

IN THE MATTER OF	*	BEFORE THE
H. Jay Zwally, M.D.	*	MARYLAND STATE
Respondent	*	BOARD OF PHYSICIANS
License Number: D42684	*	Case Number: 2016-0756B
* * * * *	*	* * * * *

CONSENT ORDER

On or about March 16, 2016, Disciplinary Panel B of the Maryland State Board of Physicians (the "Board") initiated an investigation of H. Jay Zwally, M.D. (the "Respondent"), License Number D42684, under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-101 *et seq.* (2014 Repl. Vol. & 2015 Supp.) and the Md. Code Regs. 10.32.11 *et seq.* (2014).

Based on its investigation, Disciplinary Panel B voted to charge the Respondent with violating the following provisions of the Act and Md. Code Regs.:

Health Occ. § 14-404

- (a) 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:
 - ...
 - (36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine[.]

Health Occ. § 14-316

- (d) (1) In addition to any other qualifications and requirements established by the Board, the Board may establish continuing education requirements as a condition to the renewal of licenses under this section.

Md. Code Regs. 10.32.01.08 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.

Md. Code Regs. 10.32.01.10 Continuing Medical Education.

...

B. Requirements.

(1) A physician applying for renewal or reinstatement shall earn at least 50 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.

D. Documentation of CME Credits.

(1) The physician has the affirmative obligation to obtain the requisite documentation of CME attendance and retain this documentation for the succeeding 6 years for possible inspection by the Board.

Prior to Disciplinary Panel B issuing charges, the Respondent agreed to enter into this public Consent Order with Disciplinary Panel B's approval, consisting of Findings of Fact, Conclusions of Law and Order.

I. FINDINGS OF FACT

Disciplinary Panel B finds the following:

1. At all times relevant to these charges, 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 November 18, 1991, under License Number D42684. The Respondent's license is currently active and is scheduled for renewal on September 30, 2017.
2. The Respondent is an Emergency Room physician at a hospital in Prince George's County.
3. Previously, on August 31, 2015, the Respondent submitted to the Board an online renewal application (the "Application") in which the Respondent attested that he had earned at least 50 credit hours of Category I continuing medical education ("CMEs") within the two-year period immediately preceding the submission of his Application.
4. Thereafter, the Board randomly selected the Respondent to undergo a CME audit to determine his compliance with its CME requirements for the August 2013 to August 2015 renewal period.
5. By letter dated January 12, 2016, the Board sent a second letter to the Respondent notifying him that a review of his CME credits indicated they were incomplete. Based on the audit, the Board found that the Respondent had only completed two CME credits for the August 29, 2013 through August 31, 2015 renewal period, and requested documentation of the 48 missing credits.
6. On April 1, 2016, the Respondent submitted a response to the Board stating that he had obtained the "learning and participation for the credits" but acknowledged that he

had not entered the credits on-line to receive the "formal credit" until after August 31, 2015. He was "unaware that there was a strict, technical deadline based on dates."

7. The Respondent misrepresented that he had completed and obtained credit for at least 48 hours of approved Category I CMEs within the two-year period immediately preceding the submission of his Application, when in fact he had earned only two CME credit hours.

8. The Respondent's actions, as described above, constitute, in whole or in part, evidence of a violation of Health Occ. § 14-404(a)(36) (willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine) as defined by Md. Code Regs. 10.32.01.08G, 10.32.01.10B(1), 10.32.01.10C, or 10.32.01.10D(1).

II. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel B concludes as a matter of law that the Respondent willfully made a false representation when making application for licensure in violation of Health Occ. § 14-404(a) (36), as defined by Md. Code Regs. 10.32.01.08G, 10.32.01.10B(1), 10.32.01.10C, and 10.32.01.10D(1).

III. ORDER

Based on the foregoing Findings of Fact, it is, by Disciplinary Panel B, hereby:

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

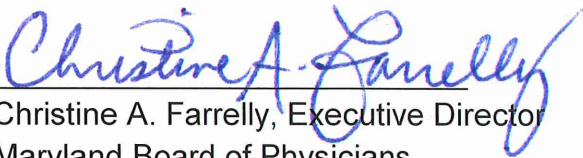
ORDERED that within **FIFTEEN (15) DAYS**, Respondent shall pay a civil fine in the amount of **EIGHT HUNDRED DOLLARS (\$800.00)**, by certified check or money order, payable to the "Maryland Board of Physicians," P.O. Box 37217, Baltimore, Maryland 21297, to be deposited into the General Fund; and it is further

ORDERED that Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; 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 Disciplinary Panel B; and it is further

ORDERED that the Consent Order is a public document pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014).

02/27/2017
Date


Christine A. Farrelly, Executive Director
Maryland Board of Physicians

CONSENT

I, H. Jay Zwally, M.D., acknowledge that I have been advised of my right to be represented by the attorney of my choice throughout proceedings before Disciplinary Panel B, including the right to counsel with an attorney prior to signing this Consent Order. I have knowingly, willfully and intelligently waived my right to be represented by an attorney before signing this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, 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 law. I agree to

forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of Disciplinary 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 Disciplinary Panel A that I might have followed after any such hearing.

I sign this Consent Order, having been advised of my right to be represented by the attorney of my choice before signing and having waived that right, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

2/10/17
Date

H. Jay Zwally, M.D.
H. Jay Zwally, M.D.

STATE OF MARYLAND

CITY/COUNTY OF:

I **HEREBY CERTIFY** that on this 10th day of February, 2017, before me, a Notary Public of the State and County aforesaid, personally appeared H. Jay Zwally, M.D., 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.


Notary Public

DANIEL BRACKBILL
NOTARY PUBLIC
HOWARD COUNTY
MARYLAND
My Commission Expires 08-08-2020

My commission expires:
08/08/2020