

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE MARYLAND</b>
<b>JAMES ESSER, M.D.</b>	*	<b>STATE BOARD OF</b>
<b>Respondent</b>	*	<b>PHYSICIANS</b>
<b>License Number: D54038</b>	*	<b>Case Number: 2219-0036</b>

\* \* \* \* \*

## **CONSENT ORDER**

### **BACKGROUND**

The Maryland Board of Physicians (the “Maryland Board”) received information that James Esser, M.D., (the “Respondent”), License Number: D54038, was disciplined by the Medical Board of California (the “California Board”). In a Letter dated, August 27, 2018 the California Board disciplined the Respondent by reprimand.

Based on the above referenced California Board sanction, the Maryland Board has grounds to charge the Respondent with violating the following provisions of the Maryland Medical Practice Act (the “Act”), under H. O. § 14-404(a):

- (a) 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:
  - (21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veteran’s Administration for an act that would be grounds for disciplinary action under this section,

The Maryland Board has determined that the acts for which the Respondent was disciplined in Maryland would be grounds for disciplinary action under H.O. § 14-404(a).

The grounds for disciplinary action under H.O. § 14-404(a) are as follows:

- (22) Fails to meet appropriate standards as determined by appropriate peer review for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State;

Based on the action taken by the California Board, the Respondent agrees to enter into this Consent Order with the Maryland Board of Physicians, consisting of Procedural Background, Findings of Fact, Conclusions of Law, and Order of reciprocal action.

### **I. FINDINGS OF FACT**

The Board finds the following:

1. At all times relevant hereto, the Respondent was a physician licensed to practice medicine in the State of Maryland. The Respondent was initially licensed in Maryland on or about October 1, 1988.

3. The California Board issued a Public Letter of Reprimand on August 27, 2018 based on the North Carolina Medical Board's issuance of a public letter of concern for failing to identify or recommend follow-up for a 5-centimeter mass in a patient's chest and failing to detect and report the presence of a left pleural effusion that was likely an associated finding.

A copy of the California Board Public Letter of Reprimand is attached hereto.

### **II. CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Maryland Board concludes as a matter of law that the disciplinary action taken by the California Board against the Respondent was for an act or acts that would be grounds for disciplinary action under Health Occ. § 14-404(a)(22) had those offenses been committed in this state.

### **III. ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby:

**ORDERED** that the Respondent's license to practice medicine in the State of Maryland be and is hereby **REPRIMANDED**; and be it further

**ORDERED** that this **CONSENT ORDER** is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§4-101 through 4-601 (2014).

10/10/2018  
Date

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

**CONSENT**

I, James Esser, M.D., acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I admit to the Findings of Fact and Conclusions of Law, and I agree and accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into 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 acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and

terms of this Consent Order. I voluntarily sign this Consent Order, and understand its meaning and effect.

***Signature on File***

10/2/2018  
Date

James Esser, M.D.  
Respondent

**NOTARY**

STATE OF FLORIDA

CITY/COUNTY OF HERNANDO

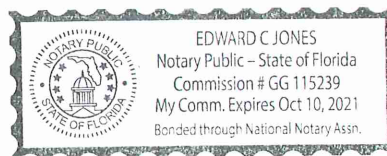
I HEREBY CERTIFY that on this 2 day of OCTOBER, 2018, before me, the subscriber, a Notary Public for the State and City/County aforesaid, personally appeared James Esser, M.D., and made oath in due form of law that the execution of the foregoing Consent Agreement was his voluntary act and deed.

AS WITNESSETH my hand and my notarial seal

MY COMMISSION EXPIRES:

10-10-2021

Edward C Jones  
Notary Public





# MEDICAL BOARD OF CALIFORNIA

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Governor Edmund G. Brown Jr., State of California | Business, Consumer Services and Housing Agency | Department of Consumer Affairs

August 27, 2018

James M. Esser, M.D.

RE: Physician's and Surgeon's Certificate No. G67335  
Case No. 800-2018-043641

### Public Letter of Reprimand

On April 25, 2018, the North Carolina Medical Board issued a public letter of concern to you for failing to identify or recommend follow-up for a 5-centimeter mass in a patient's chest and you failed to detect and report the presence of a left pleural effusion that was likely an associated finding.

These actions constitute a violation of California Business and Professions Code sections 141(a), 2234 and 2305.

Pursuant to the authority of the California Business and Professions Code section 2233, you are hereby issued this Public Letter of Reprimand by the Medical Board of California.

Kimberly Kirchmeyer  
Executive Director



## North Carolina Medical Board

Timothy E. Lietz, MD: President | Barbara E. Walker, DO: President-Elect | Bryant A. Murphy, MD: Secretary/Treasurer

April 25, 2018

James M. Esser, M.D.

Dear Dr. Esser:

The North Carolina Medical Board ("Board") has concluded its investigation regarding your care of Patient A. It is the Board's decision not to commence formal proceedings against your license. However, the Board voted to issue you this public letter of concern. The Board does not consider a public letter of concern to be a disciplinary action or a limitation or restriction on your license.


Patient A, a 51-year old male with left thoracic back pain, had a thoracic spine MRI interpreted by you in July 2014. You interpreted the MRI as a normal study. However, in fact there was a mass lateral to the spine you did not mention in your report. Several months later this mass was diagnosed as a lymphoma.

The Board had your interpretation of Patient A's MRI reviewed by an independent medical expert. This medical expert was concerned that (1) you failed to identify or recommend follow-up for a 5-centimeter mass in Patient A's left chest and (2) you failed to detect and report the presence of a left pleural effusion that was likely an associated finding. Had you reported these findings in July 2014, Patient A may have been diagnosed and treated earlier for his illness.

The Board urges you to take steps to ensure the conduct giving rise to the Board's concerns does not happen again. Otherwise, the Board may vote to commence formal disciplinary proceedings against your license. If that happens, this letter may be entered into evidence in determining the appropriate discipline.

This letter is a public record within the meaning of Chapter 132 of the North Carolina General Statutes and is subject to public inspection and dissemination as required by that law. It will be reported to the Federation of State Medical Boards; however, it will not be reported to the National Practitioner Data Bank.

Sincerely,

  
Timothy E. Lietz, M.D.  
President

TEL/PFB/lt

Consent and Waiver

I, James M. Esser, M.D., would like to resolve this matter without the need for more formal proceedings and consent to the Board's issuance of this public letter of concern in resolution of the above matter.

Consented to this the 18<sup>th</sup> day of April, 2018.

*Signature on File*

James M. Esser, M.D.

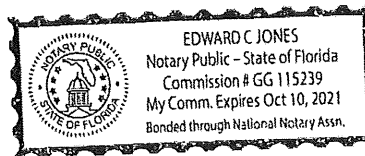
State of FLORIDA

County of HERNANDO

I, EDWARD C JONES, do hereby certify that James M. Esser, M.D., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 18 day of APRIL, 2018.

Edward C Jones  
Notary Public



(Official Seal)

My Commission Expires: 10-10-2021