

IN THE MATTER OF * **BEFORE THE MARYLAND**
GHEVONT W. WARTANIAN, M.D. * **STATE BOARD OF**
Respondent. * **PHYSICIANS**
License No. D19700 * **Case No.: 2013-0207**

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FINAL DECISION AND ORDER

On August 19, 2013, the Maryland State Board of Physicians (“Board”) charged Ghevont W. Wartanian, M.D., a licensed physician who is board-certified in obstetrics and gynecology, with engaging in unprofessional conduct and sexual misconduct in the practice of medicine, in violation of the Maryland Medical Practice Act, Md. Code Ann., Health Occ. § 14-404(a)(3)(ii) and the Code of Maryland (“COMAR”) regulations 10.32.17. The Board’s charges were based on two separate complaints that Dr. Wartanian inappropriately touched two female patients,¹ Patient A and Patient B, made inappropriate sexual comments to them, required them to disrobe in front of him, failed to provide them with sufficient robes to protect their privacy, did not properly offer them chaperones, and improperly conducted breast examinations on each patient.

On March 25, 2014, and continuing on March 27-28, 2014, an evidentiary hearing was held at the Office of Administrative Hearings. In a proposed decision issued on May 21, 2014, Administrative Law Judge (“ALJ”) Marleen B. Miller upheld the Board’s charges. As a sanction, the ALJ proposed that Dr. Wartanian be reprimanded, that a \$10,000 fine be imposed, and that Dr. Wartanian be required to complete a one-on-one course in maintaining proper boundaries in a clinical setting. Neither Dr. Wartanian nor the State filed exceptions to the ALJ’s Proposed Decision, and on June 25, 2014, the case came before Disciplinary Panel B for final disposition.

¹ For purposes of confidentiality, the two patients involved in this case are referred to as Patient A and Patient B in this Final Decision and Order.

After considering the entire record, Disciplinary Panel B issues this Final Decision and Order as the final disposition in this case.

FINDINGS OF FACT

Disciplinary Panel B adopts the ALJ's Proposed Findings of Fact numbered 1-22 and the ALJ's Discussion on pages 8-31 of the Proposed Decision. (The ALJ's Proposed Decision of May 21, 2014 is incorporated by reference into this Final Decision and Order and is appended to this Order as Attachment A). The findings of fact were proven by a preponderance of the evidence. The Board concurs with the ALJ that the types of breast examinations conducted by Dr. Wartanian on both patients were unprofessional as was his failure to provide appropriate covering prior to those examinations. Dr. Wartanian's failure to provide the patients privacy for undressing and the nature of his sexually explicit comments during his breast examination of one patient and during the vaginal and rectal examination of the other, constitute both unprofessional conduct and sexual impropriety. In addition, his failure to specifically offer a chaperone to these female patients or to even recognize why the presence of a chaperone is necessary or desirable during gynecologic examinations, constitutes unprofessional conduct in the practice of medicine.

CONCLUSIONS OF LAW

Disciplinary Panel B concludes that Dr. Wartanian engaged in unprofessional conduct in the practice of medicine, in violation of Md. Code Ann., Health Occ. § 14-404(a)(3)(ii). The panel further concludes that Dr. Wartanian engaged in sexual impropriety, in violation of COMAR 10.32.17.

ORDER

By an affirmative vote of a majority of a quorum of Disciplinary Panel B, it is hereby **ORDERED** that the Board's charges against Ghevont W. Wartanian, M.D., License No.

D19700, be **UPHELD**; and it is further

ORDERED that Dr. Wartanian be **REPRIMANDED**; and it is further

ORDERED that, as a permanent condition of licensure, Dr. Wartanian shall comply with a Board-approved chaperone policy whereby a female chaperone is present in the examination room at all times during his examinations of all female patients. Dr. Wartanian shall submit a written proposal to Disciplinary Panel B regarding the particular policy he proposes to fulfill this condition. Disciplinary Panel B reserves the right to require Dr. Wartanian to provide further information regarding the policy he proposes, and further reserves the right to reject his proposed policy and require submission of an alternative proposal. Disciplinary Panel B will approve a chaperone policy only if it deems the policy adequate to satisfy its concerns; and it is further

ORDERED that within **THIRTY (30) DAYS** of the date of this Final Decision and Order, Dr. Wartanian shall pay a monetary fine in the amount of **TEN THOUSAND DOLLARS (\$10,000)**. The payment shall be by certified or bank-guaranteed check made payable to the Maryland State Board of Physicians. The check should be mailed to: Maryland State Board of Physicians, P.O. Box 37217, Baltimore, Maryland 21297; and it is further

ORDERED that within **SIX (6) MONTHS** of the date of this Final Decision and Order, Dr. Wartanian shall enroll in, and successfully complete, as his own expense, a Board-approved one-on-one course in maintaining professional boundaries in a clinical setting. Dr. Wartanian shall submit to the Board written documentation regarding the particular course he proposes to fulfill this condition. Disciplinary Panel B reserves the right to require Dr. Wartanian to provide further information regarding the course he proposes, and further reserves the right to reject his proposed course and require submission of an alternative proposal. Disciplinary Panel B will approve a course only if it deems the curriculum and the duration of the course adequate to fulfill

Dr. Wartanian's educational needs. Dr. Wartanian may not use this course to fulfill any requirements mandated for licensure renewal. Dr. Wartanian shall be solely responsible for all costs incurred in fulfilling the course requirement and for submitting timely written documentation to the Board of his successful completion of the course; and it is further

ORDERED that any violation of the terms and conditions of this Final Decision and Order by Dr. Wartanian, including a failure to comply with a Disciplinary Panel B-approved chaperone policy whereby a female chaperone is present in the examination room at all times during his examinations of all female patients, a failure to submit a written chaperone policy proposal for approval by Disciplinary Panel B, a failure to pay the \$10,000 fine imposed in this case, or a failure to successfully complete the one-on-one course in maintaining professional boundaries, shall be deemed a violation of this Order; and it is further


ORDERED that if Dr. Wartanian violates any of the terms and conditions of this Final Decision and Order, Disciplinary Panel B, after notice and an opportunity for an evidentiary hearing at the Office of Administrative Hearings if there is a genuine issue as to the underlying material facts, or an opportunity for a show cause hearing before the Board otherwise, may impose any sanction that the Panel may have imposed in this case under §§ 14-404(a) and 14-405.1 of the Medical Practice Act, including the revocation or suspension of his license, probation or additional conditions, and/or an additional fine; and it is further

ORDERED that Dr. Wartanian shall practice according to the Maryland Medical Practice Act and in accordance with all applicable laws, statutes and regulations pertaining to the practice of medicine; and it is further

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

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

7/22/2014
Date


Christine A. Farrelly, Acting Executive Director
Maryland State Board of Physicians

NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW

Pursuant to Md. Code Ann., Health Occ. § 14-408, Dr. Wartanian 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 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. Wartanian 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, Acting 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:

**Noreen M. Rubin
Assistant Attorney General
Department of Health and Mental Hygiene
300 West Preston Street, Suite 302
Baltimore, Maryland 21201**