

MEMORANDUM DECISION

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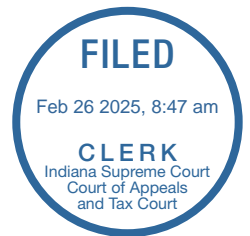


IN THE Court of Appeals of Indiana

Medical Licensing Board of Indiana,
Appellant-Respondent

v.

James E. Jenison, M.D.,
Appellee-Petitioner



February 26, 2025

Court of Appeals Case No.
24A-PL-1294

Appeal from the Marion Superior Court
The Honorable Patrick J. Dietrick, Judge
Trial Court Cause No.
49D12-2303-PL-10217

Memorandum Decision by Judge Bailey
Judges Vaidik and DeBoer concur.

Case Summary

- [1] The State filed an administrative complaint against Dr. James E. Jenison alleging that he had committed lewd or immoral conduct in connection with the delivery of services to the public on five occasions, that he had prescribed controlled substances without a valid Controlled Substances Registration (“CSR”), and that he had engaged in fraud or material deception in order to renew his CSR. Following an administrative hearing, the Medical Licensing Board of Indiana (“the Board”) found that the State had presented sufficient evidence on all seven counts and issued an order revoking Dr. Jenison’s medical license. Dr. Jenison then filed a petition for judicial review. The trial court concluded that the record lacked substantial evidence to support the Board’s order and granted Dr. Jenison’s petition, set aside the Board’s order, and reinstated Dr. Jenison’s license. The Board now appeals and raises one issue for our review, namely, whether the trial court erred when it granted Dr. Jenison’s petition. Because we agree, we reverse the trial court’s decision and remand with instructions for the court to affirm the Board’s order.

Facts and Procedural History

- [2] Dr. Jenison received both his license to practice medicine and his CSR in 1986, and he began working as a primary care physician in Evansville. In early 2019, Dr. Jenison was employed as an internist with Ascension St. Vincent

(“Ascension”). While he worked with Ascension, he had administrative staff who handled the renewal applications for both his medical license and his CSR.

[3] In the late 1990s or early 2000s, K.B. went to Dr. Jenison for her yearly check-up, which included a Pap smear. When Dr. Jenison completed the Pap smear, he “shoved” what she believed to be his finger “into [her] rectum” and then proceeded to ask her if she had ever had anal sex. Appellant’s App. Vol. 6 at 34. K.B. responded that she does not participate in anal sex, but Dr. Jenison “continued to talk about it” by telling her “how [she] needed to go about doing it” and how “to make it less painful and more enjoyable” *Id.* K.B. did not report the incident to anyone.

[4] On March 20, 2019, S.B. had an appointment with Dr. Jenison for “routine labs and a re-check on [her] meds.” Appellant’s App. Vol. 5 at 144. During the visit, S.B. also requested that Dr. Jenison “look at 2 suspicious moles,” one on her shoulder and one on her arm. *Id.* Dr. Jenison said that the moles “did not concern him and that he’d freeze them off.” *Id.* S.B.’s medical gown was “loose,” so Dr. Jenison could easily access the areas. *Id.* Dr. Jenison “ran his hand across [S.B.’s] upper back” and “unhooked [her] bra.” *Id.* Dr. Jenison then directed S.B. to lay down, and he “performed a breast exam that was very detailed and just didn’t feel right.” *Id.* S.B. informed Dr. Jenison that she had recently had a mammogram, but Dr. Jenison did not respond. S.B. then sat up and hooked her bra, and Dr. Jenison proceeded with removing the moles. While Dr. Jenison was applying pressure to the moles, “he pressed his penis up against” S.B.’s leg and stood there for “several minutes.” *Id.* A few months

later, S.B. wrote a letter to Detective Brian Turpin with the Evansville Police Department and informed him of Dr. Jenison's actions.

[5] On May 8, A.G. had an appointment with Dr. Jenison and told him of "some tension in [her] neck," and Dr. Jenison instructed her to sit on the stool and take her shirt off. Appellant's App. Vol. 6 at 29. Dr. Jenison "started massaging [her] shoulders and then he unhooked [her] bra." *Id.* at 30. Dr. Jenison "took his left hand and he slid it across [her] chest and he grabbed [her] breast and held on to it as he continued to give [her] the massage up on [her] other shoulder." *Id.* He then "moved to the other side where he continued to do the same thing" and "took his right hand and slid it across [her] chest" and was "holding on to her breast." *Id.* A.G. did not report the incident to anyone.

[6] On June 12, C.R. had an appointment with Dr. Jenison following a stroke. After a conversation about medications, Dr. Jenison left the room. When he returned, he instructed C.R. to sit on a stool facing the exam table and to remove her shirt and bra. Dr. Jenison applied lotion to C.R.'s back and used "an instrument that had a vibrating noise" while standing behind her. *Id.* at 25. Then, with his hand that was not holding the instrument, Dr. Jenison "went over [her] neck . . . and fondled [her] breasts and [her] nipples." *Id.* This lasted for "multiple minutes[.]" *Id.* When Dr. Jenison turned the machine off, he "took lotion and rubbed it on [her] back again and applied lotion and rubbed it on both of [her] breasts[.]" *Id.* C.R. left the office and, a few days later, filed a report with Detective Turpin. She also reported Dr. Jenison to Ascension.

- [7] On June 20, E.E. had an appointment with Dr. Jenison to discuss weight-loss options following the birth of her child. Dr. Jenison “kind of out of nowhere” told her: “Well, I can assure you that your husband still finds you sexually attractive[.]” *Id.* at 36. Dr. Jenison then informed E.E. that he could prescribe some medication but that he would need to examine her first. Dr. Jenison unhooked E.E.’s bra and “conduct[ed] a breast exam” that E.E. “knew there was no reason for[.]” *Id.* E.E. did not inform anyone of Dr. Jenison’s actions.
- [8] Ascension began an investigation into Dr. Jenison. Following a peer-review meeting, Ascension found that Dr. Jenison had been “inappropriate” with a patient during an office visit and suspended him pending further review. Appellant’s App. Vol. 5 at 66. On July 12, after it had concluded its investigation, Ascension “made the decision to terminate” Dr. Jenison’s employment. *Id.* at 126. However, Ascension gave Dr. Jenison the opportunity to voluntarily resign. Dr. Jenison resigned from Ascension on July 19.¹
- [9] On July 26, Detective Turpin filed a consumer complaint against Dr. Jenison with the Office of the Indiana Attorney General (“OAG”). Then, on September 19, the Chief Medical Officer with Ascension filed a consumer complaint with the OAG’s office “based on reasonable belief that Dr. Jenison has engaged in conduct that could be cause for investigation and/or disciplinary sanctions[.]” Appellant’s App. Vol. 2 at 182. On September 24, Dr. Jenison submitted an

¹ Dr. Jenison subsequently opened a concierge-medicine practice in Evansville.

application to renew his medical license. In that application, he answered “no” to a question that asked if any staff membership or privileges had “been revoked, suspended, or subjected to any restriction, probation, or other type of discipline or limitations.” Appellant’s App. Vol. 5 at 174.

[10] On July 12, 2021, the State filed its first administrative complaint against Dr. Jenison. In that complaint, the State alleged that Dr. Jenison had committed two violations of [Indiana Code Section 25-1-9-4\(a\)\(5\)](#)—one for having “inappropriately touched [C.R.’s] breasts in a lewd and immoral manner during an examination of” C.R. and one for having “inappropriately touched [S.B.’s] breasts and placed his penis against her body in a lewd and immoral manner during an examination of” S.B. Appellant’s App. Vol. 2 at 32. The State also alleged that he had committed “fraud or material deception in order to obtain a license” when he negatively answered the question on his renewal application regarding his membership or privileges. *Id.* At some point, the news ran a story about Dr. Jenison and the allegation that he had touched two women “inappropriately.” Appellant’s App. Vol. 6 at 31. Following that news story, A.G., K.B., and E.E. came forward with reports against Dr. Jenison.

[11] Thereafter, on April 13, 2022, the State filed a motion for summary suspension in which the State alleged that Dr. Jenison’s CSR had expired on December 1, 2021, but that he had continued to prescribe controlled substances to patients. Based on that allegation and the pending administrative complaint, the State sought an immediate suspension of Dr. Jenison’s medical license. The next day, Dr. Jenison submitted a renewal application for his CSR. One question on the

application asked if there had been an “occasion where you have not been in complete compliance with all state and local laws pertaining to controlled substances.” Appellant’s App. Vol. 5 at 175. Dr. Jenison responded in the negative.

[12] Because Dr. Jenison’s application “had no positive responses,” it was approved on the same day. *Id.* at 241. However, on April 27, the State amended its petition for summary suspension and alleged that his negative response to that question was “false” because “he had been prescribing controlled substances without an active CSR for months, which is a violation of the law” and that his response was a “fraudulent and/or materially deceptive statement[.]” Appellant’s App. Vol. 2 at 92-93. Following a hearing, the court denied the State’s motion for summary suspension.

[13] On July 14, the State filed an amended administrative complaint. In that complaint, the State reiterated the allegations in Counts 1 and 2 as they related to C.R. and S.B. and added three additional counts of “lewd or immoral” conduct: Count 3 alleged that Dr. Jenison had inappropriately touched A.G.’s breasts, Count 4 alleged that Dr. Jenison had inserted his finger into K.B.’s rectum and “made comments about anal sex,” and Count 5 alleged that Dr. Jenison had touched E.E.’s breasts. *Id.* at 111. The State further alleged in Count 6 that Dr. Jenison had knowingly prescribed controlled substances without a license, and it alleged in Count 7 that his negative response on the CSR application constituted “fraud or material deception[.]” *Id.*

[14] The Board held a hearing on the State’s amended complaint on January 26, 2023. During the hearing, C.R., A.G., K.B., and E.E. testified. C.R. testified to Dr. Jenison’s actions at her appointment on June 12, 2019. And she testified that she did not “know that [she] would be getting a massage that day,” that Dr. Jenison did not “explain what he was doing,” and that she had another doctor she saw for breast exams. Appellant’s App. Vol. 6 at 26. A.G. testified to Dr. Jenison’s actions during her visit on May 8, 2019, and that, during her visit with Dr. Jenison, he “never said a word” to explain what he was doing and that she was “scared” and “caught off guard.” *Id.* at 30.

[15] K.B. testified that Dr. Jenison put his finger in her anus and that, despite her statements to Dr. Jenison that she did not participate in anal sex, he “continued to talk about it” by telling her “how [she] needed to go about doing it” and how “to make it less painful and more enjoyable.” *Id.* at 34. And E.E. testified that Dr. Jenison did not “explain what he was doing” prior to giving her the breast exam. *Id.* at 37. The State also presented as evidence the affidavit of S.B., in which she stated that Dr. Jenison had performed a breast exam that “didn’t feel right” when the purpose of the appointment was to have two moles removed. Appellant’s App. Vol. 5 at 144. The State then presented the testimony of Brittany Snow, an investigator with the OAG’s office. Snow testified that Dr. Jenison had prescribed controlled substances to 163 patients during the time from December 1, 2021, through April 12, 2022, when his CSR was expired.

[16] Dr. Jenison testified in his defense. He testified that he did not give patients massages but that he performed myofascial releases using a massage gun and an

anti-inflammatory cream. He testified that, during those procedures, he would place his hands on his patients' shoulders to "stabilize" them. Appellant's App. Vol. 6 at 48. He also testified that he answered "no" on the CSR renewal application because he was in a "panic" to get his license renewed and that it was a "clerical error" to provide that answer. *Id.* at 47.

- [17] Following a hearing, the Board issued its findings of fact, ultimate findings of fact, and conclusions thereon in which it determined that Dr. Jenison had "inappropriately touched [C.R.'s] breasts," "inappropriately touched [S.B.'s] breasts and placed his penis against her body," "inappropriately touched [A.G.'s] breasts," "inappropriately inserted his finger in [K.B.'s] rectum and made comments about anal sex towards [K.B.]," and "inappropriately touched E.E.'s breasts[.]" Appellant's App. Vol. 2 at 16-17. The Board concluded that Dr. Jenison's actions constituted "lewd or immoral conduct in connection with the delivery of services to the public" in violation of [Indiana Code Section 25-1-9-4\(a\)\(5\)](#). *Id.* The Board also concluded that Dr. Jenison had knowingly violated a state statute or rule regulating the profession when he prescribed "controlled substances without an active CSR," in violation of [Indiana Code Section 25-1-9-4\(a\)\(3\)](#). *Id.* at 17. And the Board concluded that Dr. Jenison's act of answering "No" on his CSR renewal application "demonstrate[d] fraud or material deception in order to obtain a license to practice," in violation of [Indiana Code Section 25-1-9-4\(a\)\(1\)\(A\)](#). *Id.* Accordingly, the Board revoked Dr. Jenison's medical license.

[18] On March 10, 2023, Dr. Jenison filed a petition for judicial review and contended that the Board’s order was “unsupported by substantial evidence” and was “arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law[.]” *Id.* at 9. In particular, Dr. Jenison asserted that his “actions during the myofascial release procedure cannot be classified as ‘lewd or immoral conduct,’ based solely upon a patients’ [sic] perception and interpretation.” Appellant’s App. Vol. 6 at 118. The State responded and filed a brief in opposition to the petition for judicial review and asserted that the State had presented sufficient evidence and that Dr. Jenison was simply asking the trial court to reweigh the evidence.

[19] On May 6, 2024, the trial court issued its findings of fact and conclusions thereon and found that the State had not “met its burden” to revoke Dr. Jenison’s license. Appellant’s App. Vol. 7 at 2. Regarding C.R., the court found that “Dr. Jenison denied touching CR’s breasts in any deliberate manner,” that C.R. “did not express any concerns during or after the visit,” that she had contacted Dr. Jenison after the appointment to request a refill of her medication, that she “never mentioned she felt she had been touched with sexual intentions,” and that, following her report to Detective Turpin, “[n]o criminal charges were ever filed.” *Id.* at 15-16. As to S.B., the court found that S.B.’s statement regarding the breast exam was “completely devoid of any further explanation,” that Dr. Jenison did not perform a breast exam but “performed an exam of [her] lymph nodes,” and that Dr. Jenison had explained that “he did not press his penis up against her leg.” *Id.* at 18-19.

[20] As to A.G., the court found that Dr. Jenison “denied cupping [her] breasts” and that, contrary to A.G.’s claims, “no patient complained” to Dr. Jenison’s physician assistant of inappropriate touching by Dr. Jenison. *Id.* at 23. Regarding K.B, the court found that she “continued to be a patient of Dr. Jenison’s” for numerous years after the alleged incident, that she does not know “the date of the alleged incident” such that Dr. Jenison “was not able to review any notes or medical records,” that Dr. Jenison has “no recollection of sticking anything into KB’s rectum,” and that Dr. Jenison “did not discuss anal sex with” her. *Id.* at 25-26. And regarding, E.E., the court found that “Dr. Jenison testified that he did not touch or fondle [her] breasts” and that he “did not remove her shirt [or] unhook her bra.” *Id.* at 27.

[21] The court then found that Dr. Jenison had presented four affidavits from individuals that were complimentary to Dr. Jenison and his work as a physician. The court also found that Dr. Jenison was unaware that he had failed to renew his CSR license; that he “immediately” renewed it upon learning that it had expired; and that, had Dr. Jenison been aware that his CSR license had expired, “he would not have been writing prescriptions.” *Id.* at 21-22. The court further found that Dr. Jenison had provided the negative response on the renewal application because “he misunderstood the question[.]” *Id.* at 22.

[22] Based on those findings, the court concluded that the State failed to show that Dr. Jenison had engaged in lewd or immoral conduct toward C.R. and A.G. because the evidence showed that Dr. Jenison had performed a myofascial

release on them, which was a technique with “legitimate medical value,” and that their “interpretation[s]” of the procedure “cannot be equated with Dr. Jenison’s intent.” *Id.* at 32-33. The court also concluded that insufficient evidence existed as to S.B. because “her ‘breast exam’ . . . was not a breast exam, it was a lymph node exam,” which was “documented in the medical record[.]” *Id.* at 34. The court also concluded that the “factual discrepancy” between S.B.’s allegation that Dr. Jenison had placed his penis on her leg and Dr. Jenison’s explanation that he had “to stand right up against the table” to perform the cryotherapy is not a “sufficient predicate” to discipline his license. *Id.* at 35.

[23] The court similarly concluded that the State had presented insufficient evidence that Dr. Jenison had engaged in lewd or immoral conduct with K.B. because she “did not know the date of the examination, or even the year of the examination, which makes it impossible to establish a reliable timeline” and because it was “impossible” for Dr. Jenison to “refute or explain anything that happened.” *Id.* at 35-36. The court concluded that, “given this paucity of evidence,” Dr. Jenison “cannot be found liable[.]” *Id.* at 36. And, as to E.E., the court concluded that her “allegations are unreliable on their face and cannot be the basis for misconduct” because her allegations were based on “her admittedly own subjective uncertainty[.]” *Id.* at 37-38.

[24] Finally, the court concluded that Dr. Jenison did not knowingly prescribe controlled substances without a CSR because “he genuinely did not possess the knowledge that his CSR had expired[.]” *Id.* at 38. And the court concluded that

he did not commit fraud or material deception when he provided an incorrect response on his CSR renewal application because his response was “unintentional” and provided after “hastily” completing the application and “misinterpret[ing] the question.” *Id.* at 39. Accordingly, the court granted Dr. Jenison’s petition for judicial review, set aside the Board’s order, and reinstated his license. This appeal ensued.

Discussion and Decision

[25] The Board appeals the trial court’s grant of Dr. Jenison’s petition for judicial review. “While the legislature has granted courts the power to review the action of state government agencies taken pursuant to the Administrative Orders and Procedures Act, this power of review is limited.” *255 Morris, LLC v. Ind. Alcohol and Tobacco Comm’n*, 93 N.E.3d 1149, 1152-53 (Ind. Ct. App. 2018). A trial court may only set aside agency action that is:

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- (2) contrary to constitutional right, power, privilege, or immunity;
- (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
- (4) without observance of procedure required by law; or
- (5) unsupported by substantial evidence.

Ind. Code § 4-21.5-5-14(d) (2023).² “The party seeking judicial review bears the burden to demonstrate that the agency’s action is invalid.” *Pendleton v. McCarty*, 747 N.E.2d 56, 61 (Ind. Ct. App. 2001), *trans. denied*.

[26] A review of an administrative agency’s decision at the trial court level “‘is not intended to be a trial *de novo*, but rather the court simply analyzes the record as a whole to determine whether the administrative findings are supported by substantial evidence.’” 255 *Morris*, 93 N.E.3d at 1153 (quoting *Whirlpool Corp. v. Vanderburgh Cnty.-City of Evansville Human Relations Comm’n*, 875 N.E.2d 751, 759 (Ind. Ct. App. 2007)). “A party may appeal a trial court’s determination of the propriety of the administrative agency’s decision pursuant to the rules governing civil appeals.” *Id.* “‘When reviewing an administrative agency’s decision, appellate courts stand in the same position as the trial court.’” *Id.* (quoting *Pendleton*, 747 N.E.2d at 61).

An appellate court may not substitute [its] judgment on factual matters for that of the agency and [is] bound by the agency’s findings of fact if [the findings] are supported by substantial evidence. Courts that review administrative determinations, at both the trial and appellate level, review the record in the light most favorable to the administrative proceedings and are prohibited from reweighing the evidence or judging the credibility of witnesses. While reviewing courts must accept the

² Indiana Code Section 4-21.5-5-14 was amended, effective July 1, 2024, to allow the trial court to grant relief if the agency action is “unsupported by a preponderance of the evidence” rather than “unsupported by substantial evidence.” Compare Ind. Code § 4-21.5-5-14(d)(5) (2023) with Ind. Code § 4-21.5-5-14(d)(5) (2024). Because the court granted judicial review prior to July 1, 2024, we apply the previous version of the statute to this case.

agency's findings of fact if supported by substantial evidence, no such deference need be accorded an agency's conclusions of law, as the law is the province of the judiciary.

Id. (some brackets in original, internal citations and quotations omitted).

- [27] Here, the trial court set aside the Board's action based on its conclusion that the Board's determination was unsupported by substantial evidence. "In determining whether an administrative decision is supported by substantial evidence, the trial court must examine the whole record to determine whether the agency's decision lacks a reasonably sound basis of evidentiary support."

Ind. Alcoholic Beverage Comm'n v. River Rd. Lounge, Inc., 590 N.E.2d 656, 658 (Ind. Ct. App. 1992), *trans. denied*.

- [28] On appeal, the State contends that "[s]ufficient evidence supports the Board's revocation of Dr. Jenison's medical license" and that, in concluding otherwise, the trial court "failed to acknowledge the expertise of the Board," "substituted its judgment for that of the Board," and "reweighed the evidence and judged the credibility of the witnesses." Appellant's Br. at 19, 21. We must agree.

- [29] The Board regulates the practice of medicine within Indiana. The Board's authority to impose disciplinary sanctions comes from Indiana Code Section 25-1-9-4(a), which provides, in relevant part, that the Board may discipline a practitioner if he: "engaged in or knowingly cooperated in fraud or material deception in order to obtain a license," "knowingly violated any state statute or rule" or "engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public[.]" A violation of any one subsection

subjects a practitioner to disciplinary sanctions. See *Gray v. Med. Licensing Bd. of Ind.*, 102 N.E.3d 917, 922-23 (Ind. Ct. App. 2018).

[30] The Board found that Dr. Jenison had engaged in lewd or immoral conduct in relation to five individuals, and there is substantial evidence to support those findings. Indeed, the State presented the testimony of C.R., A.G., K.B., and E.E. C.R. testified that Dr. Jenison had “fondled” her breasts and her nipples for “multiple minutes.” Appellant’s App. Vol. 6 at 25. A.G. testified that Dr. Jenison “grabbed” her breasts during an appointment. *Id.* at 30. K.B. testified that Dr. Jenison “shoved” his finger into her rectum and spoke to her about anal sex despite her statements that she did not participate in that. *Id.* at 34. And E.E. testified that Dr. Jenison had unhooked her bra and “conduct[ed] a breast exam” that she “knew there was no reason for” during an appointment to discuss weight-loss options. *Id.* at 36. The State also presented S.B.’s affidavit, in which S.B. stated that Dr. Jenison had “performed a breast exam that was very detailed and just didn’t feel right” during an appointment when she was supposed to get moles removed and that Dr. Jenison had “pressed his penis” against her leg for “several minutes” while removing moles. Appellant’s App. Vol. 5 at 144.

[31] In addition, the State also presented as evidence the consumer complaint filed with the OAG by Detective Turpin, which he filed after C.R. had filed a report against Dr. Jenison with him; the consumer complaint filed by the Chief Medical Officer of Ascension, which alleged that Dr. Jenison had “engaged in conduct that could be cause for investigation and/or disciplinary sanctions[;]”

the consumer complaints filed by E.E., K.B, and A.G., which outlined their allegations against Dr. Jenison; and S.B.'s letter to Detective Turpin with her complaint against Dr. Jenison. Appellant's App. Vol. 2 at 182. The State further presented as evidence Dr. Jenison's employment records that demonstrate that Ascension had suspended his employment pending a full investigation following a report that he had been "inappropriate" with a patient during an office visit and that, after the investigation, Ascension "made the decision to terminate" his employment. Appellant's App. Vol. 5 at 83, 126.

[32] We acknowledge that Dr. Jenison presented evidence to contradict the evidence against him. However, again, courts that review administrative determinations, at both the trial and appellate level, "are prohibited from reweighing the evidence or judging the credibility of witnesses." [255 Morris](#), 93 N.E.3d at 1153. While the Board did not make any explicit findings regarding weight or credibility, it is clear that the Board found the victims to be credible witnesses and that it gave greater weight to the State's evidence than to Dr. Jenison's. Given the evidence presented by the State, including the in-person testimony from four victims, the affidavit of a fifth victim, the consumer complaints, and the employment records, we hold that the State presented substantial evidence to support its findings that Dr. Jenison had engaged in lewd or immoral conduct in connection with the delivery of services. In concluding otherwise, the trial court improperly reweighed the evidence and judged the credibility of witnesses.

[33] We similarly hold that the State presented substantial evidence to show that Dr. Jenison knowingly violated a state statute or rule regulating the profession. [Indiana Code Section 35-48-3-3\(b\)](#) provides that “every person who dispenses or proposes to dispense any controlled substance within Indiana must have a registration[.]” The State’s evidence demonstrates that Dr. Jenison’s CSR expired on December 1, 2021, and that he did not renew it until April 14, 2022. The evidence further shows that he prescribed controlled substances to 163 patients during that time. Thus, the evidence shows that he prescribed controlled substances without a license.

[34] Still, Dr. Jenison testified that he did not knowingly prescribe the controlled substances without a license because he was unaware that his license had expired. In particular, he testified that his administrative staff would handle those matters while he was employed with Ascension and that, following his departure, he did not know that the CSR renewal was a separate application from his medical license renewal.

[35] However, the Board was not required to credit Dr. Jenison’s testimony. *See Thompson v. State*, 804 N.E.2d 1146, 1149 (Ind. 2004) (stating that “factfinders are not required to believe a witness’s testimony even when it is uncontradicted.”) And it was reasonable for the Board to disbelieve Dr. Jenison’s explanation, especially in light of the fact that Dr. Jenison had been a physician with a CSR for almost forty years. By concluding that the State did not present substantial evidence, the trial court substituted its judgment for that of the Board, which it was not permitted to do. *See 255 Morris*, 93 N.E.3d at

[1153](#). The Board’s findings that Dr. Jenison had knowingly violated a state statute are supported by substantial evidence.

[36] Finally, we hold that the State presented substantial evidence to show that Dr. Jenison had engaged in fraud or material deception to obtain his CSR. In particular, the evidence demonstrates that Dr. Jenison was served with a copy of the State’s motion for summary suspension on April 13, 2022, in which the State indicated that his CSR had expired on December 1, 2021, and that he had continued to prescribe controlled substances after that date. At the very least, Dr. Jenison became aware that he had been prescribing controlled substances without a license upon receiving that motion. When he renewed his CSR on April 14, he was asked if there had “been an occasion where you have not been in complete compliance with all state and local laws pertaining to controlled substances.” Appellant’s App. Vol. 5 at 175. Despite his knowledge that he had been prescribing controlled substances without an active CSR, Dr. Jenison responded in the negative.

[37] We again acknowledge that Dr. Jenison attempted to explain his answer by saying he was in a “panic” to get his application submitted and that it was simply a “clerical error[.]” Appellant’s App. Vol. 6 at 47. But again, the Board was not required to credit his explanation, and it is clear the Board did not believe his explanation. The trial court was not permitted to substitute its judgment for that of the Board and give more credit to Dr. Jenison’s testimony. *See* [255 Morris](#), [93 N.E.3d at 1153](#). The State presented substantial evidence to show that Dr. Jenison had knowingly engaged in fraud or material deception in

order to obtain a license when Dr. Jenison provided a false response on his CSR renewal application.

Conclusion

[38] Substantial evidence supports the Board's findings that Dr. Jenison engaged in lewd and immoral conduct in connection with the delivery of services to the public when he inappropriately touched five women, that Dr. Jenison had knowingly violated a state statute when he prescribed controlled substances without a CSR, and that Dr. Jenison had engaged in fraud or material deception in order to obtain a license to practice when he provided a false response on his CSR renewal application. We therefore reverse the judgment of the trial court and remand with instructions to affirm the Board's order.

[39] Reversed and remanded with instructions.

Vaidik, J., and DeBoer, J., concur.

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