

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF MEDICINE**

IN RE:

TAJUDEEN I. OHIOKPEHAI, M.D.

Applicant

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FINAL ORDER OF THE BOARD

This matter comes before the District of Columbia Board of Medicine (the “Board”) on Applicant, Dr. Tajudeen Ohiokpehai, M.D.’s exceptions to the recommended decision and order issued by a panel of the Board (Board Panel) following an evidentiary hearing. The Board Panel recommended that Applicant’s application for licensure to practice medicine in the District of Columbia be denied. Applicant has filed exceptions to the recommended decision.

For the reasons stated below, and having considered Applicant’s exceptions, the Board adopts the Board Panel’s recommended decision and order to deny Applicant’s application for licensure.

Procedural Background

On or about August 18, 2014, the Board issued a Notice of Intent to Deny Applicant’s application for a District of Columbia medical license (the “Notice”). The basis of the Board’s denial was because Applicant “[had] been disciplined by a licensing authority for grounds that would be grounds for disciplinary action under [the HORA¹].” Specifically, the Notice alleged the following facts:

¹ Health Occupations Revision Act, D.C. Official Code §§ 3-1201 *et seq.* (2009)

On your application dated August 13, 2013, you stated that you surrendered a license or registration certificate after formal charges had been brought against you, in addition to having surrendered your clinical privileges or having them denied, revoked or suspended at a hospital or health care facility; you were a defendant or respondent to a claim for damages in a malpractice suit; a licensing authority took adverse action against your medical license or privileges; and you withdrew your license application or were denied a license or the privilege of taking a license examination by a professional licensing board or agency. As part of the application process, the Board requested and received documentation, which contained five disciplinary entries: 1) a consent order from the Maryland State Board of Physicians (hereinafter "Maryland Board") from 1989; 2) a consent order from the Maryland Board from 1993; 3) revocation of Maryland license to practice medicine from 2006; 4) exclusion from Medicare from 2007; and 5) denial of application to the Alabama Board of Medical Examiners for certificate of qualification from 2013.

The 1989 consent order from the Maryland Board suspended your license for falsely stating that you were a United States citizen on your application for licensure in Maryland. This conduct – fraudulently or deceptively obtaining or attempting to obtain a license – would be actionable in the District of Columbia (hereinafter "District") in violation of D.C. Official Code § 3-1205.14(a)(3) (2012 Repl.). Additionally, an attempt to file a false or misleading statement violates D.C. Official Code § 3-1210.04 (2012 Repl.). Furthermore, the 1989 consent order with the Maryland Board suspended you for falsely stating that you were born in Washington, D.C., and a citizen of the United States on your application for privileges at Prince George's County Hospital, and for using your brother's alien number as your own on your application for Liberty Medical Center when your visa status did not authorize you to work in the United States.

In 1993, you entered into another consent order with the Maryland Board for indicating that your license had never been suspended when applying for privileges at Bon Secours Hospital, when in fact it had been suspended by the 1989 consent order.

On December 29, 2006, the Maryland Board issued a final decision and Order against you, finding that you "committed many violations over the course of providing medical care to five residents at long-term care facilities and nursing homes." The Maryland Board alleged the following charges against you: 1) engaged in unprofessional conduct in the practice of medicine; 2) making or filing a false report in the practice of medicine, including writing a back dating a progress note; 3) failing to keep adequate medical records; and 4) failing to meet appropriate standards for the delivery of quality medical care.

The Maryland Board found you guilty of: 1) unprofessional conduct in the practice of medicine; 2) willfully making a false report in the practice of medicine; 3) failing to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical care; and 4) failing to keep adequate medical records. Your unprofessional conduct in the practice of medicine, had it occurred in the District, would violate D.C. Official Code § 3-1205.14(a)(26) (2012 Repl.), and thus is actionable under D.C. Official Code § 3-1205.14(a)(3) (2012 Repl.). Your willfully making a false report in the practice of medicine, had it occurred in the District, would violate D.C. Official Code § 3-1205.14(a)(8) (2012 Repl.), and thus is actionable under D.C. Official Code § 3-1205.14(a)(3) (2012 Repl.). Your failure to meet appropriate standards for the delivery of quality medical care, had it occurred in the District, would violate D.C. Official Code § 3-1205.14(a)(26) (2012 Repl.), and thus is actionable under D.C. Official Code § 3-1205.14(a)(3) (2012 Repl.). Finally, your failure to keep adequate medical records, had it occurred in the District, would violate D.C. Official Code § 3-1205.14(a)(37) (2012 Repl.), and thus is actionable under D.C. Official Code § 3-1205.14(a)(3) (2012 Repl.).

Thereafter, the Maryland Board revoked your license, emphasizing the "continued abuse of [your] professional privileges" and remarking that "no sanction short of permanent revocation of [your] medical license can adequately protect the public." Therefore, pursuant to D.C. Official Code § 3-1205.14(a)(3) (2012 Repl.), the Board may take action in accordance with D.C. Official Code § 3-1205.14(c) (2012 Repl.).

On these facts, the Board initially determined that Applicant was ineligible for licensure in the District of Columbia. Applicant submitted a timely request for a hearing.

The hearing in this matter commenced on January 8, 2015, before a panel of the Board, comprised of Lawrence Manning, M.D., presiding member of the Board, Anitra Denson, M.D., physician member of the Board, and Thomas Dawson, Esq., consumer member of the Board. Assistant Attorney Amy Schmidt represented the Government. Applicant appeared in proper person.

While the Board Panel was unanimous in the ultimate outcome of the recommended decision, the Board Panel was divided in reaching that outcome. Dr. Denson and Mr. Dawson agreed that the application should be denied without condition. Dr. Manning concurred in the denial of the application for licensure, but suggested that there may be a future pathway, albeit difficult, to licensure under an extremely narrow set of circumstances demonstrating Applicant's rehabilitation from his misconduct and malfeasance demonstrated in his history while licensed as a physician.

Evidence at the Hearing

The Government introduced the following exhibits into evidence without objection from Applicant:

Government Exhibit 1: Notice of Intent to Deny License.² (Tr. at 9).

Government's Exhibit 2: Two sets of certified copies of documents from the Maryland Board of Physicians consisting of a Final Order, dated October 23, 1989, and a Consent Order, dated August 5, 1993. (Tr. at 16-20).

Government's Exhibit 3: Certified copy of the Maryland Board of Physicians Final Order, dated December 29, 2006. (Tr. at 20-22).

Government's Exhibit 4: Certified copy of documents from the Alabama State Board of Medical Examiners consisting of: 1) Letter of Notice of Denial of Application, dated March 22, 2013; 2) Order, dated May 31, 2013. (Tr. at 22-23).

² The Notice of Intent to Deny License is unsigned. However, Applicant did not challenge notice based on the unsigned Notice of Intent to Deny License. Indeed, in his request for a hearing, Applicant acknowledged receipt of the Notice of Intent to Deny License.

Applicant introduced the following exhibits without objection from the Government:

Applicant's Exhibit 1: A seven-page document that provided written explanations as to the various disciplinary matters in Applicant's licensure history. (Tr. at 28).

Applicant's Exhibit 2: A two-page document that described Applicant's professional and volunteer activities from 2006 through 2011. (Tr. at 28).³

The Government did not offer Applicant's application for licensure into the record. Despite the Government's failure to do so, the Board Panel, *sua sponte*, took notice of the application for licensure, as it is part of the official files of the Board. *See* 17 DCMR § 4110.4(b) (A board may take official notice on its own motion, of material facts in the official files of a board or the Department.). The Board similarly takes notice of the application as part of the official file of the Board.

The Government called Lisa Robinson as its sole witness. Applicant testified on his own behalf, and called no other witnesses.

Applicant filed exceptions to the recommended decision timely. The exceptions will be discussed below.

Findings of Fact

The Board adopts the following findings of fact made by the Board Panel, based on the preponderance of the evidence:

1. On or around August 13, 2013, Applicant submitted an application for a new license to practice medicine in the District. (*See* Application File). In response to the screening

³ This exhibit was inadvertently referenced by the court reporter as part of Applicant's Exhibit No. 1. In fact, this exhibit was separately marked for identification as Applicant's Exhibit No. 2.

questions in Section 5C of the application, Applicant indicated that he had surrendered a license or registration certificate after formal charges had been brought against him, in addition to having surrendered his clinical privileges or having them denied, revoked or suspended at a hospital or health care facility; being a defendant or respondent to a claim for damages in a malpractice suit; having a licensing authority take adverse action against his medical license or privileges; and having withdrawn his license application or having been denied a license or the privilege of taking a license examination by a professional licensing board or agency.

2. As part of the application process, the Board requested and received documentation from Applicant regarding affirmative responses to the screening questions, including a report from the Federation of State Medical Boards (*See Application File*), which contained five disciplinary entries for Applicant: 1) consent order from the Maryland State Board of Physicians (“Maryland Board”) (1989); 2) consent order from the Maryland Board (1993); 3) revocation of Maryland license to practice medicine (2006); 4) exclusion from Medicare (2007); and 5) denial of application to the Alabama Board of Medical Examiners for certificate of qualification (2013).

3. In 1989, Applicant entered into a consent order with the Maryland Board which suspended his license for falsely stating that he was a United States citizen on his application for licensure in Maryland. (*See Gov’t Ex. 2*).

4. Furthermore, the 1989 consent order with the Maryland Board suspended Applicant for falsely stating he was born in Washington, D.C., and a citizen of the United States on his application for privileges at Prince George’s County Hospital, and for using his brother’s

alien number as his own on his application for Liberty Medical Center when Applicant's visa status did not authorize him to work in the United States. (*See Gov't Ex. 2*).

5. In 1993, Applicant entered into another consent order with the Maryland Board for indicating that his license had never been suspended when applying for privileges at Bon Secours Hospital, when in fact it had been suspended by the 1989 consent order. (*See Gov't Ex. 2*).

6. On December 29, 2006, the Maryland Board issued a final decision and Order against Applicant, finding that Applicant had "committed many violations over the course of providing medical care to five residents at long-term care facilities and nursing homes." The Maryland Board alleged the following charges against Applicant: 1) engaging in unprofessional conduct in the practice of medicine; 2) making or filing a false report in the practice of medicine, including writing and back dating a progress note; 3) failing to keep adequate medical records; and 4) failing to meet appropriate standards for the delivery of quality medical care. (*See Gov't Ex. 3*).

7. The Maryland Board found Applicant guilty of: 1) unprofessional conduct in the practice of medicine; 2) willfully making a false report in the practice of medicine; 3) failing to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical care; and 4) failing to keep adequate medical records. (*See Gov't Ex. 3*).

8. By letter dated March 22, 2013, the Alabama State Board of Medical Examiners denied Applicant's application for a medical license to practice medicine in Alabama. Applicant requested, and was granted, a hearing, after which the Medical Licensure Commission of

Alabama affirmed the initial denial of licensure by the Alabama State Board of Medical Examiners. (*See* Gov't Ex. 4).

Applicable Law

An individual “applying for a license under [the HORA] shall establish to the satisfaction of the board regulating the health occupation that the individual . . . [m]eets any other requirement established by the Mayor by rule to assure that the applicant has had the proper training, experience, and qualifications to practice the health occupations.” D.C. Official Code § 3-1205.03. Therefore, an applicant for licensure must “establish to the Board’s satisfaction that the applicant possesses appropriate skills, knowledge, judgment, and character to practice medicine.” DCMR § 17-4600.4.

The Board “has broad jurisdiction to regulate the practice of medicine and to impose a variety of disciplinary sanctions upon persons applying for or renewing their license to practice medicine in the District of Columbia[.]” *Mannan v. District of Columbia Board of Medicine*, 558 A.2d 329, 333 (D.C.1989). The Council of the District of Columbia, in amending the HORA, “intended to strengthen enforcement of its licensing laws.” *Davidson v. District of Columbia Board of Medicine*, 562 A.2d 109, 113 (D.C.1989). And “it is the Board’s duty to protect the general public from unqualified physicians[.]” *Roberts v. District of Columbia Board of Medicine*, 577 A.2d 319, 327 (D.C.1990). Moreover, the “members of the Board of Medicine are presumed to have substantially greater familiarity . . . with the meaning of terms like ‘the practice of medicine.’” *Joseph v. District of Columbia Board of Medicine*, 587 A.2d 1085, 1088 (D.C.1991). Therefore, the Board “is responsible for evaluating the qualifications and supervising the examinations of applications for licensure to practice medicine in the District.”

Greenlee v. District of Columbia Board of Medicine, 558 A.2d 48, 50 (D.C.1993). Even where an applicant may be licensed in another state, the Board has the discretion to review each applicant's application for licensure, giving relevant consideration to intervening experience and accomplishments since the circumstances at the time of original licensure, notwithstanding current licensure and good standing in another state or territory. *Tinner v. District of Columbia Dept. of Consumer and Regulatory Affairs*, 703 A.2d 833, 836 (D.C.1997) (Board of Medicine's denial of license to practice medicine by endorsement and reciprocity to applicant licensed in New York, New Jersey and Maryland was not arbitrary and capricious where denial was rationally based to standards set by District of Columbia Board of Medicine under District of Columbia law).

As occurred in the instant case, where the Board initially denied the license, and Applicant has requested a hearing on the denial, Applicant bears the burden of satisfying the board of the applicant's qualifications by a preponderance of the evidence. DCMR § 17-4115.2. By contrast, the District bears the burden of proof to demonstrate to the satisfaction of the Board that Applicant is not professionally or mentally competent to practice medicine. *See Id.*, § 17-4115.1.

The Board, therefore, is authorized under the HORA to deny a license when an applicant who already holds a license in another jurisdiction has been disciplined for grounds for disciplinary action under D.C. Official Code § 3-1205(a)(3). Balanced against this authority to regulate and deny licensure, the Board may, nonetheless, grant a license where an "applicant [has] establish[ed] to the Board's satisfaction that the applicant possesses appropriate skills, knowledge, judgment, and character to practice medicine." DCMR § 17-4600.4.

Applicant's Exceptions

Applicant focuses on the concurring opinion of the recommended decision to demonstrate his rehabilitation. What Applicant disregards is the concurring opinion's ultimate agreement in denying the application for license in this case under the circumstances of Applicant's application. Nonetheless, Applicant has submitted numerous exhibits as part of his exceptions that were not submitted at the hearing. The Board rejects Applicant's exceptions for at least the following reasons.

First, Applicant now attempts to supplement the record by submitting additional information that he did not offer into evidence at the hearing. *See* Exceptions, Exhibit 2. The documents contained in Exhibit 2 pre-date the hearing and were available at the time Applicant attended the hearing. Applicant, however, did not offer these documents into the evidentiary record.

Nowhere in Applicant's exceptions does Applicant *request* this Board to accept the supplemental documents pursuant to 17 DCMR §§ 4107, 4110 and 4116, nor has Applicant sought to reopen the hearing pursuant to 17 DCMR § 4121 or for reconsideration under 17 DCMR § 4120. Applicant has simply attached the documents as additional exhibits to supplement the record, expecting that these documents be automatically supplemented to the record. Applicant's attempt to supplement the record at this late stage must be rejected for at least the following reasons.

By inserting the additional records to his exceptions, Applicant has denied the Government from reviewing and responding to the records as part of the hearing process. Applicant has deprived the Government from any response - whether to object or to stipulate - to

the records. Perhaps, more importantly, Applicant now attempts to circumvent the preservation of the record for appeal purposes. Should Applicant appeal this matter further, the Court of Appeals would be “limited to the record on appeal and cannot consider issues or evidence not presented to the agency.” *Mack v. District of Columbia Dep’t of Empl. Servs.*, 651 A.2d 804, 806 (D.C.1994). The Court has most recently made clear that, where the documents were not admitted *at the hearing*, the Court may not consider them when the matter is appealed for judicial review. *Lynch v. Masters Sec.*, 93 A.3d 668, 674, n.3 (D.C.2014). It is in the rare circumstance, namely when a party *fails* to oppose the filing of material not in the administrative record, when a reviewing court may be willing to consider material on appeal that was not first presented to the agency. *Castro v. Security Assurance Mgmt., Inc.*, 20 A.3d 749, 757-58 (D.C.2011) (Court accepted *pro se* appellant’s appendix containing new evidence where the opposing party failed to object or even file a brief with the Court, or participated in any in the proceedings relating to the appellant’s petition for review).

While Applicant may rely on *Castro* to support his submission of additional materials, that reliance would be misplaced. Unlike the opposing party in *Castro*, where there was an opportunity to respond or object to the submission of the additional materials, the Government here has had no opportunity to respond or object to Respondent’s attempt to supplement the record. Under 17 DCMR § 4113, a responding party may file exceptions to a recommended decision, but there is no provision for the Government to file anything, let alone a response to any exceptions that may be filed. Therefore, here, it is not the “rare” instance where the Government has failed to object to Applicant’s submission of additional materials to supplement the record. It is simply Applicant’s attempt to supplement a hearing record that has already been

closed, after an opportunity to supplement the record was already provided to him. Therefore, this Board will not consider Applicant's additional materials for purposes of arriving at its final decision in this case. *See Salerian v. District of Columbia Department of Health*, ___ A.3d ___, Slip Op., Case No. 13-AA-785, at 4-5 (December 11, 2014).

In *Salerian*, the Court rejected the physician's request to supplement the record with two expert opinions that purported to provide favorable information on matters that were litigated in the administrative hearing. In rejecting that request, the Court noted that the physician cited no cases where the Court had considered evidence not in the agency record. Slip.Op., at 5. In fact, the Court expressly pointed out that the physician failed to adequately explain why the supplemental evidence was not available earlier during the hearing before the agency. *Id.* There, as in this case, the physician did not attempt to re-open the record or petition the Board to consider the supplemental evidence outside of its normal procedures. *Id.* Accordingly, Applicant's exception with respect to his purported rehabilitation is rejected in light of the hearing record before the Board.

Second, in grasping at the concurring panel member's position with respect to a *mere possibility* of licensure, Applicant overlooks several aspects of the concurring recommended decision. First, the concurring recommended decision "agree[d] with the ultimate outcome of the Board Panel's recommended decision." Rec. Dec'n at 12. Moreover, the concurring panel member voted to deny application for licensure; therefore, the recommended decision was unanimous in its denial of the application for licensure. *Id.* The concurring recommended decision, however, expressed a *narrow* set of circumstances under which a license *might* be granted to Applicant, should he exhibit substantial rehabilitation from his long history of

misconduct and malfeasance as a holder of a medical license. *Id.* Moreover, the concurring recommended decision spoke in terms of licensure “at some future point,” not at present. *Id.* Applicant’s submission of evidence of rehabilitation, if it were to be considered for purposes of the instant application, fall short of the kind of substantial rehabilitation that would merit consideration, particularly when balanced against Applicant’s past conduct, as well as the *permanent* revocation imposed by the Maryland Board.

In view of the record before the Board, as well as any information that might be considered in Applicant’s exceptions, nothing therein merits rejecting, or even modifying, the Board Panel’s recommended decision. Accordingly, the Board rejects Applicant’s exceptions and any assignment of error.

Conclusions of Law

The Board is authorized under the HORA to take reciprocal action when a licensee has been disciplined by a licensing authority of another jurisdiction for conduct that would be grounds for Board action in its jurisdiction. D.C. Official Code § 3-1205.14(a)(3). The HORA provides, in pertinent part,

Each board, subject to the right of a hearing as provided by this subchapter, on an affirmative vote of a quorum of its appointed members may take one or more of the disciplinary actions [...] against any person permitted by this subchapter to practice a health occupation regulated by the board in the District who:

- (3) Is disciplined by a licensing or disciplinary authority [...] of any jurisdiction for conduct that would be grounds for disciplinary action under this section;

Here, Applicant’s conduct - fraudulently or deceptively obtaining or attempting to obtain a license – had it occurred in the District, would be actionable under the HORA, and therefore,

would violate D.C. Official Code §3-1205.14(a)(3). Additionally, an attempt to file with the Board a false or misleading statement would violate D.C. Official Code §3-1210.04.01, and therefore also violate D.C. Official Code §3-1205.14(a)(3), for which the proposed denial of licensure may be taken pursuant to D.C. Official Code § 3-1205.14(c). Applicant's unprofessional conduct in the practice of medicine, had it occurred in the District, would violate D.C. Official Code § 3-1205.14(a)(26), and therefore is actionable under D.C. Official Code § 3-1205.14(a)(3). Applicant's willfully making a false report in the practice of medicine, had it occurred in the District, would violate § 3-1205.14(a)(8), and therefore is actionable under D.C. Official Code § 3-1205.14(a)(3). Applicant's failure to meet appropriate standards for the delivery of quality medical care, had it occurred in the District, would violate D.C. Official Code § 3-1205.14(a)(26), and therefore is actionable under D.C. Official Code § 3-1205.14(a)(3). Finally, Applicant's failure to keep adequate medical records, had it occurred in the District, would violate D.C. Official Code § 3-1205.14(a)(37), and therefore is actionable under D.C. Official Code § 3-1205.14(a)(3). Taking into consideration the nature of Applicant's conduct and the disciplinary history preceding him, the Maryland Board revoked Dr. Ohiokpehai's license, emphasizing the "continued abuse of his professional privileges" and remarking that "no sanction short of permanent revocation of Dr. Ohiokpehai's medical license can adequately protect the public." *See Gov't Ex. 3.*

Based on this history in Maryland, the Alabama State Board of Medical Examiners not unreasonably denied Applicant's application for licensure in Alabama. *See Gov't Ex. 4.*

In view of the foregoing evidentiary record, Applicant has failed to meet his burden of satisfying the board of the applicant's qualifications by a preponderance of the evidence. DCMR

§ 17-4115.2. Therefore, the Board adopts the recommended decision and the application for licensure is denied. An Order follows.

ORDER

UPON CONSIDERATION of the evidence and testimony presented at the hearing in this matter on January 8, 2015, the recommended decision issued by the Board Panel, the exceptions filed by Applicant, and the entire record herein, it is by the District of Columbia Board of Medicine,

ORDERED, that the Recommended Decision is hereby ADOPTED in its entirety and incorporated herein by reference; and it is further

ORDERED, that the application for medical license of Applicant Tajudeen I. Ohiokpehai be DENIED.

ORDERED, that this is a public document.

DISTRICT OF COLUMBIA BOARD OF MEDICINE

6.24.15
Date

Janis M. Orlowski MD
By: Janis M. Orlowski, M.D., M.A.C.P.
Chairperson

[Review of a Final Decision]

District of Columbia Municipal Regulations, § 17-4122.1 provides:

A party aggrieved by a decision of a board issued after a hearing may seek review of the decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Act, D.C. Code §§ [2-501 *et seq.*].

NOTE: Any appeal noted to the Court of Appeals must be filed within 30 days of the final decision of the Board.

D.C. Official Code, §2-510 provides:

(a) Any person suffering a legal wrong, or adversely affected or aggrieved, by an order or decision of the Mayor or an agency in a contested case, is entitled to a judicial review thereof in accordance with this subchapter upon filing in the District of Columbia Court of Appeals a written petition for review. If the jurisdiction of the Mayor or an agency is challenged at any time in any proceeding and the Mayor or the agency, as the case may be, takes jurisdiction, the person challenging jurisdiction shall be entitled to an immediate judicial review of that action, unless the Court shall otherwise hold. The reviewing Court may by rule prescribe the forms and contents of the petition and, subject to this subchapter, regulate generally all matters relating to proceedings on such appeals. A petition for review shall be filed in such Court within such time as such Court may by rule prescribe and a copy of such petition shall forthwith be served by mail by the clerk of the Court upon the Mayor or upon the agency, as the case may be. Within such time as may be fixed by rule of the Court, the Mayor or such agency shall certify and file in the Court the exclusive record for decision and any supplementary proceedings, and the clerk of the Court shall immediately notify the petitioner of the filing thereof. Upon the filing of a petition for review, the Court shall have jurisdiction of the proceeding, and shall have power to affirm, modify, or set aside the order or decision complained of, in whole or in part, and, if need be, to remand the case for further proceedings, as justice may require. Filing of a petition for review shall not in itself stay enforcement of the order or decision of the Mayor or the agency, as the case may be. The Mayor or the agency may grant, or the reviewing Court may order, a stay upon appropriate terms. The Court shall hear and determine all appeals upon the exclusive record for decision before the Mayor or the agency. The review of all administrative orders and decisions by the Court shall be limited to such issues of law or fact as are subject to review on appeal under applicable statutory law, other than this subchapter. In all other cases the review by the Court of administrative orders and decisions shall be in accordance with the rules of law which

define the scope and limitations of review of administrative proceedings. Such rules shall include, but not be limited to, the power of the Court:

- (1) So far as necessary to decision and where presented, to decide all relevant questions of law, to interpret constitutional and statutory provisions, and to determine the meaning or applicability of the terms of any action;
- (2) To compel agency action unlawfully withheld or unreasonably delayed; and
- (3) To hold unlawful and set aside any action or findings and conclusions found to be:
 - (A) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
 - (B) Contrary to constitutional right, power, privilege, or immunity;
 - (C) In excess of statutory jurisdiction, authority, or limitations or short of statutory jurisdiction, authority, or limitations or short of statutory rights;
 - (D) Without observance of procedure required by law, including any applicable procedure provided by this subchapter; or
 - (E) Unsupported by substantial evidence in the record of the proceedings before the Court.

This Order is the Final Order of the Board in this disciplinary matter and constitutes a public record. This Final Order shall be published on the Department of Health's website and Board newsletter, and reported to the National Practitioner Data Bank and the Healthcare Integrity Protection Data Bank.

Copies to:

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