

|                         |   |                         |
|-------------------------|---|-------------------------|
| IN THE MATTER OF        | * | BEFORE THE              |
| ALAN LEWIS MENKES, D.O. | * | MARYLAND STATE          |
| Respondent              | * | BOARD OF PHYSICIANS     |
| License Number: H80487  | * | Case Number: 2219-0092A |

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### CONSENT ORDER

On April 17, 2019, Disciplinary Panel A (“Panel A”) of the Maryland State Board of Physicians (the “Board”) charged **Alan Lewis Menkes, D.O.** (the “Respondent”), **License Number H80487**, 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.). Panel A charged the Respondent with violating the following provisions of the Act:

**§ 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:

...

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

...

(42) Fails to submit to a criminal history records check under § 14–308.1 of this title[.]

**§ 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.

On June 12, 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 has 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 October 1, 2015, under License Number H80487. His license is active through September 30, 2019.

2. On or about September 19, 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.” Prior to submitting the online Application, the Respondent checked a box attesting to completing the CHRC.

5. By letters dated July 10, 2018 and October 17, 2018, and mailed to the Respondent’s address of record, the Board informed the Respondent that the Board had opened a preliminary investigation based on the Respondent’s failure to complete a CHRC for his license renewal. The Board’s letter stated that CJIS had rejected the fingerprints that the Respondent submitted, and that CJIS had notified the Respondent of that rejection. The Board directed the Respondent to submit a second set of fingerprints to CJIS and contact the Board within ten (10) business days from the date of the letters.

6. The Respondent did not respond to the letters.

7. By letter dated November 30, 2018, and mailed to the Respondent's address of record, the Board informed the Respondent that the Board had opened a full investigation based on the failure to obtain CHRC information for the Respondent's license renewal. The Board's letter stated that CJIS had rejected the fingerprints that the Respondent submitted, and that CJIS had notified the Respondent of that rejection. The Board directed the Respondent to submit a second set of fingerprints to CJIS within ten (10) business days from the date of the letter.

8. The Respondent did not respond to the November 30, 2018 letter.

9. By email to the Respondent dated January 15, 2019, Board staff forwarded to the Respondent the Board's earlier letters about his incomplete CHRC.

10. In a response email to the Board dated January 15, 2019 at 5:06 p.m., the Respondent wrote, "I retired as of November 2017."

11. In a follow-up email dated January 15, 2019 at 5:10 p.m., the Respondent wrote, "I made 3 trips to police station and they only do inked prints[.] I never got any of the notices but did send board [*sic*] a certified letter of my retirement in 2017. . . ."

12. In an email to the Board dated January 23, 2019, the Respondent wrote that he changed his mailing address through the Board's online Practitioner Profile System.

13. In an email to the Board dated February 1, 2019, the Respondent requested "time to resolve this," and further wrote, in part, "Note from my initial letter that I stopped practice due to HEALTH reasons, thus not a retirement" (emphasis in original).

14. Attached to the Respondent's email dated February 1, 2019, was a copy of the Respondent's letter to the Board dated December 19, 2017, which included

“Retirement” as the subject and stated, in part, “I am writing to inform you of my retirement from the active practice of medicine.”

15. In an email to the Board dated February 4, 2019, the Respondent wrote, in part, “I have not treated any patients in any of the 20 states I was licensed since October 2017 . . . Please put a hold on the adverse action until my license expires and I want to certify I will not be treating patients from Maryland or elsewhere now or in future nor have I since 2017[.]” The Respondent also explained that he had submitted “2 sets of fingerprints (possibly 3)” to his credentialing office, which then “forwarded to DOJ.”

16. To date, the Board has not received CHRC information for the Respondent.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, Panel A concludes 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 charge that the Respondent violated Health Occ. § 14-404(a)(33).

### **ORDER**

It is, by Disciplinary Panel A, hereby:

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

**ORDERED** that the Respondent may not apply for the renewal of his license to practice medicine in Maryland (License Number H80487), and the Respondent may not apply for the reinstatement of his Maryland medical license after his current license expires; 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 this Consent Order is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

07/09/2019  
Date

***Signature on File***

Christine A. Farrelly  
Executive Director  
Maryland State Board of Physicians

*[Consent follows on the next page.]*

## CONSENT

I, Alan Lewis Menkes, D.O., 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***

6/27/19  
Date

Alan Lewis Menkes, D.O.  
License No. H80487

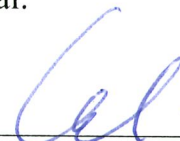
NOTARY

STATE/DISTRICT OF California

CITY / COUNTY OF Riverside

I HEREBY CERTIFY that on this 27<sup>th</sup> day of June, 2019,  
before me, a Notary Public of the foregoing State/District and City/County, personally  
appeared Alan Lewis Menkes, D.O., 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: Aug 10 2021



## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Riverside

On 04/27/2019 before me, Carolina Iniguez, Notary Public  
(insert name and title of the officer)

personally appeared Alan Lewis Menkes,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)

