

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE</b>
<b>KEITH J. KOWALCZYK, M.D.</b>	*	<b>MARYLAND STATE</b>
<b>Respondent</b>	*	<b>BOARD OF PHYSICIANS</b>
<b>License Number: D72603</b>	*	<b>Case Number: 2220-0036A</b>

\* \* \* \* \*

**CONSENT ORDER**

On August 14, 2019, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) voted to charge **KEITH J. KOWALCZYK, M.D.** (the “Respondent”), License Number d72603, with violating the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.).

The pertinent provisions of the Act provide 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:
  - (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.**

- (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.

Prior to the issuance of a charging document, the Respondent agreed to enter into the following Consent Order, consisting of Findings of Fact, Conclusions of Law, Order, and Consent.

## FINDINGS OF FACT

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 June 24, 2011, under License Number D72603. The Respondent's license is currently active through September 30, 2020.

2. On or about September 19, 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 Record 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 completion of 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 complete the renewal application. The pop-up notice also notifies the licensee that failure to submit to a CHRC may result in disciplinary action.

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

6. By e-mail dated January 22, 2019, Board staff informed the Respondent that the Board had not received the CHRC.<sup>1</sup> 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.

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 the Respondent submitted to a CHRC. The letter notified 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. The Respondent submitted to a CHRC on November 14, 2019.

13. On or about November 19, 2019, the Board received the completed CHRC report pursuant to Health Occ. § 14-308.1.

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<sup>1</sup> 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."

## CONCLUSIONS OF LAW

Based on the Findings of Fact, Panel A concludes as a matter of law that the Respondent failed to submit to a criminal history records check under § 14-308.1 of this title, 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 by 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, 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 the disciplinary panel determines 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 followed by an exceptions process before a disciplinary panel; and if the disciplinary panel determines 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 with appropriate terms and conditions, 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 this Consent Order is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

12/17/2019  
Date

*Signature on File*

Christine A. Farrelly  
Executive Director  
Maryland State Board of Physicians

**CONSENT**

I, Keith J. Kowalczyk, MD 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 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*

12/13/19  
\_\_\_\_\_  
Date

Keith J. Kowalczyk, M.D.  
Respondent

**NOTARY**

STATE OF District of Columbia

CITY/COUNTY OF W/A

I HEREBY CERTIFY that on this 13 day of December 2019, before me, a Notary Public of the foregoing State and City/County, personally appeared Keith J. Kowalczyk, 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.

  
\_\_\_\_\_  
Notary Public

My Commission expires: 01-31-2022

