VIRGINIA:

BEFORE THE DEPARTMENT OF HEALTH PROFESSIONS

IN RE: MICHAEL ANGELO BASCO, M.D.
License No.: 0101-250243

ORDER

In accordance with Section 54.1-2409 of the Code of Virginia (1950), as amended, ("Code"), I, Dianne L. Reynolds-Cane, M.D., Director of the Virginia Department of Health Professions, received and acted upon evidence that the license of Michael Angelo Basco, M.D., to practice medicine in the State of Maryland was summarily suspended by an Order for Summary Suspension of License to Practice Medicine entered May 29, 2013. A certified copy of the Order for Summary Suspension of License to Practice Medicine (with attachment) is attached to this Order and is marked as Commonwealth's Exhibit No. 1.

WHEREFORE, by the authority vested in the Director of the Department of Health Professions pursuant to Section 54.1-2409 of the Code, it is hereby ORDERED that the license of Michael Angelo Basco, M.D., to practice medicine and surgery in the Commonwealth of Virginia be, and hereby is, SUSPENDED.

Upon entry of this Order, the license of Michael Angelo Basco, M.D., will be recorded as suspended and no longer current. Should Dr. Basco seek reinstatement of his license pursuant to Section 54.1-2409 of the Code, he shall be responsible for any fees that may be required for the reinstatement and renewal of his license prior to issuance of his license to resume practice.

Pursuant to Sections 2.2-4023 and 54.1-2400.2 of the Code, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public inspection and copying upon request.

D. Reynolds-Cane MD

Dianne L. Reynolds-Cane, M.D., Director
Department of Health Professions

ENTERED: 7-24-13

COMMONWEALTH of VIRGINIA

Dianne L. Reynolds-Cane, M.D.
Director

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

www.dhp.virginia.gov
TEL (804) 367- 4400
FAX (804) 527- 4475

CERTIFICATION OF DUPLICATE RECORDS

I, Dianne L. Reynolds-Cane, M.D., Director of the Department of Health Professions, hereby certify that the attached Order for Summary Suspension of a License to Practice Medicine (with attachment) entered May 29, 2013, regarding Michael Angelo Basco, M.D., are true copies of the records received from the State of Maryland Board of Physicians.

D. Reynolds-Cane MD Date: 7-24-13

Dianne L. Reynolds-Cane, M.D.

IN THE MATTER OF	*	**BEFORE THE**
MICHAEL A. BASCO, M.D.	*	**MARYLAND STATE**
Respondent	*	**BOARD OF PHYSICIANS**
License Number: D72935	*	**Case Numbers: 2013-0723 and 2013-0853**

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

ORDER FOR SUMMARY SUSPENSION OF LICENSE TO PRACTICE MEDICINE

The Maryland State Board of Physicians (the "Board") hereby **SUMMARILY SUSPENDS** the license of **MICHAEL A. BASCO, M.D.** (the "Respondent") (D.O.B., 10/05/1959), License Number D72935, to practice medicine in the State of Maryland. The Board takes such action pursuant to its authority under Md. State Gov't Code Ann. § 10-226(c)(2009 Repl. Vol. and 2012 Supp.), concluding that the public health, safety or welfare imperatively requires emergency action.

INVESTIGATIVE FINDINGS

Based on information received by, and made known to the Board, and the investigatory information obtained by, received by and made known to and available to the Board, including the instances described below, the Board has reason to believe that the following facts are true:[1]

BACKGROUND

1. At all times relevant hereto, the Respondent was licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice

[1] The statements regarding the Respondent's conduct are intended to provide the Respondent with notice of the basis of the summary suspension. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

medicine in Maryland on August 17, 2011, under License Number D72935. The Respondent's license is scheduled for renewal on September 30, 2014

2. The Respondent is board-certified in obstetrics and gynecology.

3. At all times relevant hereto, the Respondent was affiliated with Associates in OB/GYN Care, LLC ("OB/GYN Care"), a practice that provides abortion services at offices located in Baltimore, Frederick, Cheverly and Silver Spring.

4. The Board initiated an investigation of the Respondent after reviewing recent actions the Maryland Office of Health Care Quality ("OHCQ")[2] took against OB/GYN Care. OHCQ summarily suspended the licenses of three of OB/GYN Care's offices on or about March 5, 2013, and suspended the licenses of all four of its offices on May 9, 2013, for violations of the State's surgical abortion facility regulations. *See* Code Md. Regs. ("COMAR") tit. 10, §§ 12.01.01 *et seq.*

5. OHCQ determined that OB/GYN Care's continuing violations of the State's surgical abortion facility regulations placed patients at risk of serious harm or death. OHCQ ordered that OB/GYN Care immediately cease providing surgical abortions after its investigation determined that the public health, safety or welfare imperatively required emergency action.

6. The Respondent provided abortion services at OB/GYN Care's offices during the time of OHCQ's survey in February 2013 and was also the sole physician on duty during an incident that occurred at the Baltimore office on May 4, 2013, when the OHCQ found that the facility "was not equipped to complete a procedure safely . . .

[2] OHCQ licenses and certifies state health care facilities and monitors the quality of care in those facilities. OHCQ monitors state health care facilities under its jurisdiction for compliance with all applicable state and federal regulations.

failed to implement a safe discharge plan for the patient . . . [which] . . . could have resulted in serious or life-threatening harm or death to the patient."

7. After reviewing these investigative findings, the Board issues this Order for Summary Suspension pursuant to Md. State Gov't Code Ann. § 10-226(c)(2). The Board concludes that the Respondent's actions constitute a substantial likelihood of risk of serious harm to the public health, safety and welfare, which imperatively requires the immediate suspension of his license to practice medicine.

OHCQ Investigation

8. OHCQ initially inspected OB/GYN Care's surgical abortion facilities in February 2013, during which time it found that OB/GYN Care committed numerous violations of the State's surgical abortion facility regulations. After considering these findings, the Secretary of the Department of Health and Mental Hygiene summarily suspended the licenses of OB/GYN Care's Baltimore, Cheverly and Silver Spring offices, concluding that there was a threat to the public health and safety.

9. OHCQ found that OB/GYN Care's Cheverly facility was in violation of COMAR 10.12.01.09 because (a) the pads of its Automated External Defibrillator ("AED") expired in 2008; (b) the clinical nurse on site did not know how to use the AED and suction machine; (c) the District Manager admitted to the surveyor that the nurses had not been trained on the use of the AED and suction machine; and (d) the suction machine did not work because an adapter was missing.

10. OHCQ found that OB/GYN Care's Baltimore and Silver Spring locations violated COMAR 10.12.01.07A and B by failing to perform surgical abortion services in a safe manner and by failing to develop appropriate post-anesthesia procedures and

protocols. During the survey, OHCQ inspectors evaluated the Respondent's performance of an abortion on February 26, 2013, at the Silver Spring office. OHCQ investigators found that the Respondent left a patient unattended for a period of time after he administered conscious sedation to her and performed an abortion, which constituted a violation of COMAR 10.12.01.07B(4).

11. The Secretary subsequently lifted the suspensions of the clinics' licenses pending OB/GYN Care's submission of acceptable written correction plans. To date, however, OB/GYN Care has not filed acceptable plans of correction for all of the deficiencies at each site. In addition, OB/GYN Care has not responded to repeated telephone calls and emails from OHCQ and is thus not in compliance with the regulations for abortion facilities in this State.

12. OHCQ then received an anonymous complaint, dated May 7, 2013, regarding treatment a patient (the "Patient") received at OB/GYN Care's Baltimore office on May 4, 2013, when the Respondent was scheduled to perform surgical abortions.

13. The complaint stated that the Patient presented to OB/GYN Care's Baltimore office on May 4, 2013, for a scheduled appointment for an abortion. At the time, no physician was on site.

14. An OB/GYN Care employee asked the Patient to complete the initial paperwork. The same employee, who holds no health care license or certification, then performed an ultrasound on the Patient that revealed multiple gestations. The employee had no training or demonstrated competency in performing ultrasounds. The employee then asked the Patient to sign a form giving consent for a surgical abortion and for the administration of misoprostol, a medication that is used to induce abortions.

The employee administered the misoprostol to the Patient when no physician was present in the facility and before any physician or licensed health care professional had any contact with the Patient.

15. The Respondent then arrived at the office and determined that the Patient, due to multiple gestations, had a 22-week sized uterus. The Respondent declined to complete a surgical abortion, stating that the facility was not equipped to perform the procedure safely.

16. The Respondent verbally offered the Patient three options: (a) The Patient could travel in two days to OB/GYN Care's Frederick office for the administration of laminaria, a type of seaweed that is used to dilate the cervix, and additional misoprostol, with follow-up the following day in OB/GYN Care's Baltimore facility for a dilatation and curettage ("D & C") and follow-up the day after that in OB/GYN Care's Cheverly or Silver Spring office for a second D & C, if needed; (b) An OB/GYN Care employee could transport the Patient to a site in New Jersey where a surgical abortion could be performed with the Patient under general anesthesia; or (c) The Respondent could attempt to identify a local hospital that could complete a surgical abortion procedure.

17. The Patient reportedly chose the first option and left the facility. OB/GYN Care staff provided no written discharge instructions. The Patient's medical record did not accurately describe what occurred and what was discussed with the Patient during the encounter. Later that day, the Patient presented to another facility that was not associated with OB/GYN Care, where the staff completed a surgical abortion procedure with no reported complications.

18. The Respondent practiced in an environment in which unlicensed/untrained office staff were allowed to perform physical examinations including ultrasounds, evaluated fetal gestational age, and provided medications to patients to promote abortions. OB/GYN Care staff admitted to OHCQ surveyors that OB/GYN Care's standard protocol was to administer misoprostol to all patients at 11 weeks' gestation or beyond, even if the patient had not been evaluated by a physician, and even if no physician was available on site. OHCQ investigators interviewed the Respondent, who stated all OB/GYN Care offices follow this standard protocol.

19. OHCQ investigation determined that OB/GYN Care initiated a surgical abortion in a facility that was not equipped to complete the procedure safely. In addition, OB/GYN Care failed to implement a safe discharge plan for the Patient. These deficiencies constitute violations of COMAR 10.12.01.07A and 10.12.01.01A, which could have resulted in serious or life-threatening harm or death to the Patient.

20. On May 8, 2013, OHCQ inspectors went to OB/GYN Care's Baltimore office during the facility's reported hours of operation to investigate the complaint. The office was closed at that time in violation of COMAR 10.12.01.04A(2).

21. The Respondent provided abortion services at OB/GYN Care during which time its offices violated numerous provisions of the State's surgical abortion facility regulations, which could have resulted in serious or life-threatening harm of death to patients. To date, OB/GYN Care has not submitted satisfactory plans of correction to address these deficiencies. Thus, the Respondent continued to provide abortion services at offices that are not in compliance with the State's surgical abortion facility regulations.

22. In addition, the Respondent practiced medicine at OB/GYN Care with unauthorized persons or aided unauthorized persons in the practice of medicine there. The Respondent provided abortion services in offices in which unlicensed/untrained individuals performed ultrasounds, dispensed medications that can promote labor/abortions, and independently initiated treatment in violation of COMAR 10.32.12.04.

23. Based on these facts, the Board concludes that the Respondent constitutes an imminent threat to the public, which imperatively requires the suspension of his license.

CONCLUSIONS OF LAW

Based on the foregoing investigative facts, the Board concludes that the public health, safety or welfare imperatively require emergency action in this case, pursuant to Md. State Gov't Code Ann. § 10-226(c)(2)(2009 Repl. Vol. and 2012 Supp.).

ORDER

It is, by the affirmative vote of a majority of the quorum of the Board considering this case:

ORDERED that pursuant to the authority vested by Md. State Gov't Code Ann. §10-226(c)(2), the Respondent's license to practice medicine in the State of Maryland is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that a post-deprivation hearing in accordance with Code of Maryland Regulations tit. 10, § 32.02.05.B(7), C and E on the Summary Suspension has been scheduled for **Wednesday, June 12, 2013 at 9:00 a.m.**, at the Maryland State Board of

Physicians, 4201 Patterson Avenue, Room 108, Baltimore, Maryland 21215-0095; and it is further

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

ORDERED that on presentation of this Order, the Respondent **SHALL SURRENDER** to the Board's investigator the following items:

(1) his original Maryland License D72935;

(2) his current renewal certificate;

(3) DEA Certificate of Registration, # BB1794797 (exp. 07/31/13);

(4) Maryland Controlled Dangerous Substance Registration, # M76383 (exp. 11/30/13);

(5) All controlled dangerous substances in his possession and/or practice;

(6) All Medical Assistance prescription forms;

(7) All prescription forms and pads in his possession and/or practice; and

(8) Any and all prescription pads on which his name and DEA number are imprinted.

AND IT IS FURTHER ORDERED that a copy of this Order of Summary Suspension shall be filed with the Board in accordance with Md. Health Occ. Code Ann. § 14-407 (2009 Repl. Vol. and 2012 Supp.); and it is further

ORDERED that during the period of **SUMMARY SUSPENSION**, in accordance with the provisions of Title 4, subtitle 3 of the Health-General Article, the Respondent shall have a continuing duty, on proper request, to provide the details of a patient's medical record to the patient, another physician or hospital; and it is further

ORDERED that this is a Final Order of the Board and, as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.* (2009 Repl. Vol. and 2012 Supp.).

May 29, 2013
Date

Andrea Mathias, M.D., MPH
Board Chair
Maryland State Board of Physicians

I HEREBY ATTEST AND CERTIFY UNDER PENALTY OF PERJURY ON 6/11/13 THAT THE FORGOING DOCUMENT IS A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE AND IN MY LEGAL CUSTODY.

DEPUTY DIRECTOR
MARYLAND BOARD OF PHYSICIANS

STATE OF MARYLAND
DHMH Board of Physicians
Maryland Department of Health and Mental Hygiene
4201 Patterson Avenue • Baltimore, Maryland 21215-2299
Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – Joshua M. Sharfstein, M.D., Secretary

June 12, 2013

Michael A. Basco, M.D.
801 Tollhouse Road, Unit H
Frederick, Maryland 21701

Robert N. Levin, Esquire
9801 Washingtonian Boulevard, Suite 750
Gaithersburg, Maryland 20878

Robert J. Gilbert, Deputy Counsel
Office of the Attorney General
HOPLD
300 West Preston Street, Suite 207
Baltimore, Maryland 21202

Respondent: Michael A. Basco, M.D.
Case No.: 2013-0723 & 2013-0853
License No.: D72935

Dear Dr. Basco and Counsel:

On May 29, 2003, the Board issued an **ORDER FOR SUMMARY SUSPENSION OF LICENSE TO PRACTICE** in this case. Dr. Basco was given an opportunity to attend a hearing on that issue on June 12, 2013. Dr. Basco attended the hearing on that date together with his counsel, Robert Levin, Esq. The State was represented by Robert J. Gilbert, Esq., Administrative Prosecutor.

After considering the presentations at the hearing, the Board determined that it would not lift the summary suspension first imposed on May 29, 2013. The Board concluded that the documents and arguments submitted, and the responses to the Board's questions, did not significantly change the Board's findings or conclusions regarding the danger to the public which would be posed by your practicing medicine at this time. The Board advised you of this decision orally immediately after the hearing.

Under the Board regulations, you have the right to request a full evidentiary hearing before an Administrative Law Judge. This request for a hearing must be made within ten days of the date of this letter. Any request for a hearing should be made to me at the Board's address listed above. If you request such a hearing, the regulations

require that an Administrative Law Judge set an evidentiary hearing to begin within 30 days of your request, although that 30-day requirement may be waived.

This letter constitutes an order of the Board resulting from formal disciplinary action and is therefore a public document.

Sincerely yours,

Christine A. Farrelly

Christine A. Farrelly
Deputy Director

I HEREBY ATTEST AND CERTIFY UNDER PENALTY OF PERJURY ON 7/18/2013 THAT THE FORGOING DOCUMENT IS A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE AND IN MY LEGAL CUSTODY.

DEPUTY DIRECTOR
MARYLAND BOARD OF PHYSICIANS