

IN THE MATTER OF

DAVID J. NOVAK, M.D.

LICENSE NUMBER: D78772

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BEFORE THE MARYLAND

BOARD OF PHYSICIANS

CASE NUMBER: 2218-0119

CONSENT ORDER

BACKGROUND

Pursuant to its authority under Md. Health Occ. Ann. ("H.O.") §14-401 *et seq.*, the Maryland State Board of Physicians (the "Board") conducted an audit of the continuing medical education credits filed with the license renewal application of David J. Novak, M.D. (the "Respondent"), License Number D78772. The audit findings revealed that the Respondent failed to complete fifty (50) continuing medical education credits required for license renewal, in violation of the Maryland Medical Practice Act (the "Act"), Md. Health Occ. Code Ann. §14-316 and Code of Maryland Regulations ("COMAR").

The pertinent provision of H.O. §14-316 provides:

- (c) *Applications for renewal.*-- Before the license expires, the licensee periodically may renew it for an additional term, if the licensee:

* * *

- (3) Submits to the Board:

* * *

- (ii) Satisfactory evidence of compliance with any continuing education requirements set under this section for license renewal.

The pertinent provisions of COMAR under 10.32.01 provide:

.08 Renewals

- H. A licensee applying for renewal shall complete the CME requirements as defined in Regulation .10 of this chapter.

.10 Continuing Medical Education

C. Requirements.

- (1) In accordance with the requirements specified in §C(2) of this regulation, an applicant shall earn at least 50 credit hours of Category 1 CME during a 2-year period.¹

- D. On the application form for renewal or reinstatement, the applicant shall attest to the fact that the applicant has completed the CME requirement.

Prior to the issuance of formal disciplinary charges, the Respondent agreed to enter into the following public Consent Order, consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. At all times relevant herein, the Respondent was and is a physician licensed to practice medicine in the State of Maryland. He was initially licensed in Maryland on November 24, 2014.
2. On September 30, 2017, the Respondent signed the affirmation in his 2017 renewal application that he had obtained the required 50 Category 1 CME credit hours during the two-year period.
3. During the renewal process, the Respondent received a Continuing Education Audit Notice, requiring that he submit documentation of his CME credits to the Board.
4. Based upon the information received from the Respondent, he had obtained 28 hours of the required 50 credit hours of Category I CME, not 50 hours as affirmed by the Respondent.
5. The Respondent's failure to provide documentation of 50 credit hours of Category I CME and signing the certification regarding CME requirements on the 2017 renewal constitute a failure to comply with the statute and regulations.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated §14-316(c) of the Health Occupations Article and COMAR 10.32.01.10C(1) by failing to obtain the requisite continuing medical education credits.

¹ "2-year period" means: (i) For license renewal, the 2 years preceding the expiration of the physician license or (ii) For license reinstatement, the 2 years preceding the date of the submission of the application for reinstatement of the physician license. COMAR 10.32.01.10A(2)(a).

ORDER

It is hereby:

ORDERED that the Respondent shall pay a civil penalty of Two Thousand Two Hundred Dollars (\$2,200.00) (One Hundred Dollars per missing CME credit hour pursuant to §14-316(d)(5) of the Health Occupations Article) to the Board within thirty (30) days of the date of this Order. The check should be made payable to the "Maryland Board of Physicians" and mailed to P. O. Box 37217, Baltimore, Maryland 21297-3217; and be it further

ORDERED that the Respondent shall be subject to the following terms and conditions:

1. For the two years preceding the expiration of the physician's license, 2019 renewal (2017-2019 renewal), the Respondent shall obtain the required 50 credit hours of Category I CME mandatory for the 2019 renewal and the outstanding 22 hours of Category I CME credits that were not obtained during the 2017 renewal, a total of 72 Category I CME credit hours;

2. The Respondent shall send verification of all CME credits prior to sending in the 2019 renewal to the Board. Board staff will verify the 72 hours of Category I CME credits that are sent to the Board. All 72 hours of the Category I CME credits must be ACCME-approved;

3. The Respondent's license shall not be renewed in 2019 unless the requirements of paragraphs 1 and 2 are met;

4. If the Board, or Board Panel, determines, after notice and an opportunity for a hearing before an Administrative Law Judge of the Office of Administrative Hearings if there is a genuine dispute as to a material fact or a show cause hearing before the Board or Board Panel if there is no genuine dispute as to a material fact, that the Respondent has failed to comply with any term or condition of this Consent Order, the Board or Board Panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, impose a civil monetary fine upon the Respondent, or suspend or revoke the Respondent's license to practice medicine in Maryland; and be it further

ORDERED that this is a public document of the Maryland Board of Physicians pursuant to Md. Code Ann., Gen. Prov. §§4-101 – 4-601 (2014).

03/08/2018
Date

Christine A. Farrelly
Christine A. Farrelly
Executive Director

CONSENT

I, David J. Novak, M.D., acknowledge that I have had an opportunity to consult with counsel before entering into and signing this document. By this Consent, and in order to resolve these matters, I agree to accept the Findings of Fact and Conclusions of Law and Order contained herein. Accordingly, I accept and submit to the foregoing Consent Order.

I acknowledge the validity of this Consent Order and I acknowledge that I am waiving my right to 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 provided by the laws of the State of Maryland. I also affirm that I am waiving my right to appeal any adverse ruling of the Board or Board disciplinary panel that might have followed any hearing.

I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order.

I sign this Consent Order, after having read and reviewed it and after having had an opportunity to consult with counsel, without reservation, as my voluntary act and deed, and I acknowledge that I fully understand and comprehend the language, meaning, terms and effect of this Consent Order.

Signature on File

3/5/2018
Date

Respondent



County/City of Jarvis
Commonwealth of Virginia
Subscribed and sworn to before me, in my presence,
this 3rd day of March, 2018
by David J. Novak
Vanita Sardana Notary Public
My commission expires 4/30/2018

126565

For Maryland State Board of Medicine

VS

NOTARY

STATE OF Virginia

CITY/COUNTY OF Fairfax

I HEREBY CERTIFY that on this 5th day of March, 2018, before me, a
Notary Public of the State and City/County aforesaid, personally appeared David J. Novak, M.D.
and made oath in due form of law that the foregoing Consent Order was his voluntary act and
deed.

AS WITNESS my hand and notarial seal.

Vant Sand 126565
Notary Public

My Commission expires: 6/30/2018