

**MARYLAND BOARD OF PHYSICIANS  
PANEL A  
OPEN MEETING MINUTES  
February 8, 2017**

The Maryland Board of Physicians (“the Board”) met Wednesday, February 8, 2017 at 9:05 a.m. with the following members present:

**Present in Board Room (Panel A)**

Arun Bhandari, M.D., Chair  
Brenda G. Baker, Consumer Member  
Lisa Burgess, M.D.  
Marie-Alberte Boursiquot, M.D.  
Gary J. Della’Zanna, D.O.  
Jon Frank, Consumer Member  
Charles Gast, Consumer Member  
Ira Kornbluth, M.D.  
Celeste M. Lombardi, M.D.  
Kevin Pereira, M.D.  
Robert P. Roca, M.D.

**Present via Conference Call (Panel B)**

Jonathan Lerner, PA-C, Secretary – Panel B  
Edward J. Brody, Consumer Member  
Jacqueline Golden, Consumer Member  
Avril M. Houston, M.D.  
Mark D. Olszyk, M.D.  
Beryl J. Rosenstein, M.D.  
Martha Schaerr, Consumer Member  
Thomas M. Walsh, M.D.

**ABSENT :** Damean W.E. Freas, D.O., Board Chair; Alexis J. Carras, M.D.; Jacek Mostwin, M.D.

**STAFF PRESENT:** Christine Farrelly, Executive Director; Stacey Darin, Assistant Attorney General; David Finkler, Assistant Attorney General; David Wagner, Assistant Attorney General; Noreen Rubin, Assistant Attorney General; Gage Blair, Probation Analyst; Lisa Dorsey, Licensure Analyst; Yemisi Koya, Director; Angela Gaither, Management Associate; Doreen Noppinger, Investigations Supervisor; Dierdra Rufus, Licensures Supervisor; Maureen Sammons, Intake Manager; Colette Satterfield, DCCR Administrative Support; Nicholas Smith, IT Support; Mark Woodard, Health Policy Analyst

**GUESTS:** None

**CALL TO ORDER**

Dr. Bhandari called the meeting to order at 9:05 a.m.

**ACTION AGENDA**

**Open Meeting Minutes**

Panel A Minutes - December 7, 2016

*On a motion made by Dr. Della’Zanna, and seconded by Dr. Burgess, the Panel voted unanimously to **APPROVE** the Panel A December 7, 2016 open meeting minutes.*

## **Policy**

### Revisions to the Conceded Eminence Regulations

Mark Woodard, Health Policy Analyst, reported on the revisions to the conceded eminence regulations. The Board agreed with the revisions and added a requirement for physicians licensed by conceded eminence to complete at least 50 Category I hours of continuing medical education for subsequent renewals.

*On a motion made by Dr. Della'Zanna, and seconded by Dr. Pereira, the Panel voted unanimously to **APPROVE** the addition to the Revisions to the Conceded Eminence Regulations.*

## **Board Counsel Report**

### North Carolina Dental Bill

House Bill (HB) 628 authorizes the Office of Administrative Hearings (OAH) to provide the active supervision and review of health occupations boards' actions required by the North Carolina Dental opinion issued by the United States Supreme Court in 2015. The Board could consider supporting the proposed bill with amendments to address its concerns about: (1) inherent conflicts of interest; (2) appropriate training and standards for review by a separate (OAH) unit independent from the unit that hears contested cases; (3) responsibility for costs to be borne by individual boards; and (4) specific exceptions for types of board actions not subject to review.

Board Counsel asked the Board for their conditional approval on the amendments to HB 628.

*On a motion made by Dr. Della'Zanna, and seconded by Dr. Bhandari, the Panel voted unanimously to conditionally **APPROVE** amendments to HB 628.*

### Dr. Michael Basco vs. Maryland Board of Physicians

Dr. Michael Basco v. Board of Physicians, Circuit Court of Charles County, Case No. 08-C-16-000225; Board Case No. 2014-0045

Disciplinary Panel B charged Dr. Basco, an OB/Gyn, with unprofessional conduct in the practice of medicine after a Board investigation found that he engaged in sexual misconduct by touching a female patient in a sexual manner and putting ice down a coworker's pants. After an eight-day hearing in 2015, the administrative law judge (ALJ) found that Dr. Basco had directed and assisted one female patient in lifting her shirt, placed a stethoscope on her chest and handled her breasts while positioning the stethoscope. He then lowered her pants, exposed her buttocks, felt her spine in several places and after pulling up her pants, told her "you look cute and everything is fine."

Regarding another patient, the ALJ found her perceptions of sexual contact unreliable, because she was under the anesthetic Ketamine when it reportedly occurred. The ALJ also found that he acted unprofessionally by putting ice down the pants of the co-worker in his office, which the

ALJ noted was behavior that degrades the atmosphere of professionals in the office, diminishes the safety of a medical environment, and reflects poorly on the medical profession. The Panel upheld the ALJ's findings and conclusions.

As a sanction, the Panel suspended Dr. Basco's license for six months. He was required to take an ethics course on sexual boundary violations and enroll in the Maryland Professional Rehabilitation Program (MPRP) for evaluation and treatment until the MPRP determined he did not pose a risk to patient safety, after which he could petition to terminate the suspension. Dr. Basco petitioned for judicial review of the decision.

The circuit court of Charles County affirmed Panel B's decision, holding that there was substantial evidence to support the Panel's decision, in that the patient's testimony was credible and his testimony and that of his witnesses was not. The Court also held that the Panel had properly considered Dr. Basco's disciplinary history and consent orders as probative of the appropriate sanction in this case because the Board's regulations permit it to consider aggravating or mitigating factors. In Dr. Basco's case, the introduction of a prior disciplinary record was not used to determine his guilt but to fashion an appropriate sanction.

#### **BOARD VOTE TO CLOSE SESSION**

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***CLOSED SESSION: "Pursuant to Maryland General Provisions Article §3-305(b)(13)., on a motion made by Dr. Della'Zanna, and seconded by Ms. Baker, the Board unanimously voted to close its meeting on February 8, 2017 at 9:17 a.m., in room 100 for the purpose of complying with the Maryland Medical Practice Act that prevents public disclosures about particular proceedings or matters. Pursuant to Md. Hth. Occ. Ann. §§14-411 (a) and (b), the Board is prohibited from disclosing any information contained in a proceeding record or file of the Board."***

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#### **SUMMARY OF CLOSED SESSION:**

There were two Hearings, one Show Cause, and one Exceptions Hearing. There were six Charging Cases for Disciplinary Panel A, and one Default Final Order. The Panel approved the closed meeting minutes for the December 7, 2016 Panel meeting.

Submitted by,

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Arun Bhandari, M.D.  
Chair, Panel A

Date