

IN THE MATTER OF
JOSEPH A. GARCIA, M.D.
Respondent

License Number: D23969

*** BEFORE THE**
*** MARYLAND STATE**
*** BOARD OF PHYSICIANS**
*** Case Number: 2220-0025A**

* * * * *

CONSENT ORDER

On July 9, 2020, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) charged Joseph A. Garcia, M.D. (the “Respondent”) with violating the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.)

The relevant provisions of the Act state the following:

Health Occ. § 14-404. Denials, reprimands, probations, suspension, and revocations – Grounds.

(a) *In general.* -- Subject to the hearing provisions of § 14–405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

...

(42) Fails to submit to a criminal history records check under § 14–308.1 of this title[.]

Section 14-308.1 of the Health Occupations Article provides:

(a) In this section, “Central Repository” means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) An applicant, a licensee, or a certificate holder shall apply to the Central Repository for a State and national criminal history records check.

- (c) As part of the application required under subsection (b) of this section, an individual shall submit to the Central Repository:
 - (1) Two complete sets of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;
 - (2) The fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to State criminal history records; and
 - (3) The mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

On November 4, 2020, Panel A was convened as a Disciplinary Committee for Case Resolution (“DCCR”) in this matter. Based on negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, Order, and Consent.

FINDINGS OF FACT

Panel A finds the following:

I. BACKGROUND

1. At all times relevant to these charges, the Respondent was and is licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on August 6, 1979, under License Number D23969.

2. On or about September 10, 2018, the Respondent submitted an online application (the “Application”) for the renewal of the Respondent’s license using the Board’s online renewal application process.

3. When a licensee applies online to renew his or her license, the licensee checks a box attesting that he or she has completed a Criminal History Records Check (“CHRC”) and acknowledges on the same application that a licensee faces disciplinary action if the licensee fails to comply with the CHRC requirement.

4. Prior to proceeding with the application, a pop-up screen appears that informs the licensee that the Board may not renew a license if the Board has not received the licensee’s CHRC information, which includes the licensee’s submission of his or her fingerprints to the Criminal Justice Information Services (“CJIS”) before attempting to proceed with the renewal application. The pop-up notice also notifies the licensee that failure to submit to a CHRC may result in disciplinary action. The Respondent checked the box attesting that he had completed the CHRC, when he had in fact not done so, before proceeding with the Application.

5. The Respondent’s signed Application contains two acknowledgements/affirmations by the Respondent that the Respondent had completed a CHRC.

6. By e-mail dated on or about January 22, 2019, Board staff informed the Respondent that the Board had not received the CHRC.¹ Board staff further informed the Respondent that the Respondent had ten business days to submit the CHRC.

7. The Respondent did not reply to the e-mail.

¹ Board staff used the e-mail address provided by the Respondent on the Application as the “Official Email Address . . . the board will use for official correspondence.”

8. By letter dated March 6, 2019, sent to the Respondent's address of record, the Board informed the Respondent that it opened a preliminary investigation based upon the failure to obtain a CHRC for license renewal and the attestation that that the Respondent submitted to a CHRC. The letter notified the Respondent that he was subject to potential disciplinary action and requested that the Respondent submit documentation to the Board to support that the Respondent obtained a CHRC within ten business days.

9. The Respondent did not reply to the letter.

10. By letter dated May 28, 2019, sent to the Respondent's address of record, the Board again notified the Respondent that he was subject to potential disciplinary action and instructed the Respondent to contact the Board and submit evidence that the Respondent obtained a CHRC.

11. The Respondent did not reply to the letter and did not provide documentation to the Board that the Respondent obtained a CHRC before Panel A voted to issue charges.

12. On or about March 11, 2020, the Board received the completed CHRC report pursuant to Health Occ. § 14-308.1.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel A of the Board concludes as a matter of law that the Respondent failed to submit to a criminal history records check under § 14-308.1 of the Health Occupations Article, in violation of Health Occ. § 14-404(a)(42). Panel A dismisses the charges under Health Occ. § 14-404(a)(1), (3)(ii), (33), and (36).

ORDER

It is, thus, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel A, hereby

ORDERED that the Respondent is **REPRIMANDED**; and it is further

ORDERED that, **within six (6) months**, the Respondent shall pay a civil fine of **\$500.00**. The payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297. The Board will not renew or reinstate the Respondent's license if the Respondent fails to timely pay the fine to the Board; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director or her designee signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order; and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

Signature on File

12/01/2020
Date

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

CONSENT

I, Joseph A. Garcia, M.D., acknowledge that I have consulted with counsel before signing this document.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* concerning the pending charges. I waive this right and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my behalf, and to all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order. I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

I sign this Consent Order, without reservation, and fully understand the language and meaning of its terms.

Signature on File

11-20-2020
Date

Joseph A. Garcia, M.D.

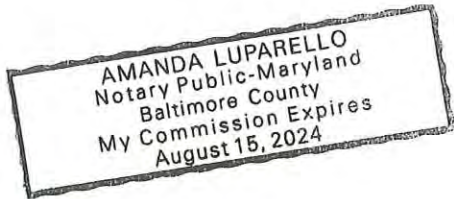
NOTARY


STATE OF: MARYLAND

CITY/COUNTY OF: BALTIMORE

I HEREBY CERTIFY that on this 20TH day of NOVEMBER, 2020, before me, a Notary Public of the State and City/County aforesaid, personally appeared Joseph A. Garcia, M.D. and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.





Notary Public

My commission expires: