason to believe S.W. was planning to murder anyone, but he persisted that he believed it was appropriate

for him, as a "respected doctor in the community" to "vet" S.W. about her religious beliefs and to warn her that regardless of the teachings of her religion, murder is not permissible in the United States. (Tr., pp. 395, 399-400.)

The Respondent did not dispute that he locked Patient A in the exam room, out of S.W.'s reach and sight. According to him, he did so because he thought it was rude of S.W. to make a call on her cell phone in his consultation room, and he was upset she told the person to whom she was speaking that the Respondent was behaving unprofessionally. The Respondent seemed wholly unable to draw any correlation between (1) his decision to question S.W. about her religious beliefs and to counsel her about the inappropriateness of committing murder and, (2) S.W.'s assessment of him as unprofessional and inappropriate.

The Respondent characterized his interactions with S.W. as a misunderstanding between the two of them. I disagree. The Respondent made unfounded and, frankly, bigoted assumptions about S.W. based on the fact of her religiously-mandated attire and, further, *he communicated those bigoted, unfounded assumptions to her*. She did not misunderstand what he was doing and she understandably found it to be discomfiting. That action, standing alone, could merely be a lack of interpersonal sensitivity on the Respondent's part. That action was not, however, the only one the Respondent engaged in. He raised his voice at S.W., to include admonishing her for wearing a burqa to his office. He physically advanced on her while she was on the phone with Mr. [redacted] his voice raised loud enough for Mr. [redacted] to hear everything he said through the phone. He slammed the door to the exam room containing Patient A so loudly that Mr. [redacted] heard it over the phone. The Respondent's behavior towards S.W. was so upsetting to her that by the time she called Mr [redacted] she was in tears. (Testimony, [redacted] The Respondent engaged in all of this conduct in front of Patient A.

There is no reasonable explanation for the Respondent's behavior. There was no basis for him to assume S.W. was involved in or approved of the San Bernardino attacks. There was no basis for him to believe that because of her religious affiliation, she was in any way ignorant of the laws of the United States. It was not appropriate for him to "vet" her; she was not in his office on a social call. By questioning S.W. about her religious beliefs, lecturing her on the inappropriateness of committing murder, raising his voice at her multiple times because her answers were apparently not satisfactory to him, and interfering with her custody and control over her client, the Respondent behaved unprofessionally towards S.W. on December 5, 2015. He was clearly practicing medicine at the time of the incident, as all of the conduct occurred within the context of his examination of Patient A.

Incident on February 22, 2016

The evidence demonstrates the Respondent engaged in unprofessional conduct towards S.B. on February 22, 2016. He raised his voice at her, physically advanced on her in an intimidating manner, told her to get out of his office, and locked her client, Patient B, in his examination room, out of her reach and sight. S.B. felt compelled to call the police once the Respondent locked Patient B inside an examination room.

The Respondent disputed some of S.B.'s characterization of events and argued that her recall of their interactions was exaggerated. Specifically, the Respondent denied pushing a wheelchair into S.B.'s legs, pushing her in the shoulder, and telling her to "get the fuck out of" his office. He conceded, however, that he felt S.B. was not helpful with Patient B and, as a result, he became frustrated with her.

I find S.B.'s account of what occurred on February 22, 2016 to be credible and not exaggerated. According to S.B., she had been to the Respondent's office with clients on two occasions prior to February 22, 2016. There is no evidence of any history between the two of them that indicates S.B. has a bias against the Respondent or any motive to falsely accuse him of wrongdoing. [redacted] who is S.B.'s supervisor at [redacted] corroborated S.B.'s testimony that the Respondent pushed her and pushed a wheelchair into her legs. According to Mr. [redacted] S.B. called him on February 22, 2016, in tears, and advised him (1) someone needed to come retrieve Patient B from the Respondent's office, and (2) the Respondent pushed her and hit her with a wheelchair. (Tr., p. 132.)

Contrary to the Respondent's argument that S.B. is the only person who testified about the wheelchair, Mr. [redacted] corroborated S.B. on this point, and he indicated she made the report to him contemporaneously with the incident. Critically, Mr. [redacted] has a favorable history with the Respondent; the Respondent used to be his physician. That Mr. [redacted] despite a favorable history with the Respondent, nevertheless provided negative testimony about the Respondent, lends credibility to S.B.'s assertion the Respondent pushed her and struck her with a wheelchair. I give more weight to the testimony of S.B. and Mr. [redacted] than I do to either the Respondent or [redacted] who both claimed the Respondent never touched S.B. in any manner. The Respondent has a vested interest in downplaying the negative aspects of his interactions with S.B. Ms. [redacted] is the Respondent's longtime employee[4] and, therefore, likely has a favorable bias towards the Respondent. I find it more likely than not that the Respondent pushed S.B. in the shoulder and pushed the wheelchair into S.B. while in the process of yelling at her to get out of his office.

[4] Ms. [redacted] testified she has worked with the Respondent for eight years.

The Respondent further challenged S.B.'s assertion he cursed at her while telling her to get out of his office; according to the Respondent and his witnesses, he never uses the f-word. Mr. [redacted] testified that while he was on the phone with S.B., he heard the Respondent say "I want her out of my office. I want her out of my damn office." (Tr., p. 132.) I find the question of which profane words the Respondent may have used on February 22, 2016 to be immaterial to a finding that he engaged in unprofessional conduct in the practice of medicine on that date. Regardless of what he might have said while doing so, the evidence is clear the Respondent vehemently insisted S.B. get out of his office. S.B. testified he repeatedly told her to leave and Mr. [redacted] overheard the Respondent insisting S.B. needed to leave the office. The Respondent became frustrated with what he perceived to be S.B.'s unwillingness to assist him with Patient B. (Tr., p. 324.) Rather than calmly repeat his request, or explain to her why he needed her assistance, he became irate and started yelling at her to leave his office. He compounded his poor judgment in this regard by locking Patient B in the examination room, out of the reach and sight of S.B. By doing this, the Respondent unjustifiably interfered with S.B.'s custody and control over her client, a move that necessitated S.B. calling the police.

The Respondent's behavior on February 22, 2016 was unprofessional. Even if he was frustrated with S.B., it was not appropriate to express that frustration by yelling at her, physically intimidating her, physically assaulting her, and preventing her from retaining custody and control of Patient B, who was ultimately her responsibility. The Respondent's behavior was so out-of-line that S.B. called her supervisor and the police as a means of attempting to deal with him. He was practicing medicine at the time of the incident, as all of the conduct occurred within the context of his examination of Patient B. For these reasons and those discussed above, I find the State has satisfied its burden to demonstrate that on December 5, 2015 and February 22, 2016, the Respondent violated Section 14-404(a)(3)(ii) of the Act.

Sanctioning Recommendation

Having found the State proved the Respondent engaged in unprofessional conduct in the practice of medicine, I now turn to the question of what sanction, if any, is appropriate. The State recommended a one-year suspension of the Respondent's license, along with a referral to the MPRP. The State further recommended the Respondent submit to a neurocognitive evaluation, the results of which could enable the Board to address his conduct more decisively. Alternatively, if I find there is no purpose in attempting remediation, the State recommended a revocation of the Respondent's license.

The Respondent recommended a sanction that is remedial or rehabilitative in nature and argued a lengthy suspension would essentially be the end of his career as a physician. The Respondent is willing to be referred to the MPRP and willing to comply with any conditions or requirements imposed by the Board and related to addressing his propensity for being easily provoked. The Respondent further indicated that he has enrolled in an anger management program (*see* Resp. Ex. 6) and he is willing to submit to a neurocognitive evaluation.

The guiding regulations in this matter, found at COMAR 10.09.32.09B, provide in pertinent part as follows:

> B. Aggravating and Mitigating Factors.
>
> (1) Depending on the facts and circumstances of each case, and to the extent that the facts and circumstances apply, the disciplinary panel may consider the aggravating and mitigating factors set out in §B(5) and (6) of this regulation and may in its discretion determine, based on those factors, 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.
>
> ...
>
> (5) Mitigating factors may include, but are not limited to, the following:
>
> (a) The absence of a prior disciplinary record;
> (b) The offender self-reported the incident;

(c) The offender voluntarily admitted the misconduct, made full disclosure to the disciplinary panel and was cooperative during the disciplinary panel proceedings;
(d) The offender implemented remedial measures to correct or mitigate the harm arising from the misconduct;
(e) The offender made good faith efforts to make restitution or to rectify the consequences of the misconduct;
(f) The offender has been rehabilitated or exhibits rehabilitative potential;
(g) The misconduct was not premeditated;
(h) There was no potential harm to patients or the public or other adverse impact; or
(i) The incident was isolated and is not likely to recur.

(6) Aggravating factors may include, but are not limited to, the following:

(a) The offender has a previous criminal or administrative disciplinary history;
(b) The offense was committed deliberately or with gross negligence or recklessness;
(c) The offense had the potential for or actually did cause patient harm;
(d) The offense was part of a pattern of detrimental conduct;
(e) The offender committed a combination of factually discrete offenses adjudicated in a single action;
(f) The offender pursued his or her financial gain over the patient's welfare;
(g) The patient was especially vulnerable;
(h) The offender attempted to hide the error or misconduct from patients or others;
(i) The offender concealed, falsified or destroyed evidence, or presented false testimony or evidence;
(j) The offender did not cooperate with the investigation; or
(k) Previous attempts to rehabilitate the offender were unsuccessful.
...

The State argued the existence of a significant aggravating factor – the Respondent was previously disciplined for unprofessional conduct in the practice of medicine as a result of engaging in aggressive, emotional outbursts towards patients. According to the State, a stricter sanction is required this time to (1) dissuade other physicians from engaging in similar misconduct towards either patients or fellow health care professionals, and (2) ensure the

complainants feel as though they received justice for their mistreatment by the Respondent. As the State noted, "If the Board does not take strong action to ferret out unprofessional conduct, the public will be dispirited. It will think that its public bodies that regulate the profession aren't addressing serious situations in a serious way." (Tr., p. 443.)

I am mindful that the Respondent successfully completed the terms of probation associated with the previous disciplinary order of the Board. I am further mindful that the Respondent has a thriving private practice and a substantial voluntary practice, which have a significant combined patient population served by the Respondent. I believe the Respondent to be a dedicated physician who derives meaningful personal and professional satisfaction from working with his patients. I am, however, troubled by the Respondent's inability to see how truly inappropriate his conduct was towards S.W. and S.B. Although he conceded that after hearing S.W. testify he came to understand her better, it was clear from his testimonial responses, as well as his responses to the Board's investigative inquiries, that he saw nothing amiss in his attempt to "vet" her about her religious beliefs and to counsel her about the laws of the United States. He failed to see how his behavior directly contributed to her assessment of him as unprofessional, and he had no insight into the complete inappropriateness of interfering with her control and custody of her client. Patient A was in no danger from S.W.; there was simply no good reason for the Respondent to lock Patient A out of S.W.'s reach and sight on December 5, 2015. Although the Respondent acknowledged he could have handled himself better on that date, he did not seem to understand the particulars of his errors in decorum, judgment and professionalism.

The Respondent was even more intransigent in his belief there was nothing amiss in his behavior with S.B. He seemed to think his frustration at her perceived unwillingness to help him with Patient B justified his decision to order her out of his office and, again, to interfere with her custody and control of her client. He dismissed her recounting of the events of February 22, 2016 as "seventy-five percent ... a lie." (Tr., p. 330.) He downplayed the seriousness of S.B.'s allegations against him by insisting they were exaggerated.

I agree with the State that given the repeat nature of the Respondent's misconduct a more serious sanction than the one imposed in June 2010 is appropriate. The Respondent's behavior on December 5, 2015 and February 22, 2016 was without justification and was disproportionate to whatever provocations he may have perceived S.W. and S.B. to have committed. Regardless of whether they were rude to him initially – and I have not found that they were – the Respondent, as a licensed professional, nevertheless had a responsibility to maintain his composure and to conduct himself in a manner befitting his profession. He was previously sanctioned for behaving unprofessionally and thus, he was aware of the kind of behavior the Board considered to be beyond-the-pale. Based on the totality of the evidence, I find the State's recommendation to be reasonable and appropriate, and the Respondent should be suspended for one year, referred to the MPRP for assessment, and should undergo a neurocognitive evaluation. I further agree that upon the lapse of the suspension period, the Respondent should return to a disciplinary panel of the Board to determine if additional measures are necessary.

PROPOSED CONCLUSIONS OF LAW

Based on the Proposed Findings of Fact and Discussion, I conclude as a matter of law that the Respondent is guilty of unprofessional conduct in the practice of medicine as a result of his behavior towards S.W. on December 5, 2015 and towards S.B. on February 22, 2016. Md. Code Ann., Health Occ., § 14-404(a)(3)(ii) (Supp. 2016).

I further conclude as a matter of law that a one-year suspension of the Respondent's medical license, referral to the MPRP, and a neurocognitive evaluation constitute reasonable and appropriate sanctions. Md. Code Ann., Health Occ., § 14-404(a) (Supp. 2016).

PROPOSED DISPOSITION

I **PROPOSE** that the Maryland State Board of Physicians' September 2, 2016 charges against the Respondent be **UPHELD.**

I further **PROPOSE** as follows:

1. The Respondent's license to practice medicine be suspended for one (1) year;
2. The Respondent be referred to the Maryland Professional Rehabilitation Program for the MPRP to assess whether any additional rehabilitative or remedial measures are necessary to address the Respondent's conduct;
3. The Respondent submit to a neurocognitive evaluation, the results of which will be shared with the Maryland State Board of Physicians; and,
4. At the conclusion of the one-year suspension, the Respondent shall appear before a disciplinary panel of the Board so a determination can be made as to whether any further steps are necessary.

March 6, 2017
Date Decision Mailed

Latonya B. Dargan
Latonya B. Dargan
Administrative Law Judge

LBD/sw
#166859

NOTICE OF RIGHT TO FILE EXCEPTIONS

Any party may file written exceptions to this proposed decision with the disciplinary panel of the Board of Physicians and request a hearing on the exceptions. Md. Code Ann., State Gov't § 10-216 (2014). Exceptions must be filed within fifteen (15) days from the date 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 opposing party will have fifteen (15) days from the filing of exceptions to file a written response. *Id.* The response must be addressed as above. *Id.*

The Office of Administrative Hearings 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

Robert J. Gilbert, Deputy Counsel
Health Occupations Prosecution and Litigation Division
Office of the Attorney General
300 West Preston Street, Room 201
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

Thomas Schetelich, Esquire
Ferguson, Schetelich & Ballew, P.A.
1401 Bank of America Center
100 South Charles Street
Baltimore, MD 21201

John S. Dalton, II, MD
[redacted]

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

MARYLAND STATE	*	BEFORE LATONYA B. DARGAN,
BOARD OF PHYSICIANS	*	AN ADMINISTRATIVE LAW JUDGE
v.	*	OF THE MARYLAND OFFICE
JOHN S. DALTON, II, M.D.,	*	OF ADMINISTRATIVE HEARINGS
RESPONDENT,	*	OAH Case No.: DHMH-MBP-71-16-32064
LICENSE NO.: D30542	*	MBP Case No.: 2016-0489B

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

APPENDIX

I admitted the following exhibits for the State:

State Ex. 1: The Respondent's licensing information

State Ex. 2: Final Decision and Order, Case Nos.: 2008-0550 and 2009-0815, dated June 28, 2010

State Ex. 3: Order Terminating Suspension and Probation, dated October 4, 2013

State Ex. 4: Complaint from S.W., dated December 23, 2015

State Ex. 5: Baltimore County Police Department, Incident Report, dated December 5, 2015

State Ex. 6: Baltimore County Police Department, Incident Report, dated February 22, 2016

State Ex. 7: Medical Record for Patient A, dated December 5, 2015

State Ex. 8: The Board's letter to the Respondent, dated April 6, 2016

State Ex. 9: The Respondent's letter to the Board, responding to the complaint, dated April 14, 2016

State Ex. 10: Transcription of interview with S.W., dated March 24, 2016

State Ex. 11: Transcription of interview with S.B., dated March 25, 2016

State Ex. 12: Transcription of interview with [redacted] dated April 6, 2016

State Ex. 13: Not Admitted[1]

State Ex. 14: Not Offered

State Ex. 15: Transcription of interview with the Respondent, dated July 14, 2016

State Ex. 16: Transcription of interview wit[redacted] dated July 15, 2016

State Ex. 17: Report of Board investigation, dated September 1, 2016

State Ex. 18: The Respondent's letter to the Board, dated October 5, 2016

State Ex. 19: Charges Under the Maryland Medical Practice Act, dated September 2, 2016

State Ex. 20: Excerpt, American Medical Association Code of Ethics

I admitted the following exhibits for the Respondent:

Resp. Ex. 1: The Respondent's personnel file, [redacted]

Resp. Ex. 2: Transcription of interview with [redacted]

Resp. Ex. 3: Not Offered

Resp. Ex. 4: Photograph of office door

Resp. Ex. 5: Not Offered

Resp. Ex. 6: Information about University Psychological Center, Inc.

[1] State Exhibit 13 was offered, but an objection was made to its admission which I sustained. I retained the exhibit to preserve the record, but I did not consider it in rendering this proposed decision.