

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE</b>
<b>AMIT NARULA, D.O.</b>	*	<b>MARYLAND STATE</b>
<b>Respondent</b>	*	<b>BOARD OF PHYSICIANS</b>
<b>License Number: H71926</b>	*	<b>Case Number: 2218-0169A</b>

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### **CONSENT ORDER**

On August 24, 2018, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) hereby charges Amit Narula, D.O. (the “Respondent”), License Number H71926, with violating the Maryland Medical Practice Act (the “Act”), Md. Code Ann., Health Occ. (“Health Occ.”) § 14-101 *et seq.* (2014 Repl. Vol. & 2017 Supp.).

The pertinent provisions of Health Occ. § 14-404(a) provide as follows:

(3) Is guilty of:

...

(ii) Unprofessional conduct in the practice of medicine[;]

...

(18) Practices medicine with an unauthorized person or aids an unauthorized person in the practice of medicine[.]

Health Occ. § 14-101 defines the practice of medicine in pertinent part as follows:

(o) (1) “Practice medicine” means to engage, with or without compensation, in medical:

(i) Diagnosis;

(ii) Healing;

(iii) Treatment; or

(iv) Surgery.

(2) “Practice medicine” includes doing, undertaking, professing to do, and attempting any of the following:

- (i) Diagnosing, healing, treating, preventing, prescribing for, or removing any physical, mental, or emotional ailment or supposed ailment of an individual:
  1. By physical, mental, emotional, or other process that is exercised or invoked by the practitioner, the patient, or both; or
  2. By appliance, test, drug, operation, or treatment[.]

On December 5, 2018, 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 Applicant agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law and Order.

### **FINDINGS OF FACT**

Panel A finds:

#### **BACKGROUND**

1. At all times relevant, the Respondent has been licensed to practice medicine in the State of Maryland. The Respondent was initially licensed on March 4, 2011, and his license is presently active through September 30, 2019.
2. The Respondent is board-certified in Sleep Medicine and Pulmonary Disease and practices in the areas of internal medicine, sleep medicine, pulmonary disease and critical care.
3. The Respondent works as a solo-practitioner at Practice A in Westminster, Maryland.<sup>1</sup>

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<sup>1</sup> To ensure confidentiality, the names of individuals, patients, and institutions involved in this case are not disclosed in this document. The Respondent may obtain the identity of all individuals, patients, and institutions referenced in this document by contacting the administrative prosecutor.

4. The Respondent also held one-third ownership of Allergy Company A with Investors Portfolio, LLC, whose authorized representative was Mr. A<sup>2</sup> from approximately April 2017 through April 2018.

5. As part of his agreement with Allergy Company A and Mr. A, the Respondent was allowing Mr. A to bill patient's medical insurance providers for allergy screening tests<sup>3</sup> performed by unlicensed individuals under the Respondent's National Provider Identifier ("NPI") number. Mr. A performed a majority of the allergy screening tests, but has never been licensed as a physician, or by any health occupations licensing board in Maryland.

6. On or about December 6, 2017, the Board received an anonymous complaint from a female (the "complainant") alleging that Mr. A was conducting allergy testing at the complainant's fitness center. The complainant stated that Mr. A acknowledged he was not a doctor and had identified the Respondent as "the doctor."

7. The complaint included copies of supporting documentation including two advertising flyers for the allergy testing services being conducted by Allergy Company A.<sup>4</sup>

8. On or about January 11, 2018, Board Staff confirmed on Allergy Company A's "Facebook" page that Allergy Company A was offering allergy screenings. Panel A initiated an investigation.

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<sup>2</sup> Panel A charged Mr. A and ordered that he cease and desist from the unauthorized practice of medicine, under MBP Case #2218-0129A.

<sup>3</sup> In an interview with Board staff under oath, Mr. A gave a description of the allergy scratch test, stating that he usually cleans both arms with alcohol, lays down the allergen applicators, waits about 18 minutes, and then feels the arms for bumps and measures any bumps he discovers.

<sup>4</sup> One flyer stated that "our office performs Allergy Testing for 80 of the most common allergens native to our region." The second advertisement said that the testing is available on-site with instant results and specifies that most insurances are accepted.

9. During the course of the investigation, Board staff conducted a site inspection of Facility A, subpoenaed records and conducted interviews of the Respondent and Mr. A. Also, in furtherance of its investigation, Board staff transmitted relevant records to a board-certified Allergy/Immunology physician for expert review.

10. The investigative findings are set forth in pertinent part below.

#### **UNANNOUNCED SITE VISIT AND INVESTIGATION**

11. On or about January 11, 2018, Board staff conducted an unannounced site visit of Facility A, a fitness center located in Bel Air, Maryland, where Allergy Company A was performing allergy screening tests.

12. During the site visit, Board staff observed Mr. A seated at a table with a laptop, patient forms and flyers advertising Allergy Company A. The supplies on the table included, but were not limited to, allergy testing trays, plastic allergy skin test applicators, disposable measuring devices, a timer, rubbing alcohol, hydrocortisone cream,<sup>5</sup> and Benadryl Allergy Liquigels.<sup>6</sup>

13. Board staff observed Mr. A using his cellphone flashlight to examine a female patient's ("Patient A") arm for an allergic reaction. Mr. A provided to Board staff the "Patient Intake Sheet" and "Screening Sheet" for Patient A.<sup>7</sup>

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<sup>5</sup> Hydrocortisone cream is a steroid cream used to treat inflammation.

<sup>6</sup> Benadryl is an antihistamine used to relieve allergy symptoms.

<sup>7</sup> The "Patient Intake Sheet" asked for personal health information such as height and weight. The form also asked for insurance information and a short medical and allergy history. The "Screening Sheet" listed the different allergens that were tested for and results indicating whether the patient reacted to up to 80 allergens.

14. Board staff subpoenaed an employee list and patient intake sheets from Mr. A on January 16, 2018. On January 29, 2018, Board staff also subpoenaed billing claims from insurance Company A for 6 patients selected from the patient intake sheets.

### **RECORD INSPECTION**

15. The employee list revealed that Mr. A had seven employees, none of whom were licensed by any health occupation board in Maryland.

16. In response to a subpoena, Board staff received from Mr. A patient records and patient intake sheets for approximately 165 patients of Allergy Company A who had received allergy scratch tests at fairs and fitness clubs between August 2017 and January 2018. Out of the 165 patient intake forms the Board received, Mr. A had conducted approximately 100 of the allergy scratch tests.

17. The patient records included "Allergy Screening Reports" (the "Report") that Mr. A had completed and provided to the patients after completing allergy screening testing. The Report contained sections for history, method, results, and impression.

18. Mr. A had completed the Reports, routinely documenting in the "history section" that the patients presented with complaints of possible allergies. Mr. A completed the "results section" by specifically identifying to which allergens the patient had a potential reaction. Mr. A further completed the "impression" section of the Report, routinely documenting, "The screening indicates that further testing and follow up with possible immunology may be indicated."

19. On or about January 29, 2018, Board staff subpoenaed billing claims from Insurance Company A for 6 patients selected from Mr. A's intake sheets that he had provided to

Board staff. The billing claims identified the Respondent as the physician who conducted the allergy testing through his practice, Practice B.<sup>8</sup>

20. Board staff also subpoenaed and received the Independent Contractor Agreement between the Respondent and Allergy Company A (the “Agreement”). The Agreement states that the [Respondent], “shall use his reasonable best efforts to perform the Scope of Services, in accordance with all applicable medical standards,” and the [Respondent] shall retain the sum of \$75 per patient for actual compensation received.<sup>9</sup>

### **INTERVIEW OF MR. A**

21. On March 5, 2018, Board staff conducted an interview under oath of Mr. A regarding the allegations that he had engaged in the unauthorized practice of medicine by performing allergy screening tests as outlined in ¶ 6.

22. Mr. A stated that he started conducting allergy screenings for Allergy Company A around April 2017. Mr. A is one of the owners of Allergy Company A along with two business partners, the Respondent and Individual A. Each owner owns one-third of the company, and the Respondent is a full business partner under a “unanimous stockholders’ agreement.”

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<sup>8</sup> CPT Code 95004, which is the code for allergy testing, was used on the Health Insurance Claim Form. The records indicated that Physician A was billing \$560 for 80 units and insurance was paying between \$315 and \$342. Records received from Insurance Company B revealed that Physician A billed \$560 for allergy skin tests and Insurance Company B paid \$472.

<sup>9</sup> According to Mr. A, the parties operated under this agreement for approximately 30 days before the Respondent became a 1/3 owner of Allergy Company A and was compensated by a physician management fee. In order to bill the insurance claims for each patient, the Respondent’s National Provider Identifier Number (“NPI”) was used.

23. Mr. A holds an associate's degree. He acknowledged that he has no medical experience besides CPR certification and one day of training conducted by Allergen Applicator Company A that addressed the application of allergy screenings.<sup>10</sup>

24. Mr. A provided Board staff a description of the allergy screening, referring to it as an "allergy scratch test." He stated that he routinely cleans both of the patient's arms with alcohol, lays down the allergen applicators, waits about 18 minutes, and then feels the arms for bumps and measures any bumps he discovers. Mr. A stated that prior to applying the scratch test he explains to the patient what he is going to do and informs the patient of risks involved. He also said that he informs patients "it'll probably itch for, like, about an hour or so, but we have hydrocortisone we can give you and also Benadryl to relieve itching."

25. Mr. A stated that he is aware individuals could have an anaphylactic reaction to the allergy screening. He stated that if an emergency were to occur, he or his staff would call 9-1-1 first, use an EpiPen,<sup>11</sup> and initiate CPR if necessary. Mr. A stated that the two EpiPens used on site during an allergy screening were his personal EpiPens that had been prescribed to him for an allergy to bee stings.

26. Mr. A acknowledged that there was never a doctor, nurse, or physician assistant on site when he performed allergy screenings.

27. Mr. A stated that he is responsible for hiring and managing employees and all billings and services for Allergy Company A. He stated that either he or Allergy Company A provided allergy screening training to the other Allergy Company A employees. The

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<sup>10</sup> Allergen Laboratory A provides the allergens and Allergen Applicator Company A provides the applicators and training.

<sup>11</sup> An EpiPen is a medical device that is only available by prescription and is used to treat an anaphylactic reaction.

Board's investigation revealed that none of the employees who performed allergy screenings for Allergy Company A had medical or nursing licenses.<sup>12</sup>

28. Allergy Company A shares office space with another physician who specializes in weight loss, "Physician B." Mr. A stated that he had only screened one patient in the office location. Mr. A conducted the remainder of the allergy screenings at mobile locations including fitness centers ("gyms"), athletic clubs and county fairs.

29. When Board staff asked Mr. A about billing procedures for the allergy screening, he stated that Allergy Company A does not collect anything that insurance does not cover.<sup>13</sup> Mr. A stated that Allergy Company A directly bills the patient's insurance carrier under the Respondent's NPI number and when the Respondent receives the money from the insurance carrier, he routinely reimburses Allergy Company A by sending a check.

### **INTERVIEW OF RESPONDENT**

30. On March 20, 2018, Board staff interviewed the Respondent under oath.

31. The Respondent stated that Mr. A approached him during the spring or summer of 2017 to join Allergy Company A.<sup>14</sup> The Respondent stated that Mr. A "is his contact" with Allergy Company A.

32. The Respondent stated that he thought his role with Allergy Company A was to provide start-up funding and serve as the physician for the purposes of billing. He stated

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<sup>12</sup> Mr. A said that Allergy Company A is trying to hire more "EMT qualified employees" and admitted that "we should definitely get a nurse out there."

<sup>13</sup> Mr. A said that he accepts insurance and Medicaid for allergy screenings, but that he has not received any payment from Medicaid or Medicare.

<sup>14</sup> The Respondent stated that his agreement with Allergy Company A is that they do the allergy screening tests and use his name as the provider and then he receives some of the profits.



that Allergy Company A bills directly to the insurance companies in his name for the allergy tests without his review. Then his billing company reconciles funds with Allergy Company A.

33. The Respondent stated that Mr. A and other individuals who work for Allergy Company A do not work under his direction; he has also never attended an event with Allergy Company A and has never supervised any of the personnel.

34. In response to the Investigator's question of who was responsible for reading/interpreting the results of the allergy testing, the Respondent stated that "for the skin testing, it's whoever I guess was administering there. I guess it's been [Mr. A]."

35. When asked if he had any concern about doing allergy tests at places like a State fair or gym, the Respondent replied, "Yeah. So, I guess the concern would be the same concern you would have anywhere is if someone has a reaction or anaphylaxis."

36. The Respondent stated that Allergy Company A bills the insurance companies directly using his name as the provider for the allergy testing. He further stated he does not review the allergy testing.

### **RESPONDENT RESPONSE**

37. On April 13, 2018, the Respondent submitted a written response to the allegations that he "allowed unlicensed persons to practice medicine," stating that "I certainly did not do so intentionally."

38. The Respondent stated that when Mr. A offered that he join Allergy Company A, he saw the proposal "as an opportunity to increase [his] earnings."

39. The Respondent acknowledged that his involvement with Allergy Company A was a mistake, stating “I should have never become involved with [Mr. A] and [Allergy Company A] and will regret forever that I was.”

### **EXPERT REVIEW**

40. On or about June 13, 2018, based on a review of relevant records from the Board’s investigative file, the expert issued a report in which her opinions are set forth in pertinent part as follows:

- The photographs from the unannounced site visit of Facility A, “reveal products that are typically used in physicians’ offices from skin testing”;
- Mr. A was administering 80 allergens to patients, which is greater than what is done in clinical practice;
- the expert stated that testing in public locations was “inappropriate and unsafe” and said there was no one to “properly interpret these tests, answer questions, or treat reactions.”;
- “[Mr. A] did not have appropriate training or licensure to perform these tests or to treat a patient if needed”;
- the expert opined that Mr. A is practicing or attempting to practice medicine and that there is a substantial likelihood of risk of serious harm to the public health, safety or welfare of patients in Maryland.

## **II. CONCLUSIONS OF LAW**

Based on the Findings of Fact, Panel A concludes as a matter of law that the Respondent’s actions as outlined in pertinent part above constitute unprofessional conduct in the practice of medicine in violation of Health Occ. § 14-404 (a)(3)(ii); and the practice of medicine with an unauthorized person or aiding an unauthorized person in the practice of medicine, in violation of Health Occ. § 14-404 (a) (18).

## **III. ORDER**

It is thus by Panel A, hereby:

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

**ORDERED** that within **ONE YEAR**, the Respondent shall pay a civil fine of **TWENTY-FIVE THOUSAND DOLLARS (\$25,000)**. 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 Respondent is required to take a course in ethics. The following terms apply:

(a) it is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the course before the course is begun;

(b) the disciplinary panel will not accept a course taken over the internet;

(c) the Respondent shall enroll in and successfully complete a panel-approved course within six months;

(d) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;

(e) the course may not be used to fulfill the continuing medical education credits required for license renewal;

(f) the Respondent is responsible for the cost of the course; 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 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 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

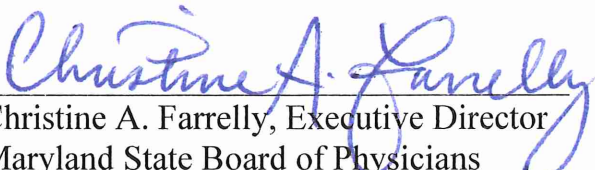
**ORDERED** that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend 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 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** 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 this Consent Order shall be a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 through 4-601 (2014 & 2016 Supp.).

01/02/2019  
Date

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

## CONSENT

I, Amit Narula, D.O., assert that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for the sole purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

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 notice of intent to deny. 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***

12/18/18  
Date

Amit Narula, D.O.

STATE/ DISTRICT OF Maryland

CITY/COUNTY OF: Carroll

**I HEREBY CERTIFY** that on this 18 day of December, 2018, before me, a Notary Public of the State/District and County aforesaid, personally appeared Amit Narula, D.O., and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

**AS WITNESS**, my hand and Notary Seal.

Ronald J. Campbell  
Notary Public

My commission expires: 3/11/19