

IN THE MATTER OF

MARK BIRNS, M.D.

LICENSE NUMBER D24994

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BEFORE THE MARYLAND

BOARD OF PHYSICIANS

CASE NUMBER 2016-0215

CONSENT ORDER

BACKGROUND

Based upon information received by the Maryland Board of Physicians (the "Board"), pursuant to its authority under Md. Health Occ. Ann. ("H.O.") §14-401 *et seq.*, the Board conducted an audit of the continuing medical education credits filed with the license renewal application of Mark Birns, M.D. (the "Respondent"), License Number D24994. The audit findings provided sufficient evidence to conclude that the Respondent violated the Maryland Medical Practice Act (the "Act"), Md. Health Occ. Code Ann. §14-316 and Code of Maryland Regulations ("COMAR") by failing to complete fifty (50) continuing medical education credits for license renewal.

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

- G. A licensee applying for renewal shall complete the continuing medical education requirements for each renewal period as defined in Regulation .10 of this chapter.

.10 Continuing Medical Education

B. Requirements.

- (1) A physician applying for renewal or reinstatement shall earn at least 50 credit hours of Category I CME during the 2-year period immediately preceding the licensee's submission of the renewal or reinstatement application.

- C. On the application form for renewal or reinstatement, a physician shall attest to the fact that the physician has completed the continuing medical education requirement.

The Board has agreed to accept the Respondent's voluntary offer to enter into this Consent Order and to submit to the terms and conditions as set out by this Consent 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 June 19, 1980.
2. On August 19, 2014, the Respondent signed the affirmation in his 2014 renewal application that he had obtained the required 50 Category 1 CME credit hours.
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 only 36 hours of the required 50 credit hours of Category I CME, not 50 hours as affirmed by the Respondent.
6. The Respondent's failure to provide documentation of 50 credit hours of Category I CME and signing the certification regarding CME requirements on the 2014 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 10.32.01.10B(1) by failing to obtain the requisite continuing medical education credits.

ORDER

It is hereby:

ORDERED that the Respondent shall pay an administrative fine of one thousand four hundred Dollars (\$1400) (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 after the effective 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 year period immediately preceding the 2016 renewal (2014-2016 renewal), the Respondent shall obtain the required 50 credit hours of Category I CME mandatory for the 2016 renewal and the outstanding 14 hours of Category I CME credits that were not obtained during the two year period immediately preceding the 2014 renewal, a total of 64 Category I CME credit hours;

2. The Respondent shall send verification of all continuing medical education credits prior to sending in the 2016 renewal to the Board. Board staff will verify the 64 hours of Category I CME credits that are sent to the Board. All 64 hours of the Category I CME credits must be ACCME-approved;

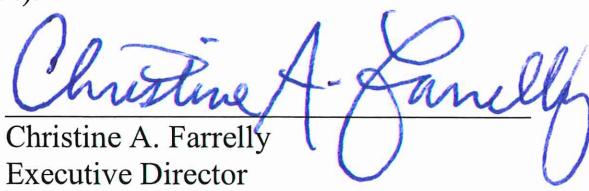
3. The Respondent's license shall not be renewed in 2016 unless the requirements of paragraphs 1 and 2 are met;

4. If the Board determines that the Respondent has violated any conditions of the Consent Order, the Board may impose any additional disciplinary sanctions it deems appropriate; 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).

Date

2/23/2016


Christine A. Farrelly
Executive Director

CONSENT

I, Mark Birns, 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.

2/18/16
Date


Mark Birns, MD
Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF Frederick

I HEREBY CERTIFY that on this 18 day of February, 2015, before me, a Notary Public of the State and City/County aforesaid, personally appeared Mark Birns, 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.

Jameson K Hauck
Notary Public

My Commission expires: 6/29/2017