

**IN THE MATTER OF**

\*

**BEFORE THE**

**ANDREW P. MANISTA, M.D.**

\*

**MARYLAND STATE**

**Respondent**

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**BOARD OF PHYSICIANS**

**License Number: D65999**

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**Case Number: 2218-0233A**

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### **CONSENT ORDER**

On December 31, 2018, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) notified **ANDREW P. MANISTA, M.D.** (the “Respondent”), License Number D65999, of its **INTENT TO REVOKE** the Respondent’s license to practice medicine in the State of Maryland pursuant to the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) §§ 14-101 *et seq.* (2014 Repl. Vol. and 2017 Supp.).

The pertinent provisions of the Act provide:

**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:

- (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;
- (33) Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel;

- (36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine; [and]
- (42) Fails to submit to a criminal history records check under § 14-308.1 of this title[.]

**Health Occ. § 14-308.1. Criminal history records check through Central Repository.**

- (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.

The pertinent provisions of the Board’s regulations under COMAR 10.32.02 provide:

**.14 Proposed Orders; . . .**

- A. Nothing in this chapter prohibits the issuance of a charging document with a proposed order which will go into effect if the respondent fails to request a hearing.

On April 10, 2019, 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.

### **FINDINGS OF FACT**

Panel A finds:

1. At all times relevant hereto, 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 May 7, 2007, under License Number D65999. The Respondent's license is active through September 30, 2019.

2. On or about September 12, 2017, 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, a notice appears that informs the licensee that the Board may not renew a license if it has not received the licensee's Criminal History Record Check ("CHRC") information, which includes the licensee's submission of his or her fingerprints to the Criminal Justice Information Services ("CJIS") before attempting to complete the renewal application.

4. The Respondent's signed Application states, "Failure to submit to a [CHRC] may result in disciplinary action." When submitting the online Application, the Respondent checked a box attesting to completing the CHRC.

5. By letter dated January 16, 2018, the Board informed the Respondent that the Board opened a preliminary investigation based upon the failure to obtain a CHRC for license renewal and the attestation that the Respondent submitted to a CHRC. The Board directed that the Respondent provide documentation of obtaining CHRC to the Board within ten days of receipt of the Board's letter.<sup>1</sup>

6. The Board did not receive any response from the Respondent.

7. The Respondent's failure to complete the CHRC, as described above, constitutes, in whole or in part, a violation of Health Occ. § 14-404(a)(42), Fails to submit to a criminal records history check under § 14-308.1 of this title.

8. By letter dated December 31, 2018, Panel A issued a Notice of Intent to Revoke the Respondent's medical license and sent it to the Respondent.

### **CONCLUSIONS OF LAW**

Based on the Findings of Fact, Panel A concludes as a matter of law that the Respondent violated Health Occ. § 14-404(a)(42) by failing to submit to a criminal history records check under Health Occ. § 14-308.1. Panel A dismisses the remaining grounds under Health Occ. § 14-404(a)(1), (3)(ii), (33), and (36).

### **ORDER**

It is thus by Panel B, hereby:

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

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<sup>1</sup> The Board previously informed the Respondent that the Board had not received the Respondent's CHRC by email dated November 1, 2017.

**ORDERED** that the Respondent shall complete the Criminal Record History Check process pursuant to Health Occ. § 14-308.1 within **FORTY-FIVE (45) DAYS** of the effective date of this Consent Order; and it is further

**ORDERED** that within **SIX (6) MONTHS**, the Respondent shall pay a civil fine of **FIVE HUNDRED DOLLARS (\$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 if the Respondent allegedly fails to comply with any term or condition of 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 shall be before an Administrative Law Judge of the Office of Administrative Hearings. 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 a disciplinary panel determines that the Respondent has failed to comply with any term or condition of 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 an additional civil monetary fine upon the Respondent; 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 the Respondent shall comply with the Maryland Medical Practice Act, Md. Code Ann., Health Occ. § 14-101 - § 14-702, and all federal and state laws and regulations governing the practice of medicine in Maryland; 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** 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).

05/09/2019  
Date

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

## CONSENT

I, Andrew P. Manista, M.D., acknowledge that I have had the opportunity to consult with counsel before signing this document.

I, Andrew P. Manista, 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.

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 on File

4/22/2019  
Date

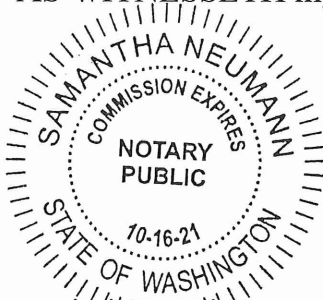
Andrew P. Manista, M.D.  
Respondent

**NOTARY**

STATE OF MA  
CITY/COUNTY OF Worcester

I HEREBY CERTIFY that on this 22 day of April 2019, before me,  
a Notary Public of the foregoing State and City/County, personally appeared Andrew P.  
Manista, 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.



[Signature]  
Notary Public

My Commission expires: 10-16-21