

**IN THE MATTER OF**

\*

**BEFORE THE**

**ATIF B. MALIK, M.D.**

\*

**MARYLAND STATE**

**Respondent**

\*

**BOARD OF PHYSICIANS**

**License Number: D60663**

\*

**Case Number: 2218-0036B &  
2219-0039A**

\*

\*

\*

\*

\*

\*

\*

\*

\*

\*

\*

\*

\*

\*

**CONSENT ORDER**

**PROCEDURAL BACKGROUND**

On November 28, 2017, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") charged **ATIF B. MALIK, M.D.** (the "Respondent"), License Number D60663, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2014 Repl. Vol.).

Specifically, Panel B charged the Respondent with violating the following provisions of the Act under Health Occ. § 14-404:

(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:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (3) Is guilty of:
  - (ii) Unprofessional conduct in the practice of medicine;
- (11) Willfully makes or files a false report or record in the practice of medicine; [and]

- (36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine[.]

On October 27, 2017, the Respondent was found guilty in the United States District Court for the District of Maryland on twenty-five (25) felony criminal counts, including soliciting and receiving illegal health care-related kickbacks. On June 25, 2018, the Respondent pleaded guilty to Conspiracy to Defraud the United States, in violation of 18 U.S.C. § 371. On September 11, 2018, the Respondent was sentenced to a term of imprisonment of ninety-six (96) months.

Prior to the commencement of an action under Health Occ. § 14-404(b), the Respondent agreed to enter into this public Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

### **FINDINGS OF FACT**

Panel A makes the following Findings of Fact:

#### **I. BACKGROUND/LICENSING INFORMATION**

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 to practice medicine in Maryland on July 7, 2003, under License Number D60663.

2. The Respondent is board-certified in physical medicine and rehabilitation and, at all times relevant to the charges, practiced at a medical office located at 1050 Key Parkway, Suite 103, Frederick, Maryland 21702.

## II. BOARD INVESTIGATION

3. In or around September 2017, the Board initiated an investigation of the Respondent after receiving information that a Maryland health care facility (the “Facility”)<sup>1</sup> revoked his clinical privileges based on his failure to disclose that he had been indicted on federal criminal charges.

4. As part of its investigation, the Board reviewed the Respondent’s 2017 on-line renewal application (the “Application”), submitted on August 28, 2017, to determine if he disclosed this information in the Application.

5. In the section of the Application titled *Character and Fitness*, the Respondent was instructed to answer “YES” or “NO” to a series of questions pertaining to events occurring since July 1, 2015 and provide written explanations for all “YES” responses.

6. The Respondent answered “NO” to all of the Character and Fitness questions posed, including the following:

QUESTION 6(f): Has a hospital, related health care facility, HMO, or alternative health care system denied your application for privileges, or failed to renew your privileges, including your privileges as a resident; or limited, restricted, suspended, or revoked your privileges in any way?

QUESTION 6(i): Are there any charges pending against you in any court of law, are you currently under arrest, released pending trial with or without bond, or is there an outstanding warrant for your arrest?

---

<sup>1</sup> For confidentiality reasons, the name of any health care facility referenced herein will not be disclosed in this document. The Respondent may obtain the identity of any health care facility referenced in this document by contacting the assigned administrative prosecutor.

7. At the conclusion of the Application, the Respondent certified that he personally reviewed all of the responses he made in the Application and that the information he provided therein was true and correct. The Application notified the Respondent that any false information he provided may be cause for the denial of his Application.

8. By letter dated September 11, 2017, the Board informed the Respondent that it had initiated an investigation of him based on his alleged failure to disclose in his Application that he had been indicted on federal criminal charges and that a health care facility had revoked his clinical privileges. The Board requested that the Respondent address these non-disclosures in a written response.

9. By letter to the Board dated September 27, 2017, the Respondent acknowledged that when filing his Application, he failed to disclose that he had been indicted in the United States District Court for the District of Maryland, under Case Number 1:16-cr-00324-MJG-2, with the commission of criminal offenses; and that the Facility had revoked his hospital privileges. The Respondent variously claimed that his non-disclosures were “a mistake, actually three,” and that he “simply dropped the ball.” The Respondent provided a copy of the criminal indictment with his response and reported that his criminal trial was scheduled to commence on October 10, 2017. The Respondent also disclosed that he failed to disclose that he was no longer permitted to bill for services to patients who had insurance coverage through a specific insurance carrier.

10. The Board’s investigation confirmed that on or about June 28, 2016, the Respondent, under Case Number 1:16-cr-00324-MLG-2, was charged in the United States

District Court for the District of Maryland pursuant to a multi-count indictment (the “Indictment”) with violating the federal Anti-Kickback Act, committing health care fraud and related unlawful acts.

11. Specifically, the Indictment charged the Respondent with: violating the federal Anti-Kickback Act, in violation of 42 U.S.C. § 1320a-7b; receiving unlawful remuneration in violation of the federal Anti-Kickback Act (a violation of 42 U.S.C. § 1320a-7b); conspiracy to defraud the Internal Revenue Service (a violation of 18 U.S.C. § 371); health care fraud (a violation of 18 U.S.C. § 1347); and making false statements relating to health care matters (a violation of 18 U.S.C. § 1035(a)(1) and (a)(2)). In 2017, federal authorities issued a superseding indictment (the “Superseding Indictment”) that superseded the Indictment.

12. The Board’s investigation confirmed that the Facility temporarily suspended the Respondent’s clinical privileges on December 16, 2016, based on his failure to report the Indictment, and that after he failed to provide further information to the Facility upon its request, the Facility revoked his medical staff membership and clinical privileges, effective March 17, 2017.

13. At the time the Respondent submitted his Application, he knew that federal authorities had indicted him on criminal charges and that the Facility had revoked his medical staff membership. The Respondent had an obligation to disclose these facts on his Application but failed to do so.

14. The Respondent pleaded not guilty to the charges alleged in the Superseding Indictment and prayed a jury trial in the United States District Court for the District of

Maryland, which commenced on October 10, 2017. Prior to the commencement of the trial, the United State's Attorney's Office withdrew Count Fifteen (15) and severed Count Eighteen (18) from the Superseding Indictment.

15. On October 27, 2017, a federal jury found the Respondent guilty of the following counts of the Superseding Indictment: Count One (1), which charged him with conspiracy to violate the Anti-Kickback Act and the Travel Act (a violation of 18 U.S.C. § 371); Counts Two (2) through Thirteen (13), which charged him with soliciting and receiving illegal health care-related kickbacks (a violation of 42 U.S.C. § 1320a-7b(b)(1)(A)); Counts Fourteen (14), Sixteen (16) and Seventeen (17), charging him with violating the Travel Act (a violation of 18 U.S.C. § 1952(a)(1) and (3)); Counts Nineteen (19) through Twenty-Four (24), charging him with health care fraud (a violation of 18 U.S.C. § 1347); and Counts Twenty-Five (25) through Twenty-Seven (27), charging him with making false statements relating to health care matters (a violation of 18 U.S.C. § 1035(a)(1) and (a)(2)).

### **III. DISCIPLINARY CHARGES, NOVEMBER 28, 2017**

16. On November 28, 2017, Disciplinary Panel B issued disciplinary charges ("Charges") against the Respondent, alleging that his failure to provide true and correct responses on his Application constituted the following violations of the Act under Health Occ. § 14-404(a): (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another; (3) Is guilty of: (ii) Unprofessional conduct in the practice of medicine; (11) Willfully makes or files a false report or record in the

practice of medicine; and (36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine.

#### **IV. PROPOSED DEFAULT ORDER, OFFICE OF ADMINISTRATIVE HEARINGS, MAY 15, 2018**

17. The Board referred the Charges to the Office of Administrative Hearings (“OAH”) for adjudication. On April 13, 2018, the OAH issued written notice to the parties that it would convene a scheduling conference on May 4, 2018. OAH sent the notices to the State, the Respondent and his attorney of record at their addresses of record.

18. On May 4, 2018, an administrative law judge (“ALJ”) with the OAH convened the scheduling conference. A representative of the State appeared. Neither the Respondent nor his attorney of record appeared. The OAH found that it had provided proper service to the Respondent and issued a Proposed Default Order, dated May 15, 2018. Pursuant to the Proposed Default Order, the ALJ proposed that: the Respondent be held in default; the Board accept as fact the statements set forth in the Allegations of Fact section of the Charges; the Board conclude as a matter of law that the Respondent violated the Act under Health Occ. § 14-404(a)(1), (3)(ii) and (36) in the manner set forth in the Charges; and the Board impose any disciplinary action against the Respondent that it finds appropriate.

19. In a written filing dated May 31, 2018, the Respondent took Exception to the Proposed Default Order. In a written filing dated June 8, 2018, the State responded to the Respondent’s Exceptions.

## **V. PLEA AGREEMENT, JUNE 25, 2018**

20. On June 25, 2018, the Respondent entered into a written plea agreement (the “Plea Agreement”) with the United States Attorney’s Office for the District of Maryland in which he agreed to plead guilty to Count Eighteen (18) of the Superseding Indictment, which charged him with Conspiracy to Defraud the United States (a violation of 18 U.S.C. § 371). The Respondent stipulated to a statement of facts in support of the Plea Agreement.

## **VI. DISCIPLINARY PANEL ORDER, AUGUST 22, 2018**

21. On August 8, 2018, Disciplinary Panel A convened an Exceptions hearing. Because a criminal proceeding against the Respondent was progressing (*see* ¶ 20 above), Disciplinary Panel A deferred action on the pending administrative case to consolidate it with the administrative action anticipated from the disposition of the criminal proceeding.

## **VII. SENTENCING IN FEDERAL COURT, SEPTEMBER 11, 2018**

22. On June 25, 2018, the Respondent pleaded guilty to Count Eighteen (18) of the Superseding Indictment, Conspiracy to Defraud the United States (a violation of 18 U.S.C. § 371). On September 11, 2018, the Respondent appeared for sentencing in the United States District Court for the District of Maryland and was sentenced to the June 25, 2018, charge and the charges for which he was previously found guilty by a jury on October 27, 2017, *i.e.*, Counts One (1), Two (2) through Fourteen (14), Sixteen (16), Seventeen (17), and Nineteen (19) through Twenty-Seven (27), as follows: Sixty (60) months incarceration as to Counts One (1) through Fourteen (14), Sixteen (16) through Eighteen (18), and Twenty-Five (25) through Twenty-Seven (27), to run concurrently with each



Seventeen (17), and Nineteen (19) through Twenty-Seven (27), as follows: Sixty (60) months incarceration as to Counts One (1) through Fourteen (14), Sixteen (16) through Eighteen (18), and Twenty-Five (25) through Twenty-Seven (27), to run concurrently with each other; and Ninety-Six (96) months incarceration as to Counts Nineteen through Twenty-Four (24), to run concurrently with each other, and concurrent with Counts One (1) through Fourteen (14), Sixteen (16) through Eighteen (18), and Twenty-Five (25) through Twenty-Seven (27). The Respondent was also ordered to be placed on supervised release for three (3) years after completing his imprisonment; and was ordered to pay restitution totaling \$1,332,712; a fine totaling \$75,000; and an assessment totaling \$2600.<sup>2</sup>

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent violated the following provisions of the Act under Health Occ. § 14-404(a): (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another; (3) Is guilty of: (ii) Unprofessional conduct in the practice of medicine; (11) Willfully makes or files a false report or record in the practice of medicine; and (36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine.

Based on the foregoing Findings of Fact, Panel A concludes as a matter of law that the Respondent pleaded guilty to and was convicted of a crime involving moral turpitude. *See* Health Occ. § 14-404(b)(1).

---

<sup>2</sup> On September 23, 2018, the Respondent noted an appeal on the criminal judgments against him.

**ORDER**

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

**ORDERED** that the Respondent's license to practice medicine in Maryland is **REVOKED** for a minimum period of **EIGHT (8) YEARS, commencing on February 9, 2018;** and it is further

**ORDERED** that after **EIGHT (8) YEARS** from the commencement of the **REVOCATION**, the Respondent may submit a written petition to the Board requesting the reinstatement of his medical license after revocation; 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, unless stated otherwise in the order, any time period prescribed in this order begins when the Consent Order goes into effect. The Consent Order goes into effect upon the signature of the Board's Executive Director, who signs on behalf of Panel A; 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).

05/14/2019  
Date

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

## CONSENT

I, Atif B. Malik, 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 these rights 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 their 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 of File***

3/29/2019  
Date

\_\_\_\_\_  
Atif B. Malik, M.D.  
Respondent

**NOTARY**

STATE OF Pennsylvania

CITY/COUNTY OF Cambria

I HEREBY CERTIFY that on this 29 day of March,  
\_\_\_\_\_, 2019, before me, a Notary Public of the foregoing State and  
City/County, did personally appear Atif B. Malik, 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 notary seal.

Laura B. Riedel  
Notary Public

My commission expires: 03/29/2020

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
Laura B. Riedel, Notary Public  
Loretto Boro, Cambria County  
My Commission Expires March 29, 2020  
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES