

IN THE MATTER OF
FRANK L. KRIGER, M.D.

Respondent

License Number: D50350

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2222-0126A

* * * * *

CONSENT ORDER

On April 29, 2022, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged **FRANK L. KRIGER, M.D.** (the "Respondent"), License Number D50350, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2021 Repl. Vol.).

Panel A charges the Respondent with violating the following provisions of the Act:

Health Occ. § 14-404. Denials, reprimands, probations, suspensions, 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:

- (3) Is guilty of:
 - ...
 - (ii) Unprofessional conduct in the practice of medicine; [and]
 - ...
- (33) Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel[.]

On July 13, 2022, 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, and Order.

FINDING OF FACT

Disciplinary Panel A finds:

Background/Licensing Information

1. At all relevant times, the Respondent was and is a physician licensed to practice medicine in the State of Maryland. The Respondent was initially licensed to practice medicine in Maryland on April 9, 1996, under License Number D50350. The Respondent’s Maryland medical license is active through September 30, 2022.

2. The Respondent is not board-certified in any medical specialty.

3. At all relevant times, the Respondent practiced at a health care facility (the “Facility”)¹ located in Maryland.

Prior Disciplinary History

4. In or around 2016, the Board initiated an investigation of the Respondent after receiving a complaint from a patient who alleged that the Respondent failed to provide a copy of the patient’s medical records, despite numerous requests.

5. On March 2, 2017, Panel A issued disciplinary charges against the Respondent, alleging that he violated provisions of the Act.

¹ For confidentiality reasons, any healthcare facilities or individuals referenced in this document will not be identified by name.

6. The Respondent resolved Panel A's charges by entering into a Consent Order, dated August 16, 2017, in which Panel A reprimanded the Respondent.

7. Panel A concluded as a matter of law that the Respondent's failure to provide details of a patient's medical record to the patient or the patient's physician, on proper request, constituted a violation of the following provision of the Act under Health Occ. § 14-404(a): (13) On proper request, and in accordance with Title 4, Subtitle 3 of the Health-General Article, fails to provide details of a patient's medical record to the patient, another physician, or hospital.

The Complaint

8. On or about August 10, 2021, the Board received a complaint (the "Complaint") from an individual (the "Patient") who alleged that the Respondent failed to provide appropriate treatment for the Patient's medical condition.

Board Investigation

9. The Board then initiated an investigation of the above Complaint. In furtherance of its investigation, the Board, through various means, attempted to contact the Respondent to obtain information in order to investigate the Complaint. The Respondent failed to provide this information, however, and in so doing, engaged in unprofessional conduct in the practice of medicine and failed to cooperate with a lawful investigation conducted by the Board.

10. By letter dated August 11, 2021, sent to the Respondent's address of record with the Board, the Board notified the Respondent of its receipt of the Complaint and that it had opened a preliminary investigation of the matter. The Board requested that the

Respondent address the allegations in the Complaint in a written response. The Board instructed the Respondent to file his written response within ten (10) business days of the date of the letter. The Respondent did not provide a response within that time period, however. On September 10, 2021, the United States Postal Service (“USPS”) returned the letter to the Board, noting, “return to sender, unable to forward.”

11. In a mailing postmarked August 17, 2021, sent to the Respondent’s address of record with the Board, the Board issued the Respondent a *subpoena duces tecum* (“SDT”) dated August 16, 2021, for the Patient’s medical records. The SDT required compliance within ten (10) business days of the date of the SDT. The Respondent failed to provide the responsive information within that time period, however. On September 10, 2021, the USPS returned the SDT to the Board, noting, “return to sender, unable to forward.”

12. By email to the Respondent dated September 13, 2021, sent to the Respondent’s email address of record with the Board, the Board sent the Respondent a copy of its August 11, 2021 letter and its August 16, 2021 SDT and requested a response. The Board notified the Respondent that the above documents had been returned to the Board for an insufficient address. The Board further informed the Respondent that pursuant to Health Occ. § 14-316, he may be subject to an administrative penalty if he failed to notify the Board of a change in his address within sixty (60) days of the change.

13. By email to the Board dated September 22, 2021, at 3:39 a.m., the Respondent responded to the Board’s September 13, 2021, email, requesting that the Board resend its email, which he stated failed to contain the attachments.

14. By email to the Board dated September 22, 2021, at 3:54 a.m., the Respondent requested that the Board send any further correspondence to his office address, which he provided.

15. By email to the Respondent dated September 22, 2021, sent to the Respondent's email address of record with the Board, the Board re-sent its August 11, 2021 letter and its August 16, 2021 SDT to the Respondent. The Respondent did not submit a response to either the letter or the SDT, however.

16. By email to the Respondent dated October 26, 2021, sent to the Respondent's email address of record with the Board, the Board notified the Respondent that it had not received his response to the complaint, as directed in its August 11, 2021 letter, or the Patient's records, as directed in its August 16, 2021 SDT. The Board informed the Respondent that his failure to provide the responsive information may result in disciplinary action against his license pursuant to Health Occ. § 14-404(a)(33). The Board directed the Respondent to provide the responsive information on or before November 2, 2021. The Respondent failed to provide the responsive information by that date, however.

17. On November 5, 2021, a Board representative spoke to the Respondent by telephone, during which the Respondent stated that he would provide a response to the Board on or before November 8, 2021. The Respondent did not provide the response by that date, however.

18. By email to the Respondent dated November 22, 2021, sent to the Respondent's email address of record with the Board, the Board notified the Respondent that it had not received his response to the Complaint (as originally requested in its August

11, 2021 letter) or the Patient's medical records (as originally requested in its August 16, 2021 SDT). The email noted that a Board representative had left a telephone message with his office. The email again requested that the Respondent provide the responsive information and again informed the Respondent that his failure to do so may result in disciplinary action against his license pursuant to Health Occ. § 14-404(a)(33). The Board directed the Respondent to provide the responsive information on or before November 29, 2021. The Respondent did not provide the responsive information by that date, however.

19. By email to the Respondent dated December 3, 2021, sent to the Respondent's email address of record with the Board and also to another email address the Respondent provided, the Board reminded the Respondent that it had initially notified him of this matter on August 11, 2021, and that during a November 5, 2021 telephone conversation, he informed a Board representative that he would provide a response to the allegations in the Complaint on November 8, 2021. The Board noted that to date, it had not received his response. The Board requested that the Respondent provide a written response on or before December 6, 2021, and that "[f]ailure to do so WILL result in the issuance of a subpoena requiring [his] appearance at the Board." (capitalization as in original)

20. On December 9, 2021, the Board, through facsimile transmission and by letter, addressed to his office address (as requested), issued the Respondent a *subpoena ad testificandum* ("SAT"), directing him "to appear at the Board and provide a written response in a Board matter on January 3, 2022 at 11:00 a.m." The SAT informed the

Respondent that failure to comply with the SAT may result in disciplinary charges against him pursuant to Health Occ. § 14-404(a)(33).

21. By email to the Board dated January 2, 2022, the Respondent, sent from an email address other than his email address of record with the Board, requested a delay of his appearance at the Board due to expected inclement weather. The Respondent asked if the Board wished for him to send his response by “FedEx” prior to his Board appearance.

22. By email to the Respondent dated January 11, 2022, sent to the new email address the Respondent provided, the Board informed the Respondent that if he sent in his response by “FedEx,” he did not have to appear at the Board. The Respondent did not submit the responsive information, however.

23. By email to the Respondent dated January 18, 2022, sent to the new email address the Respondent provided, the Board informed the Respondent that it left a telephone message with his secretary and that as of this date, “the Board has NOT received [his] response which was originally requested August 11, 2021.” (capitalization as in original) The Board also stated that it had not received the “FedEx package which implied [he] would send” and that “[i]t has now been 5 months since [he was] notified of the investigation of this matter and the Board has yet to receive [his] response.”

24. On February 15, 2022, the Board, by regular mail, facsimile transmission and email, issued a SDT to the Respondent, directing him to appear at the Board to provide a written response in a Board matter on March 1, 2022 at 10:30 am. The Board informed the Respondent that his failure to provide the responsive information may result in disciplinary charges against him pursuant to Health Occ. § 14-404(a)(33).

25. On February 28, 2022, the Respondent left two voicemails (at 2:14 p.m. and 3:27 p.m.) requesting the Board's fax number.

26. The Respondent failed to appear at the Board on March 1, 2022 at 10:30 a.m., as directed in the Board's February 15, 2022 SDT.

27. On March 1, 2022 at 11:15 a.m., a Board representative called the Respondent by telephone and provided him with the Board's fax number. The Respondent did not provide a response by facsimile transmission on March 1, 2022, however.²

28. On March 9, 2022, at 12:55 p.m., a Board representative attempted to contact the Respondent via his cellular telephone but received a message that his mailbox was full.

29. By email to the Respondent dated March 9, 2022, at 1:00 p.m., sent to his email address of record with the Board, the Board notified the Respondent that it had attempted to call his cellular telephone but his mailbox was full. The Board reminded the Respondent that in a telephone conversation with a Board representative on March 1, 2022, he stated he would provide a response by facsimile transmission. The Board stated that it had not received the Respondent's response. The Board reminded the Respondent that his failure to cooperate with the Board's investigation may result in disciplinary charges against him pursuant to Health Occ. § 14-404(a)(33).

30. To date, the Respondent has not complied with any of the Board's requests for information that were sent to him through various means including correspondence, emails, telephone calls, facsimile transmissions and subpoenas.

² The Board's fax machine was unavailable from March 2, 2022 to March 8, 2022.

CONCLUSION OF LAW

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent is guilty of unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(ii), and failure to cooperate with a lawful investigation conducted by the Board or a disciplinary panel, in violation of Health Occ. § 14-404(a)(33).

ORDER

It is thus by Disciplinary Panel A of the Board, hereby:

ORDERED that Respondent, Frank L. Kriger, M.D., License No. D50350 is **REPRIMANDED**; and it is further

ORDERED that:

1. Within ten (10) days of the effective date of this Consent Order, the Respondent shall comply in full with all of the Board's inquiries into its investigation of the Respondent, including but not limited to the Board's letter dated August 11, 2021, and its subpoena duces tecum, issued on August 16, 2021; and
2. If, within ten (10) days of the effective date of this Consent Order, the Respondent fails to comply with Provision One (1), directly above, the Respondent's medical license in Maryland shall be automatically suspended from the eleventh (11th) day and will remain suspended until he is in full compliance with Provision One (1). If the suspension is imposed, upon the Respondent's compliance in full with all of the Board's inquiries into its investigation of the Respondent, including its letter dated August 11, 2021, and its subpoena duces tecum, issued on August 16, 2021, and the Board's receipt of all of its requisite documents, the suspension shall be administratively terminated through an order from the disciplinary panel; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum of **SIX MONTHS**. During probation, the Respondent shall comply with the following terms and conditions of probation:³

(1) The Respondent is required to take and successfully complete a course in professional ethics. The following terms apply:

(a) it is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the course before the course is begun;

(b) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;

(c) the course may not be used to fulfill the continuing medical education credits required for license renewal;

(d) the Respondent is responsible for the cost of the course;

(2) The Respondent shall cooperate and comply in full with the Board's existing investigation of the Respondent; and it is further

ORDERED that within **ONE YEAR**, the Respondent shall pay a civil fine of \$5,000. 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, after the Respondent has complied with all terms and conditions of probation and the minimum period of probation imposed by the Consent Order has passed, the Respondent may submit a written petition for termination of probation. After consideration of the petition, the Respondent's probation may be administratively terminated through an order of the disciplinary panel if the Respondent has complied with all probationary terms and conditions and there are no pending complaints relating to the charges; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If there is a genuine dispute as to a material fact, the hearing

³ If the Respondent's license expires during the period of probation, the probation and any conditions will be tolled.

shall be before an Administrative Law Judge of the Office of Administrative Hearings followed by an exceptions process before a disciplinary panel; and if there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

ORDERED that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice medicine in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; 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 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* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

07/29/2022
Date

Signature On File

Christine A. Farrelly
Executive Director
Maryland State Board of Physicians

CONSENT

I, Frank L. Kriger, M.D., assert that I am aware of my right to consult with and be represented by counsel in considering this Consent Order and in any proceedings that would otherwise result from the charges currently pending. I have chosen to proceed without counsel and I acknowledge that the decision to proceed without counsel is freely and voluntarily made.

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.

7/27/22

Date

Signature On File

Frank L. Kriger, M.D.
License No. D50350

NOTARY

STATE OF Maryland

CITY / COUNTY OF St Marys

I HEREBY CERTIFY that on this 27th day of July 2022, before me, a Notary Public of the foregoing State and City/County, personally appeared Frank L. Kriger, M.D., and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed.

AS WITNESSETH my hand and notarial seal.

EBONI N BUTLER
Notary Public-Maryland
St. Mary's County
My Commission Expires
August 31, 2024

Eboni Butler
Notary Public

My Commission expires: August 31, 2024