

IN THE MATTER OF
ADOLFO LOPEZ, M.D.

Respondent

License Number: D14811

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 7718-0121B

* * * * *

ORDER AFTER SHOW CAUSE HEARING

On June 15, 2018, Adolfo Lopez, M.D., licensed by the Maryland State Board of Physicians (the "Board") since 1973, entered into a Consent Order ("The 2018 Consent Order") with Disciplinary Panel B of the Board ("Panel B") wherein he was reprimanded and placed on probation with certain terms and conditions. The 2018 Consent Order incorporated by reference the probationary terms and conditions of a prior Consent Order, dated October 26, 2017 ("The 2017 Consent Order"), which included the requirement that Dr. Lopez complete a Panel-approved ethics course. On October 2, 2018, Panel B issued a Violation of Consent Order and Notice to Show Cause, charging Dr. Lopez with violating the probationary terms and conditions of the 2017 Consent Order, which were incorporated into the 2018 Consent Order. On November 28, 2018, Panel B held a show cause hearing where Dr. Lopez had the opportunity to argue why his license should not be subject to further discipline.

FINDINGS OF FACT

2017 Consent Order

On June 19, 2017, Panel B charged Dr. Lopez with unprofessional conduct in the practice of medicine, under Md. Code Ann., Health Occ. ("Health Occ.") § 14-404(a)(3)(ii), based on allegations that Dr. Lopez had requested and received a loan from a patient in the amount of \$5,000 (Case No. 2217-0043B). On October 26, 2017, Dr. Lopez entered into a Consent Order with Panel B to resolve the charges against him. The 2017 Consent Order imposed a reprimand

and probation for a minimum one year with conditions that included completion of a Panel-approved ethics course within six months of the Consent Order.

2018 Consent Order

On June 20, 2017, the Board received a complaint from one of Dr. Lopez's former patients regarding the unacceptable condition of Dr. Lopez's medical office. The Board conducted an investigation, which included an unannounced site visit to Dr. Lopez's office. The Board's investigation revealed, in part, that Dr. Lopez improperly stored and maintained expired vaccines in his office. On February 27, 2018, Panel B charged Dr. Lopez with unprofessional conduct in the practice of medicine, under Health Occ. § 14-404(a)(3)(ii), based on the violations of the Centers for Disease Control and Prevention guidelines apparent in Dr. Lopez's office (Case No. 2218-0046B). On June 15, 2018, Dr. Lopez entered into a Consent Order with Panel B to resolve the charges against him. Panel B found that Dr. Lopez was guilty of unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(ii). The panel imposed a reprimand and one additional year of probation with certain terms and conditions, including the probationary terms and conditions of the 2017 Consent Order, which included completion of a Panel-approved ethics course within 6 months of October 26, 2017.

The Consent Order also states:

ORDERED that if the Respondent allegedly fails to comply with any term or condition of probation or of this 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 Panel B determines that the Respondent has failed to comply with any term or condition of probation or this Consent Order, the Board or 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 Disciplinary Panel may, in addition to one or more of

the sanctions set forth above, impose an additional civil monetary fine upon the Respondent[.]

Dr. Lopez signed both the 2017 Consent Order and the 2018 Consent Order, agreeing and accepting to be bound by the Consent Orders and all of their terms and conditions.

Violation of Consent Orders

On November 1, 2017, Board staff sent Dr. Lopez a letter outlining the terms of the October 26, 2017 Consent Order, which included a reminder that the ethics course “must be completed by April 26, 2018. Documentation of the course must be provided to the Board in writing.” Board staff provided a list of approved ethics courses with the letter. On December 5, 2017, Board staff followed up with Dr. Lopez via email and asked him to notify the Board regarding which ethics course he intended to take. The email reiterated that the ethics course must be completed within six months of the October 26, 2017 Consent Order, “that is, by April 26, 2018.”

On February 5, 2018, the instructor of one of the approved ethics courses (“Physician A”) contacted Board staff to ask if it were acceptable for him to print out the ethics course internet materials rather than have Dr. Lopez read and complete the materials online, which was the usual method for teaching the course. Board staff responded to Physician A’s email and approved the printing of the internet materials. On March 26, 2018, Physician A informed Board staff that Dr. Lopez would not be taking the course. In a letter, dated March 26, 2018, to Board staff, Dr. Lopez noted difficulties in completing the ethics course due to his lack of computer skills and his financial constraints. He submitted a new course, the NetCE self-study course titled “Medical Ethics for Physicians” (hereinafter, “self-study course”), for approval to satisfy the ethics course requirement.¹ On April 6, 2018, Board staff informed Dr. Lopez that the self-study course he

¹ This course was not included on the list of Board-approved courses.

proposed was not approved and, again, provided Dr. Lopez with a list of approved ethics courses.

On April 16, 2018, Board staff sent a letter to Dr. Lopez reminding him of the deadline to complete the ethics course by April 26, 2018. On April 17, 2018, Dr. Lopez requested an extension to complete the ethics course requirement. Panel B denied Dr. Lopez's request for an extension because Dr. Lopez did not detail any additional efforts he had made to enroll in or complete an approved course and he also did not specify the additional length of time needed to complete the course. Dr. Lopez responded to the Board that he had been back in touch with Physician A regarding the ethics course, but that Physician A would not be able to teach the course until he returned from traveling in approximately two months. On April 23, 2018, Physician A confirmed that Dr. Lopez enrolled in his ethics course and stated that he hoped to complete the face-to-face portions of the course with Dr. Lopez by mid to late June 2018. In light of the additional information provided, Panel B approved an extension until July 2, 2018 to complete the required ethics course. By letter, dated April 26, 2018, Board staff informed Dr. Lopez of the panel's decision to grant the extension and reminded Dr. Lopez that the panel may impose further disciplinary action if he failed to complete the required ethics course before the July 2, 2018 deadline.

On June 22, 2018, Board staff sent Dr. Lopez a letter reiterating the conditions of the 2018 Consent Order and reminding Dr. Lopez that the 2018 Consent Order also incorporated the terms of the 2017 Consent Order, which included the Board-approved ethics course. By email, dated June 26, 2018, Board staff followed up with Physician A regarding Dr. Lopez's progress with the course. Physician A responded by email, stating he emailed Dr. Lopez two weeks earlier to set up a meeting and to inquire whether Dr. Lopez had been able to access the materials but had never received a response. Physician A indicated that he was abroad for the next three

weeks and would meet with Dr. Lopez after he returned. On September 20, 2018, Physician A confirmed that Dr. Lopez had completed the meetings and the course work, but he was still waiting to receive an essay that he had requested Dr. Lopez to prepare prior to completion of the course.

On October 2, 2018, Panel B issued a Violation of Consent Order and Notice to Show Cause, charging Dr. Lopez with violating the terms and conditions of the June 15, 2018 Consent Order by failing to complete the required ethics course by the extended deadline of July 2, 2018.

Show Cause Hearing

On November 28, 2018, Dr. Lopez appeared at the show cause hearing before Panel B. The State was represented by Administrative Prosecutor, Dawn Rubin. At the hearing, the panel was presented with Dr. Lopez's essay that he submitted to Physician A on October 2, 2018, which was handwritten and mostly illegible, as well as a typed version of the essay submitted on October 18, 2018. The panel reviewed the essay submitted as part of the record in this case. The focus of the essay was Dr. Lopez's explanation of what he had learned from the ethics course.

During the hearing, Dr. Lopez stated that he was "in total agreement" with the facts as presented in the Violation of Consent Order and Notice to Show Cause. Dr. Lopez apologized to the panel and informed the panel that he had ultimately completed the required ethics course in October of 2018. The Administrative Prosecutor agreed that, at the time of the hearing, Dr. Lopez had completed the ethics course but argued that the lengthy delay involved in completing the course constituted a violation of the Consent Order. The Administrative Prosecutor recommended, as a sanction, a reprimand and payment of a \$600 fine, emphasizing the lengthy delay in completing the course, the amount of Board resources involved in monitoring Dr. Lopez's progress, and that Dr. Lopez, in essence, violated two consent orders.

The panel has concerns regarding Dr. Lopez's insight into his professional boundary violation that underlies this matter. Given the short time frame between the 2017 Consent Order and the 2018 Consent Order, which both found that Dr. Lopez was guilty of unprofessional conduct in the practice of medicine, the panel believes that an evaluation of Dr. Lopez is warranted.

CONCLUSIONS OF LAW

Panel B finds that Dr. Lopez violated the June 15, 2018 Consent Order, which incorporated the terms of the October 26, 2017 Consent Order, by failing to complete a panel-approved ethics course by the extended deadline of July 2, 2018. Pursuant to the 2018 Consent Order, upon finding that Dr. Lopez violated the Consent Order, Panel B is authorized to impose a reprimand, additional terms and conditions of probation, suspension, or revocation. In addition to a sanction, the panel may impose an additional civil monetary fine.

ORDER

On an affirmative vote of a majority of a quorum of Disciplinary Panel B, it is hereby

ORDERED that Dr. Lopez is **REPRIMANDED**; and it is further

ORDERED that the **PROBATION** imposed under the June 15, 2018 Consent Order shall **CONTINUE**. Thus, Dr. Lopez is on probation for a minimum period of two years from October 26, 2017.² During probation, Dr. Lopez shall comply with the following additional³ terms and conditions of probation:

1. Within 5 business days of this Order, Dr. Lopez shall contact the Maryland Professional Rehabilitation Program (MPRP) to schedule an initial evaluation. If MPRP

² If Dr. Lopez's license expires during the period of probation, the probation and any conditions will be tolled.

³ This Order incorporates by reference all of the probationary terms and conditions of the October 26, 2017 and June 15, 2018 Consent Orders, including the payment of a \$5,000 fine on or before October 26, 2019, which is still pending as of the date of this Order.

determines that enrollment in MPRP is indicated, Dr. Lopez shall enroll in MPRP as follows:

- (a) Within 15 business days from the date of this Order, Dr. Lopez shall enter into a Participant Rehabilitation Agreement and Participant Rehabilitation Plan with MPRP;
- (b) Dr. Lopez shall fully and timely cooperate and comply with all MPRP's referrals, rules, and requirements, including but not limited to, the terms and conditions of the Participant Rehabilitation Agreement(s) and Participant Rehabilitation Plan(s) entered with MPRP, and shall fully participate and comply with all therapy, treatment, evaluations, and screenings as directed by MPRP;
- (c) Dr. Lopez's failure to comply with any term or condition of the Participant Rehabilitation Agreement(s) or Participant Rehabilitation Plan(s) constitutes a violation of probation and this Order;
- (d) Dr. Lopez shall sign and update the written release/consent forms requested by the Board and MPRP, including release/consent forms to authorize MPRP to make verbal and written disclosures to the Board and to authorize the Board to disclose relevant information from MPRP records and files in a public order. A failure to, or withdrawal of consent is a violation of probation and this Order;
- (e) Dr. Lopez shall also sign any written release/consent forms to authorize MPRP to exchange with (i.e., disclose to and receive from) outside entities (including all of Dr. Lopez's current treatment providers) verbal and written information concerning Dr. Lopez and to ensure that MPRP is authorized to receive the medical records of Dr. Lopez;

2. Within 15 calendar days, Dr. Lopez shall pay a civil fine of \$600.00. The Payment shall be by money order or bank certified check made payable to the Maryland Board of Physicians and mailed to P.O. Box 37217, Baltimore, Maryland 21297. The Board will not renew or reinstate Dr. Lopez's license if he fails to timely pay the fine to the Board;

3. Dr. Lopez shall comply with the Maryland Medical Practice Act, Md. Code Ann., Health Occ. §§ 14-101—14-702, and all federal and state laws and regulations governing the practice of medicine in Maryland; and it is further

ORDERED that Dr. Lopez shall not apply for early termination of probation; and it is further

ORDERED that Dr. Lopez may petition for termination of probation after he has complied with all terms and conditions of probation and the minimum period of probation imposed by the June 15, 2018 Consent Order has passed. After consideration of the petition, the probation may be terminated through an order of the disciplinary panel. Dr. Lopez may be required to appear before the disciplinary panel to discuss his petition for termination. The disciplinary panel may grant the petition to terminate the probation, through an order of the disciplinary panel if there are no pending complaints relating to the charges and no concerns raised by MPRP regarding Dr. Lopez's ability to safely practice medicine; and it is further

ORDERED that if Dr. Lopez allegedly fails to comply with any term or condition imposed by this Order, Dr. Lopez 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 followed by an exceptions process before a disciplinary panel; and if there is no genuine dispute as to a material fact, Dr. Lopez shall be given a show cause hearing before a disciplinary panel; and it is further

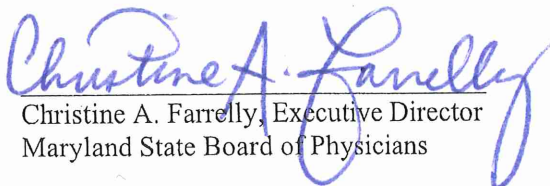
ORDERED that after the appropriate hearing, if the disciplinary panel determines that Dr. Lopez has failed to comply with any term or condition imposed by this Order, the disciplinary panel may reprimand Dr. Lopez, place Dr. Lopez on probation with appropriate terms and conditions or suspend or revoke Dr. Lopez's license to practice medicine in Maryland. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on Dr. Lopez; and it is further

ORDERED that the effective date of this Order is the date the Order is signed by the Executive Director of the Board or her designee. The Executive Director signs this Order on behalf of the disciplinary panel; and it is further

ORDERED that Dr. Lopez is responsible for all costs incurred in fulfilling the terms and conditions of this Order; and it is further

ORDERED that this Order is a public document. *See* Md. Code Ann., Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

12/17/2018
Date


Christine A. Farrelly, Executive Director
Maryland State Board of Physicians