

NOT DESIGNATED FOR PUBLICATION

ARNOLD E. FELDMAN, MD	*	NO. 2018-CA-0033
VERSUS	*	
		COURT OF APPEAL
LOUISIANA STATE BOARD	*	
OF MEDICAL EXAMINERS	*	FOURTH CIRCUIT
	*	
		STATE OF LOUISIANA
* * * * *		

APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2016-09047, DIVISION “G-11”
Honorable Robin M. Giarrusso, Judge

*** * * * ***

Judge Roland L. Belsome

*** * * * ***

(Court composed of Judge Roland L. Belsome, Judge Joy Cossich Lobrano, Judge Regina Bartholomew-Woods)

LOBRANO, J., CONCURS IN THE RESULT.

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AFFIRMED
NOVEMBER 7, 2018

This is an appeal from the trial court’s judgment upholding the decision of the Louisiana State Board of Medical Examiners (LSBME) to impose certain disciplinary sanctions against Appellant, Arnold E. Feldman, M.D. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

Dr. Feldman’s disciplinary sanctions stem from an investigation that was opened after a patient, R.R., died while undergoing a lumbar epidural steroid injection in Dr. Feldman’s ambulatory surgery center on February 25, 2013. Following an investigation, initiated by the Director of Investigations (DOI), Cecelia Mouton, M.D., an administrative complaint was filed against Dr. Feldman. The complaint was later amended to include seven counts of alleged violations of the Louisiana Medical Practice Act.¹ After an adjudication hearing, the LSBME

¹ The seven violations were:

1. La. Rev. Stat. § 37:1285A(13) (“Unprofessional conduct”) and Rev. Stat. § 37:1285A(4) (“Providing false testimony before the Board or providing false sworn information to the Board”).
2. La. Rev. Stat. § 37:1285A(13) (“Unprofessional conduct”) and La. Rev. Stat. §§37:1285(A)(14) (“Continuing or recurring medical practice which fails to

issued a lengthy decision finding violations on all counts, except for count seven.

Dr. Feldman was suspended and fined \$5,000.00. In addition, the LSBME imposed various conditions on his re-instatement.

In response to the LSBME's decision, Dr. Feldman filed a petition for judicial review in Civil District Court. After a hearing, the trial court affirmed the board's decision and dismissed Dr. Feldman's petition. This appeal followed.

STANDARD OF REVIEW

When reviewing an administrative decision, the district court functions as an appellate court. Since no deference is owed by the appellate court to the district court's fact findings or legal conclusions, the appellate court need only review the findings and decision of the administrative agency. *Garber v. City of New Orleans Through City Planning Comm'n*, 16-1298, p. 6 (La. App. 4 Cir. 12/13/17), 234

satisfy the prevailing and usually accepted standards of medical practice in this state").

3. La. Rev. Stat. §§37:1285(A)(14) ("Continuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state").
4. La. Rev. Stat. § 37:1285A(13) ("Unprofessional conduct").
5. La. Rev. Stat. § 37:1285A(18) ("Knowingly performing any act, which, in any way, assists an unlicensed person to practice medicine or having a professional connection with or lending one's name to an illegal practitioner").
6. La. Rev. Stat § 37:1285A(6) ("Prescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification thereof or in other than a legal or legitimate manner") and La. Rev. Stat. § 37:1285A(18) ("Knowingly performing any act, which, in any way, assists an unlicensed person to practice medicine or having a professional connection with or lending one's name to an. illegal practitioner").
7. La. Rev. Stat § 37:1285A(11) ("Making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value").

So.3d 992, 997 n.7, *writ denied sub nom., Garber v. City of New Orleans*, 18-0351 (La. 4/20/18), 240 So.3d 924 (citation omitted).

“ ‘The standard of appellate review of an administrative agency’s decision is distinct from and narrower than that which applies to ordinary civil and criminal appeals.’ ” *Reaux v. Louisiana Bd. of Med. Examiners*, 02-0906, p. 2 (La. App. 4 Cir. 5/21/03), 850 So.2d 723, 726 (quoting *Holladay v. Louisiana State Bd. of Med. Examiners*, 96-1740, p. 4 (La. App. 4 Cir. 2/19/97), 689 So.2d 718, 721). The exclusive grounds upon which an administrative agency’s decision may be reversed or modified on appeal are enumerated in La. R.S. 49:964(G) of the Administrative Procedure Act (“APA”).² *Armstrong v. Louisiana State Bd. of Medical Examiners*, 03-1241, p. 10 (La. App. 4 Cir. 2/18/04), 868 So.2d 830, 837.

The imposition of an administrative sanction is in the nature of a disciplinary measure and we will not set aside an administrative agency's decision to impose a particular sanction unless that decision is arbitrary, capricious or an abuse of discretion. *Armstrong*, 03-1241 at p. 10, 868 So.2d at 838. Pursuant to La. R.S.

² La. R.S. 49:964(G) provides that a court can reverse an agency’s decision if an appellant’s substantial rights have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- (6) Not supported and sustainable by a preponderance of evidence as determined by the reviewing court. In the application of this rule, the court shall make its own evaluation of the record reviewed in its entirety upon judicial review. In the application of the rule, where the agency has the opportunity to judge the credibility of witnesses by first-hand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency’s determination of credibility issues.

49:956(3), an “agency’s experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.” Accordingly, upon review of administrative actions, we recognize ‘the strong presumption of validity and propriety in such administrative actions where casting judgment upon the professional behavior of a fellow member of a profession is a matter peculiarly within the expertise of an agency composed of members of that profession.”

Armstrong, 03-1241, p. 11, 868 So.2d at 838 (citation omitted).

LAW AND ANALYSIS

SUFFICIENCY OF THE EVIDENCE

Although Dr. Feldman raises numerous issues on appeal, we organize our analysis around four main assignments of error: 1) sufficiency of the evidence, 2) due process, 3) recusal, and 4) missing transcript. First, Dr. Feldman claims that the facts and evidence do not support the finding of any of the six violations. We disagree.

A court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

...

(6) Not supported and sustainable by a preponderance of evidence as determined by the reviewing court. In the application of this rule, the court shall make its own determination and conclusions of fact by a preponderance of evidence based upon its own evaluation of the record reviewed in its entirety upon judicial review.

La. R.S. 49:964(G)(6). Given the jurisprudential presumption of correctness, the appellant “has the burden of proving the record contains no facts to establish the validity of the charges levied against him.” *See Armstrong, supra*.

The record reveals that the Department of Health and Human Services visited Dr. Feldman’s ambulatory surgery center in 2010, 2011, and 2013. In 2010, the DHH noted a multitude of deficiencies related to the failure to have a registered nurse present before, during and after surgical procedures, assigning nursing care to unlicensed personnel (a scrub technician), and improper drug administration by unlicensed personnel. When they returned in 2011 and 2013, similar deficiencies were noted.

On the day of R.R.’s surgical procedure, registered nurse, Melinda Ballard, was running late. Haley Barker, a medical assistant, assisted Dana Bramlett, a scrub technician and office administrator, in R.R.’s pre-operative examination. Ms. Barker completed most of the paperwork and issued medication, including a Demerol injection. Ms. Bramlett installed the IV³ and administered the anesthesia. At the onset of the procedure, Amanda Hart, a surgical technician, informed Dr. Feldman that Nurse Ballard was running late. However, after acknowledging this fact, Dr. Feldman stated that he would start the procedure without her.

After the lumbar injection was administered, R.R. coded. Nurse Ballard arrived sometime after the patient coded and went into the operating room to assist with chest compressions.⁴ Dr. Feldman admitted this fact. The IV failed and was

³ IV is defined as an apparatus used to administer a fluid (as of medication, blood, or nutrients) intravenously. IV, MERRIAM-WEBSTER ONLINE DICTIONARY, <https://www.merriam-webster.com/dictionary/IV> (last visited October 23, 2018).

⁴ Nurse Ballard testified that the only other registered nurse for the facility, Gloria Allen, arrived at work at the same time she did.

never re-established, causing Dr. Feldman to attempt an external jugular line.

After more than an hour of resuscitation efforts, R.R. was pronounced dead.

Shortly after R.R. expired, Ms. Bramlet urged Nurse Ballard to sign R.R.'s medical records to reflect that she was present during the pre-operative examination, patient consents, and during the procedure. In fear of losing her job, Nurse Ballard agreed to sign the records.⁵ Dr. Feldman admitted to possessing and signing the records before submission to the LSBME.

In addition, the record reflects that Dr. Feldman authorized the use of a ghostwriter machine to duplicate his signature on prescriptions, which was utilized by personnel when Dr. Feldman was unavailable. Moreover, Dr. Feldman pre-signed on his prescription pad for distribution to his patients the next day. The testimony further revealed that Ms. Bramlet would regularly start and administer IV medications to patients, as well as manage pain pump dosages. Finally, Dr. Feldman allowed an orthopedic surgeon, who was on probation with the LSBME and restricted to board approved practice due to a substance abuse issue, to perform surgical procedures without credentialing him or receiving board approval.

On the first count, Dr. Feldman was charged with exhibiting unprofessional conduct for providing false medical records to the LSBME. Dr. Feldman argues that the evidence does not support that he intentionally falsified R.R.'s medical records. He claims that he simply signed the records without inquiry. The board may suspend any license or impose other restrictions when a doctor exhibits unprofessional conduct, including "intentionally falsifying or fraudulently altering records...". La. R.S. 37:1285(A)(13).

⁵ Nurse Ballard was a recent nursing school graduate.

In its decision, the LSBME found that there was sufficient evidence to support the charge. In particular, it gave weight to the testimony of Nurse Ballard, who testified that she falsely signed the records to signify her presence although she was absent. The LSBME further noted Dr. Feldman's signature at least seven times. It specifically noted that while Dr. Feldman testified that Nurse Ballard did not arrive in the operating room until after R.R. coded, he signed the records where it indicated Ms. Ballard was present before and during the procedure. He further signed the anesthesia pre-operative form when he did not perform the evaluation. The LSBME simply did not believe that Dr. Feldman did not review the records. In light of the evidence presented, the record supports the LSBME's conclusion.

On the second and third counts, Dr. Feldman allegedly failed to assure that registered nurses were available to monitor patients undergoing surgical procedures (delegating those duties to non-registered personnel), as well as provided sub-standard medical care to his patients, in violation of La. R.S. 37:1285(A)(13) and (14). In support of his insufficiency argument, he argues that there was witness and expert testimony that established that a second nurse was available and the standard of care was met. The record does not support his contention.

Included in the definition of unprofessional conduct is "improperly delegating or supervising." La. R.S. 37:1285(A)(13). Likewise, medical incompetency includes "incompetency manifested by continuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state." La. R.S. 37:1285(A)(14).

As to the second count, the LSBME found that on the day of R.R.'s procedure, there was no nurse on the premises and that Ms. Bramlett, the scrub

technician, performed a majority of Nurse Ballard's duties in her absence. In addition, the board noted that Dr. Feldman was cited in the past by the DHH for similar deficiencies.

Despite evidence to the contrary, the LSBME gave credence to Nurse Ballard's testimony that both of the staff nurses arrived to the facility at the same time. In addition, Ms. Barker, a medical assistant, testified that Ms. Bramlett performed the nurse's duties before and during surgery, including IV installation and monitoring during the procedure. As a result, the record supports the LSBME's finding.

As to the third count, the LSBME found that Dr. Feldman additionally breached the standard of care in failing to perform the preoperative anesthesia evaluation on R.R., and in failing to have the required monitored anesthesia care for R.R., especially when considering his specific health risks.⁶

Dr. Feldman disputes the LSBME's finding and argues that R.R. was properly monitored by Ms. Bramlett, who was a "highly-skilled" scrub technologist. Though Dr. Feldman elicited conflicting expert testimony to combat the evidence presented, the LSBME clearly rejected the testimony. Moreover, the LSBME is made up of physicians and is statutorily-authorized to rely upon its own medical expertise. La. R.S. 49:956(3); *Reaux*, 02-0906, p. 7, 850 So.2d at 728. Accordingly, the evidence was sufficient to support the second and third violations.

On the fourth count, Dr. Feldman was charged with another violation of unprofessional conduct with regard to allowing Dr. Ronald Sylvest, an orthopedic surgeon on probation with the LSBME and restricted to board approved practice

⁶ R.R. had numerous co-morbidities, including morbid obesity, obstructive sleep apnea, chronic obstructive pulmonary disease, hypertension, hypercholesteremia, and heart disease.

due to a substance abuse issue, to perform surgical procedures without credentialing him or receiving board approval. Unprofessional conduct includes enabling the unauthorized practice of medicine, and practicing or enabling practice by an impaired provider. La. R.S. 12:1285(A)(13).

The LSBME found that Dr. Feldman knowingly allowed Dr. Sylvest, who had a substance abuse problem, to perform twenty-seven surgeries without prior clearance or being credentialed. Dr. Feldman does not contest this finding; rather, he argues that the onus was on Dr. Sylvest to seek practice approval from the board. Given the uncontested evidence, we find no error in the LSBME's decision on count four.

Turning to count five, Dr. Feldman was charged with allowing a staff member to engage in the unauthorized practice of medicine. It is a violation of La. R.S. 37:1285(A)(18) to knowingly perform "any act which, in any way, assists an unlicensed person to practice medicine, or having professional connection with or lending one's name to an illegal practitioner."

In its decision, the LSBME cited to numerous occasions, which are also discussed above, wherein Dr. Feldman facilitated the unauthorized practice of medicine with unlicensed staff.⁷ While Dr. Feldman insists that Ms. Bramlett was

⁷ The LSBME cited to the following evidence:

1. Dana Bramlett, an unlicensed scrub tech, refilled pain pumps.
2. Pain pumps were filled by Ms. Bramlett even when Dr. Feldman was not on the premises.
3. Ms. Bramlett was seen changing the dosages of pain pumps without consulting Dr. Feldman.
4. Unlicensed personnel administered controlled medications at Dr. Feldman's facilities.
5. Ms. Bramlett administered the medications in the operating room for RR's procedure.
6. Haley Barker, a medical assistant, administered Demerol, a Schedule II controlled substance, to patients.

qualified to administer and refill pain pumps, the LSBME clearly rejected the contention that unlicensed personnel were authorized to administer controlled dangerous substances to patients and assist in the operating room. Given the foregoing, the record amply supports the finding of a violation on count five.

Finally, in count six, Dr. Feldman was charged with violations of 37:1285A(6) and (18),⁸ relative to unauthorized practice of medicine concerning the distribution of prescriptions. It is a violation of La. R.S. 37:1285(A)(6) to “prescribe, dispense, or administer legally controlled substances or any dependency-inducing medication without legitimate medical justification thereof or in other than a legal or legitimate manner.”

Despite the testimony of one employee, Diep Morris, that Dr. Feldman originally signed all prescription, the LSBME found that the evidence to the contrary was overwhelming. Several of Dr. Feldman’s other employees testified that he employed the use of a Ghostwriter, which certain staff would use to issue prescriptions, including for controlled dangerous substances. In his absence, Dr. Feldman pre-signed prescriptions and Ms. Bramlett would sign his name to prescriptions. Finally, Dr. Feldman employed the use of a Pyxis machine, wherein unlicensed personnel had access to controlled dangerous substances. Considering the evidence presented, the record supports the LSBME’s determination that a violation occurred on count six.

7. Ms. Bramlett administered Versed outside the presence of Dr. Feldman.

8. Ms. Barker, a medical assistant, could not administer medications or help in the operating room. Despite these limitations, she did both. She injected Demerol and she helped in the operating room.

⁸ As already discussed, a violation of La. R.S. 37:1285(A)(18) involves assisting in the unauthorized practice of medicine.

In conclusion, after being presented with conflicting views of the evidence, the LSBME made credibility determinations based on the evidence presented. Where the administrative agency has the opportunity to judge the credibility of witnesses by first-hand observation of demeanor on the witness stand and the reviewing court does not, due regard shall be given to the agency's determination of credibility issues. La. R.S. 49:964(G)(6). Given that the record supports the LSBME's decision, we find the evidence sufficient to support the LSBME's disciplinary sanctions on all six violations.

DUE PROCESS

In the second assignment of error, Dr. Feldman raises two primary due process arguments concerning the pre-hearing conference and the commingling of prosecutorial and adjudicatory roles. First, he argues that he was not afforded a proper pre-hearing conference in accordance with La. R.S. 49:961(c). La. R.S. 49:961(c) specifies that prior to suspending a license, the licensee must be given an opportunity to show compliance.⁹

A review of the record indicates that Dr. Feldman was afforded the appropriate 961(c) conferences on both the complaint and the amended complaint. Nevertheless, Dr. Feldman did not file an exception of prematurity or object to continuing with the proceedings. Meanwhile, he conducted discovery and

⁹ La. R.S. 49:961(c) provides:

No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gives notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

participated in the adjudicatory hearing. In so doing, he waived his right to raise issues related to the 961(c) conferences. *Reaux*, 02-0906, p. 12, 850 So.2d at 731 (citation omitted) (wherein this Court held that physician waived right to 961(c) conference, where he did not raise issue with the LSBME prior to participating in discovery and other pre-hearing proceedings).

Next, Dr. Feldman argues that he was not afforded due process due to the commingling of prosecutorial and adjudicatory functions by the DOI, who served as prosecutor and executive director of the LSBME, the adjudicatory body. The LSBME is a statutory agency governed by La. R.S. 37:1261 *et seq.* As already discussed, La. R.S. 37:1285 authorizes the board to issue disciplinary sanctions related to the licensing of physicians. The Louisiana Administrative Code provides for the conduct of an adjudication hearing as follows:

D. During evidentiary hearing, the presiding officer shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in executive session. At any such hearing, the board may be assisted by legal counsel, retained by the board for such purpose, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

46 La. Admin. Code Pt XLV, §9921. “An impartial decision maker is essential to an administrative adjudication that comports with due process, even if de novo review is available.” *Haygood v. Louisiana State Bd. of Dentistry*, 11-1327, 12-214, 12-215, p. 10 (La. App. 4 Cir. 9/26/12), 101 So.3d 90, 97.

In this case, the record reveals that DOI, Cecelia Mouton, served as prosecutor with her respective counsel, Bryan Reuter and Richard Stanley.¹⁰ Likewise, the LSBME served as the adjudicatory body, while Judge Michael Bagneris (Ret.) served as independent counsel. Thus, there is no indication that adjudicatory and prosecutorial functions were commingled.

Dr. Feldman cites to *Haygood, supra*, in support of his argument for reversal on due process grounds. However, *Haygood* is distinguishable. In *Haygood*, this Court found a due process violation because the dentistry board's general counsel acted on behalf of the board, as independent counsel, as prosecutor, and as fact-finder. *Haygood*, 11-1327, p. 11, 101 So.3d at 98.

This Court stated: “[t]he record is replete with instances in which Mr. Begue acted as prosecutor throughout the proceedings, and at times, simultaneously acted as prosecutor, panel member and independent counsel - even ruling on his own objection.” *Haygood*, 11-1327, p. 8, 101 So.3d at 96.

Unlike in *Haygood*, the adjudicatory and prosecutorial functions remained separate in this case. Therefore, *Haygood* is inapplicable. Based on our review of the record, we do not find any reversible due process violation.

Similarly, Dr. Feldman argues that Cecilia Mouton served as both the Executive Director of the LSBME and the DOI in violation of the law. In support of his argument, he cites to Act 441 of the 2015 legislative session, wherein the law was changed to prohibit the Executive Director from serving as DOI.¹¹ While Dr. Feldman is correct regarding the change in the law, he overlooks the fact that

¹⁰ While Dr. Feldman suggests that Mr. Stanley served as general counsel for the LSBME while his partner Mr. Reuter served as counsel for DOI, the record does not support this conclusion.

¹¹ Act 441 of the 2015 Louisiana Legislative Session enacted La. R.S. 37:1285.2(A), which states: “Any staff member of the board, except the executive director, may be appointed to act as the lead investigator for any complaint regarding a physician received by the board or any investigation regarding a physician initiated by the board upon its own motion.”

Act 441 specifically excluded pending investigations.¹² Since Dr. Feldman's investigation was open and active before the law became effective, Act 441 does not apply to this case.¹³

RECUSAL

Turning to the third assignment of error, Dr. Feldman raises two recusal issues. First, he argues that Dr. J. Michael Burdine, a board member and known competitor, did not recuse himself from the inception of the case. However, the record does not support this conclusion. To the contrary, the record reveals that Dr. Burdine recused himself from the onset of this case.¹⁴ Given the record before us, we find no reversible error.

Next, Dr. Feldman argues that the trial court exhibited bias when it stated "it would like to make doctors cry, too ...".¹⁵ The record reflects that Dr. Feldman neither objected nor filed a motion to recuse the trial court. As a result, this issue was not properly preserved for review on appeal. *See Brown v. Chategnier*, 16-0373, p. 3 (La. App. Cir. 12/14/16), 208 So.3d 410, 413 (where this Court held that wife in child custody dispute did not preserve for appeal her claim that trial court made comments during trial that demonstrated a bias against wife and in favor of husband, because wife did not contemporaneously object when the trial court made the statement, or raise the issue of the trial court's alleged bias at any time prior to

¹² Act 441, Section 2 states: "[t]he provisions of this Act shall have prospective application only and shall not apply to any investigation pending on the effective date of this Act."

¹³ Moreover, in cases prior to Act 441, the jurisprudence has upheld the combination of investigative and judicial functions within an agency. *Alexander v. Louisiana State Bd. of Med. Examiners*, 94-101, p. 6 (La. App. 4 Cir. 9/29/94), 644 So.2d 238, 242, writ denied, 94-3075 (La. 2/9/95), 649 So.2d 423 (citing *Withrow v. Larkin*, 421 U.S. 35, 95 S.Ct. 1456, 43 L.Ed.2d 712 (1975)).

¹⁴ In particular, Dr. Burdine testified that at the inception of the complaint, he voted to go into executive session. Once he realized the Dr. Feldman's case was to be heard for review, he recused himself. He further explained that he never discussed the case with other board members or casted a vote.

¹⁵ The trial court's statement in its entirety reads: "I would like to make doctors cry, too, but that's a different story. Actually, I would like to make them wait - -[.]"

the entry of judgment). Nevertheless, assuming the issue was preserved for appellate review, the record does not show that the trial court had any bias in favor or against any party.¹⁶

TRANSCRIPT

Fourth and finally, Dr. Feldman argues that the transcript from the January 12, 2015 hearing is missing from the record, thus the trial court could not review it. The burden is on the appellant to insure the record is complete. *Armstrong ex rel. R.D. v. Johnson*, 11-1379, p. 8 (La. App. 4 Cir. 7/5/12), 97 So.3d 548, 553 (quotation omitted). “The appellant has the duty to secure either a transcript of the testimony or a narrative of the facts; and the inadequacy of the record, if any, is imputable to the appellant.” *Id.*¹⁷

CONCLUSION

Based on a review of the record before us, we cannot say that the LSBME’s decision to impose disciplinary sanctions against Dr. Feldman was arbitrary, capricious, or an abuse of discretion. Accordingly, the trial court’s judgment upholding the decision of the LSBME is affirmed.

¹⁶ Notably, the board opposing Dr. Feldman’s appeal in the trial court is comprised of doctors.

¹⁷ Additionally, we recognize that the pertinent transcript is included as Exhibit A to Dr. Feldman’s Motion to Disqualify Counsel of Record contained within Volume I, Tab 35 of the administrative record.