

**BEFORE THE MARYLAND STATE BOARD OF CONTRACT APPEALS**

<b>In the Appeal of</b>	*	
<b>Patriot Medical Laboratories, LLC</b>		
<b>d/b/a CIAN Diagnostics</b>	*	<b>Docket No. MSBCA 3232</b>
<b>Under MDH Contract No. M00B0600439</b>	*	
<b>Appearance for Appellant</b>	*	<b>Michael A. Miller, Esq.</b>
		<b>Scott A. Livingston, Esq.</b>
	*	<b>Rifkin Weiner Livingston LLC</b>
		<b>Bethesda, Maryland 20814</b>
	*	
<b>Appearance for Respondent</b>	*	<b>Randi Lifson, Esq.</b>
		<b>Assistant Attorney General</b>
	*	<b>Office of the Attorney General</b>
		<b>Baltimore, Maryland 21201</b>

\* \* \* \* \*

**OPINION AND ORDER BY MEMBER CARNAHAN**

Having considered Appellant’s Request for *En Banc* Review of Order Dated September 7, 202[3] and Request for Hearing, which the Board treats as a Motion, and having considered Respondent’s Opposition thereto, the Board finds as follows:

There is no statutory or regulatory authority permitting the Board to conduct an *en banc* review or hearing. MD. CODE ANN., STATE FIN. & PROC., §15-207(a)(2) provides only that “[a]n appeal before the Appeals Board shall be heard by a panel of not more than 3 members designated by the Chairman.” Therefore, the Board may only sit in panels of “not more than 3 members” in any proceedings before the Board. Further, COMAR provides that “the decision of a majority of three Appeals Board members shall constitute the decision of the Appeals Board.” Consequently, only the same panel of three Board members who issued the decision may decide a motion for reconsideration filed pursuant to COMAR 21.10.05.06F.

Here, the three members designated to serve on the panel in this appeal issued a decision on September 7, 2023, which constitutes the final decision of the Board. The same panel will issue an Order on Appellant's Motion for Reconsideration without a hearing.

**ORDER**

Based on the foregoing, it is this 6th day of October 2023 hereby:

ORDERED that Appellant's Request for *En Banc* Review of Order Dated September 7, 202[3] and Request for Hearing is DENIED;

ORDERED that the September 28, 2023 Scheduling Order reserving November 1, 2023 for a potential *en banc* hearing is rescinded; and it is further

ORDERED that a copy of any papers filed by any party in any subsequent action for judicial review shall be provided to the Board, together with a copy of any court orders issued by the reviewing court.

\_\_\_\_\_  
/s/  
Michael L. Carnahan, Member

I concur:

\_\_\_\_\_  
/s/  
Senchal D. Barrolle, Esq., Member

\_\_\_\_\_  
/s/  
Sonia Cho, Esq., Member

**Certification**

**COMAR 21.10.01.02 Judicial Review.**

A decision of the Appeals Board is subject to judicial review in accordance with the provisions of the Administrative Procedure Act governing contested cases.

**Md. Rule 7-203 Time for Filing Action.**

**(a) Generally.** - Except as otherwise provided in this Rule or by statute, a petition for judicial review shall be filed within 30 days after the latest of:

- (1) the date of the order or action of which review is sought;
- (2) the date the administrative agency sent notice of the order or action to the petitioner, if notice was required by law to be sent to the petitioner; or
- (3) the date the petitioner received notice of the agency's order or action, if notice was required by law to be received by the petitioner.

**(b) Petition by Other Party.** - If one party files a timely petition, any other person may file a petition within ten days after the date the agency mailed notice of the filing of the first petition, or within the period set forth in section (a), whichever is later.

\* \* \*

I hereby certify that the foregoing is a true copy of the Maryland State Board of Contract Appeals decision in MSBCA No. 3232, Appeal of Patriot Medical Laboratories, LLC d/b/a CIAN Diagnostics, under MDH Contract No. M00B0600439.

Dated: 10/6/2023

/s/  
Michael A. Dosch, Jr.  
Clerk

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY

PETITION OF PATRIOT MEDICAL  
LABORATORIES, LLC d/b/a CIAN  
DIAGNOSTICS

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FOR JUDICIAL REVIEW OF THE  
SEPTEMBER 7, 2023 AND OCTOBER 6, 2023  
OPINIONS AND ORDERS ISSUED BY THE  
MARYLAND STATE BOARD OF CONTRACT  
APPEALS

CASE NO. C-15-CV-23-003753

IN THE CASE OF THE APPEAL OF PATRIOT  
MEDICAL LABORATORIES, LLC d/b/a CIAN  
DIAGNOSTICS  
MSBCA Docket No. 3232  
Contract No. M00B0600439

\* \* \* \* \*

**ORDER**

Upon consideration of Maryland Department of Health ("MDH") Answer to Memorandum, it is this 14 day of MAY, 2024

ORDERED that:

1. The MSBCA's Opinion and Order dated September 7, 2023, be affirmed and
2. The MSBCA's Opinion and Order dated October 6, 2023 be affirmed.

Judge

**MARGARET M.  
SCHWEITZER  
JUDGE**

Entered: Clerk, Circuit Court for  
Montgomery County, MD  
May 15, 2024