

IN THE MATTER OF

MATTHEW J. BRANNAN, polysomnographer

Respondent

License No.: Z00374

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BEFORE THE

MARYLAND STATE

BOARD OF PHYSICIANS

Case No.: 2218-0213B

\* \* \* \* \*

### CONSENT ORDER

#### PROCEDURAL BACKGROUND

On May 3, 2018, Disciplinary Panel B ("Panel B") of the Maryland State Board of Physicians (the "Board") charged **MATTHEW J. BRANNAN, polysomnographer** (the "Respondent"), License Number Z00374, under the Maryland Polysomnography Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-5C-01 *et seq.* (2014 Repl. Vol. and 2017 Supp.).

Specifically, Panel B charged the Respondent with violating the following provisions of the Act:

#### **Health Occ. § 14-5C-20. Practicing without license prohibited.**

Except as otherwise provided in this subtitle, a person may not practice, attempt to practice, or offer to practice polysomnography in this State unless licensed to practice polysomnography by the Board.

#### **Health Occ. § 14-5C-21. Unauthorized practice—Representations.**

- (a) *In general.* – Unless authorized to practice polysomnography under this subtitle, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice polysomnography in this State.
- (b) *Use of certain abbreviations or other words.* – Unless authorized to practice polysomnography under this subtitle, a person may not use the abbreviation "P.S.G." or any other words, letters, or symbols with the intent to represent that the person practices polysomnography.

On July 25, 2018, a hearing was held before Panel B, sitting as a Disciplinary Committee for Case Resolution. As a result of negotiations occurring before Panel B, the Respondent agreed to enter into the following Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, Consent and Notary.

### **FINDINGS OF FACT**

Panel B makes the following Findings of Fact:

1. The Respondent was initially licensed to practice polysomnography in Maryland on October 8, 2013, under License Number Z00374. The Respondent retained continuous licensure in Maryland until May 31, 2015, when his license expired.
2. On or about January 25, 2018, the Respondent submitted an *Application for Reinstatement of Polysomnographic Technologists* (the "Application") to the Board. The Board received the Respondent's Application on or about February 6, 2018.
3. In his Application, the Respondent noted that from August 2011 to the present, he was employed as a "registered P.S.G.T." at a health care facility in Maryland. When responding to questions in the Application regarding why he allowed his license to expire, the Respondent acknowledged that he "failed [his] obligation to renew [his] license" due to an "oversight."
4. By email to the Respondent, dated February 12, 2018, Board staff informed the Respondent that he appeared to be practicing polysomnography after his license expired on May 30, 2015, and requested that he provide a detailed written response to those allegations.

5. The Respondent submitted an email response, dated February 23, 2018, in which he acknowledged that he practiced polysomnography after his license expired in 2015. The Respondent admitted that he failed to renew his license and apologized for his "oversight."

6. The Board granted the Respondent's Application and reinstated his license, effective March 19, 2018.

7. The Board's investigation confirmed that from at least June 1, 2015, through February 2018, the Respondent:

- (a) practiced, attempted to practice or offered to practice polysomnography without a license, in violation of Health Occ. § 14-5C-20;
- (b) without authorization, represented to the public by title, description of services, methods, or procedures that he was authorized to practice polysomnography, in violation of Health Occ. § 14-5C-21(a); and
- (c) without authorization, used the abbreviation "P.S.G." or any other words, letters, or symbols with the intent to represent that he practiced polysomnography, in violation of Health Occ. § 14-5C-21(b).

#### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, Panel B finds as a matter of law that the Respondent violated the following provisions of the Act: practiced, attempted to practice or offered to practice polysomnography without a license, in violation of Health

Occ. § 14-5C-20; without authorization, represented to the public by title, description of services, methods, or procedures that he was authorized to practice polysomnography, in violation of Health Occ. § 14-5C-21(a); and without authorization, used the abbreviation "P.S.G." or any other words, letters, or symbols with the intent to represent that he practiced polysomnography, in violation of Health Occ. § 14-5C-21(b).

### **ORDER**

**IT IS** thus, by Panel B of the Board, hereby:

**ORDERED** that within **one (1) year**, the Respondent shall pay a civil fine in the amount of \$2500.00, by money order or bank certified check made payable to the Maryland State Board of Physicians, P.O. Box 37217, Baltimore, Maryland 21297; and it is further

**ORDERED** that if the Respondent allegedly fails to comply with any term or condition of the 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 the Board or Panel B; and it is further

**ORDERED** that, after the appropriate hearing, if the Board or Board Disciplinary Panel determines that the Respondent has failed to comply with any term or condition of this Consent Order, the Board or Board 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 Board or Board Disciplinary Panel may, in addition to one or more of the sanctions set

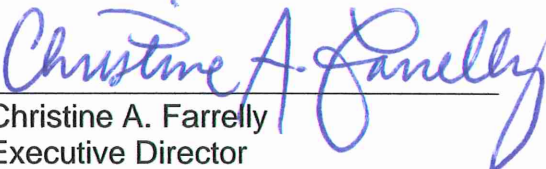
forth above, impose a civil monetary fine upon the Respondent; and it is further

**ORDERED** that, unless stated otherwise in the order, any time period prescribed in this order begins when the Consent Order goes into effect. The Consent Order goes into effect upon the signature of the Board's Executive Director, who signs on behalf of Panel B; and it is further

**ORDERED** that the Respondent is responsible for all costs incurred in fulfilling the condition 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. §§ 4-101-4-601 (2014 & 2017 Supp.).

08/06/2018  
Date

  
Christine A. Farrelly  
Executive Director  
Maryland State Board of Physicians

**CONSENT**

I, Matthew J. Brannan, acknowledge that I was represented by counsel before entering this Consent Order. By this Consent, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into 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 own behalf, and to all other substantive and procedural protections provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of Panel B to initiate these proceedings and to issue and enforce this

Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of a disciplinary panel of the Board that I might have filed after any such hearing.

I sign this Consent Order after having an opportunity to consult with counsel, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of the Consent Order.

***Signature on File***

7/30/18  
Date

Matthew J. Brannan  
Respondent

**NOTARY**

STATE OF MARYLAND

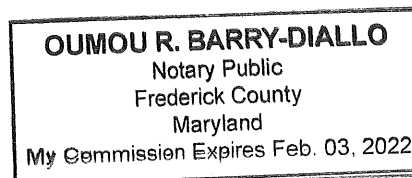
CITY/COUNTY OF FREDERICK

I HEREBY CERTIFY that on this 30<sup>th</sup> day of July 2018, before me, a Notary Public of the foregoing State and City/County, personally appeared Matthew J. Brannan, 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: Feb 3, 2022