

IN THE MATTER OF
MARK SPERRY, M.D.

Respondent

License Number: D80339

*** BEFORE THE**
*** MARYLAND STATE**
*** BOARD OF PHYSICIANS**
*** Case Number: 2218-0291B**

* * * * *

CONSENT ORDER

On January 30, 2019, Disciplinary Panel B (“Panel B”) of the Maryland State Board of Physicians (the “Board”) charged **MARK SPERRY, M.D.** (the “Respondent”), License Number D80339, under 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[.]

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 24, 2019, Panel B 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 B 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 September 8, 2015, under License Number D80339. The Respondent’s license is active through September 30, 2019.

2. On or about September 28, 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.¹

6. On or about February 21, 2018, the Board was informed that the Respondent had submitted a set of fingerprints to the Criminal Justice Information System ("CJIS"); however, the Respondent had been notified that the fingerprints had been rejected as incomplete.

7. By email dated April 19, 2018, the Board notified the Respondent that it had not yet received the Respondent's CHRC results. The Respondent was further notified that failure to complete the CHRC process could result in revocation of his license.

8. By letter dated July 10, 2018, the Board notified the Respondent that the Board had opened a preliminary investigation based on the Respondent's failure to complete the CHRC for licensure renewal. The Board notified that the Respondent that he was required to submit to CJIS a second set of fingerprints because the first set had been rejected.

9. On or about August 8, 2018, the Board was notified that the Respondent had submitted a second set of fingerprints to CJIS which were accepted.

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

CONCLUSIONS OF LAW

Based on the Findings of Fact, Panel B concludes as a matter of law that the Respondent violated Health Occ. § 14-404(a)(36) by willfully making a false representation when seeking or making application for licensure. Panel B dismisses the remaining grounds under Health Occ. § 14-404(a)(1), (3)(ii), (33), and (42).

ORDER

It is thus by Panel B, 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 **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 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).

Signature on File

08/29/2019
Date

CHRISTINE A. FARREHY
Executive Director
Maryland State Board of Physicians

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CONSENT

I, Mark Sperry, M.D., acknowledge that I have had the opportunity to consult with counsel before signing this document.

I 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 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

8/27/19
Date

Mark Sperry, M.D.
Respondent

NOTARY

STATE OF Pennsylvania
CITY/COUNTY OF Allegheny

I HEREBY CERTIFY that on this 24th day of August 2019,
before me, a Notary Public of the foregoing State and City/County, personally
appeared Mark Sperry, 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.

Scott Holland
Notary Public

My Commission expires: 03/25/2023

Commonwealth of Pennsylvania - Notary Seal
Scott Holland, Notary Public
Allegheny County
My commission expires March 25, 2023
Commission number 1348695
Member, Pennsylvania Association of Notaries