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| **IN THE MATTER OF** | * | **BEFORE THE** |
| **KARLENE V. ROSS, M.D.** | * | **MARYLAND STATE** |
| **Respondent** | * | **BOARD OF PHYSICIANS** |
| **License Number: D66434** | * | **Case Number: 2220-0112** |

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## CONSENT ORDER

On February 24, 2020, Disciplinary Panel A ("Panel A") of the Maryland State Board of Physicians (the "Board") charged Karlene V. Ross, M.D. (the "Respondent") under the Maryland Medical Practice Act (the "Act"), Md. Code Ann., Health Occ. §§ 14-101 *et seq.* (2014 Repl. Vol. & 2019 Supp.).

The pertinent provisions of the Act provide:

> **§ 14-404. Denials, reprimands, probations, suspensions, and revocations – Grounds.**
>
> (a) *In general.* Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel of the Board, 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:
>
> . . .
>
> (3) Is guilty of: (ii) Unprofessional conduct in the practice of medicine;
>
> (13) On proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health-General Article, fails to provide details of a patient's medical record to the patient, another physician or hospital; and/or
>
> . . .
>
> (33) Fails to cooperate with a lawful investigation conducted by the Board or a disciplinary panel[.]

On May 13, 2020, Panel A was convened as a Disciplinary Committee for Case Resolution ("DCCR") in this matter. Based on negotiations occurring as a result of this DCCR, the Respondent agreed to enter into this Consent Order, consisting of Findings of Fact, Conclusions of Law, Order and Consent.

## FINDINGS OF FACT

Panel A finds the following:

## I. BACKGROUND

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 originally licensed to practice medicine in Maryland on July 18, 2007. The Respondent's license is presently active and is current through September 30, 2020.

2. The Respondent is employed by a group medical practice in Waldorf, Maryland.

**Prior Disciplinary History**

3. On June 22, 2016, the Respondent entered into a Consent Order (the "2016 Consent Order") with the Board to resolve charges that she had failed to cooperate with a lawful investigation conducted by the Board, in violation of Health Occ. § 14-404(a)(33). **Board Case #2016-0258A.**

4. Specifically, for over four months, the Respondent failed to respond to repeated Board requests and a *Subpoena Ad Testificandum* issued by the Board to respond to a complaint that a patient had filed against her.

5. Under the terms of the 2016 Consent Order, Panel A concluded as a matter of law that the Respondent had failed to cooperate with a lawful investigation conducted by the Board or a disciplinary panel, in violation of Health Occ. § 14-404(a)(33).

6. The Respondent was reprimanded and ordered to pay to the Board a civil fine in the amount of $5,000.

**Current Allegations**

7. Panel A initiated an investigation of the Respondent after reviewing a complaint (the "Complaint"), dated June 26, 2019, from the Office of the Attorney General's Health Education and Advocacy Unit ("HEAU"). The Complaint alleged that since October 4, 2018, HEAU staff had attempted to obtain from the Respondent a former patient's medical records that the patient had requested the Respondent to transmit to another health care provider.

8. Attached to the Complaint were letters HEAU had sent to the Respondent, dated March 11, 2019, April 15, 2019, and May 20, 2019, that requested the Respondent to transmit the patient records to the health care provider and to HEAU. Also attached to the Complaint was the patient's Authorization for the Release of Medical Information.

9. By letter dated July 15, 2019, sent to the Respondent's non-public address of record, Board staff advised the Respondent that a complaint had been filed against her and requested that the Respondent provide a written response to the complaint within ten (10) business days. A copy of the Complaint was attached to the Board's letter.

10. The Respondent failed to respond to the Board's July 15, 2019 letter.

11. By e-mail dated August 9, 2019, Board staff notified the Respondent that the Board had not received a response to the Board's July 15, 2019 letter. The Respondent was instructed to submit her written request on or before August 14, 2019. The e-mail advised the Respondent that failure to submit her written response on or before August 14, 2019 may result in the issuance of a subpoena requiring her appearance at the Board.

12. A "read receipt" confirmed that the Respondent read the August 9, 2019 e-mail on the same date.

13. By e-mail dated September 3, 2019, the Respondent responded that she had been out of the country and would reply to the Board's inquiry "as early as possible this week."

14. By e-mail dated September 11, 2019, Board staff advised the Respondent that the Board had not received a written response from the Respondent.

15. By e-mail dated September 19, 2019, the Respondent stated that she attached to the e-mail a letter in response to the Board's inquiry.

16. By return e-mail dated September 19, 2019, Board staff advised the Respondent that a letter was not attached to her e-mail.

17. By e-mail dated September 20, 2019, Board staff notified the Respondent that if her response to the request for her former patient's records was not received by the Board on or before September 24, 2019, "the matter would be presented to the Board for consideration of public charges pursuant to Health Occ. § 14-404(a)(3)(ii) and (13)."

18. A "read receipt" confirmed that the Respondent read the Board's September 20, 2019 e-mail less than ten (10) minutes after it had been sent.

19. By e-mail dated September 24, 2019, the Respondent stated that she had sent the Board her response "last week via email." The Respondent further stated that she had received a verbal request for medical records from the patient in 2018. The Respondent further stated, "I am confident that we have provided her with all that we have."

20. By e-mail dated September 25, 2019, Board staff again notified the Respondent that the Respondent had not attached a response to an earlier e-mail as she stated she had. Board staff further notified the Respondent "at issue in the [patient's] matter is your failure to respond to the Health Education and Advocacy Unit's request for the medical records AND to forward the records to the [health provider]. Kindly respond to these allegations." (Emphasis in original).

21. The Respondent failed to respond to the Board's September 25, 2019 e-mail.

22. By e-mail dated October 3, 2019, Board staff sent to the Respondent a *Subpoena Ad Testificandum* that directed her to report to the Board's office on October 21, 2019 at 11:30 a.m. to provide a written response to the matter. The *Subpoena Ad Testificandum* stated that the Respondent's failure to comply may result in disciplinary action pursuant to Health Occ. § 14-404(a)(33). On October 3, 2019, Board staff also sent a copy of the *Subpoena Ad Testificandum* to the Respondent at her address of record by certified mail and regular mail.

23. The Board's letter sent by regular mail was not returned as undeliverable. The Respondent did not claim the certified letter.

24. The Respondent failed to appear in response to the *Subpoena Ad Testificandum* on October 21, 2019.

## CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel A of the Board concludes as a matter of law that the Respondent is guilty of unprofessional conduct in the practice of medicine, in violation of Health Occ. § 14-404(a)(3)(ii); on proper request, and in accordance with the provisions of Title 4, Subtitle 3 of the Health-General Article, failed to provide details of a patient's a patient's medical record to a patient, another physician, or hospital, in violation of Health Occ. § 14-404(a)(13); and failed to cooperate with a lawful investigation conducted by the Board or a disciplinary panel, in violation of Health Occ. § 14-404(a)(33).

## ORDER

It is, thus, on the affirmative vote of a majority of the quorum of Board Disciplinary Panel A, hereby

**ORDERED** that the Respondent's license to practice medicine in Maryland is **SUSPENDED** for **15 DAYS** commencing on the effective date of this Consent Order.[1] During the suspension period, the Respondent shall not:

(1) practice medicine;

[1] If the Respondent's license expires during the period of the suspension or probation, the suspension or probation and any conditions will be tolled.

(2) take any actions after the effective date of this Order to hold himself out to the public as a current provider of medical services;

(3) authorize, allow or condone the use of the Respondent's name or provider number by any health care practice or any other licensee or health care provider;

(4) function as a peer reviewer for the Board or for any hospital or other medical care facility in the state;

(5) dispense medications; or

(6) perform any other act that requires an active medical license; and it is further

**ORDERED** that, within **TWO YEARS,** the Respondent shall pay a civil fine of **$10,000.** 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 the Respondent's license if the Respondent fails to timely pay the fine to the Board; and it is further

**ORDERED** that, upon the completion of the suspension period, the Respondent is placed on probation for a minimum period of **ONE YEAR.** The Respondent shall comply with the following terms and conditions of probation:

Within **SIX (6) MONTHS** of the commencement of probation, the Respondent is required to take and successfully complete a course in professional communication. The following terms apply:

(a) it is the Respondent's responsibility to locate, enroll in and obtain the disciplinary panel's approval of the course before the course is begun;

(b) the Respondent must provide documentation to the disciplinary panel that the Respondent has successfully completed the course;

(c) the course may not be used to fulfill the continuing medical education credits required for license renewal;

(d) the Respondent is responsible for the cost of the course.

**ORDERED** that a violation of the suspension, probation, or any other term or

condition of this order constitutes a violation of this Consent Order; and it is further

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

**ORDERED** that, after the minimum period of probation imposed by the Consent Order has passed and the Respondent has been compliant with the terms and conditions of this Consent Order,[2] the Respondent may submit a written petition for termination of probation. After consideration of the petition, the Respondent's probation may be administratively terminated through an order of the disciplinary panel if the Respondent has complied with all probationary terms and conditions and there are no pending complaints related to the charges; and it is further

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

**ORDERED** that, if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If the disciplinary panel determines 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 the disciplinary panel determines there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

[2] Because the fine is due after the minimum period of probation, probation could be terminated before the fine is paid.

**ORDERED** that after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend with appropriate terms and conditions, or revoke the Respondent'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 the Respondent; and it is further

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

***Signature on File***

06/29/2020
Date

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

**CONSENT**

I, Karlene Ross, M.D., acknowledge that I have consulted with counsel before signing this document.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the disciplinary panel will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 14-405 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* concerning the pending charges. I waive this right and have elected to sign this Consent Order instead.

and substantive protections. I acknowledge the legal authority and the jurisdiction of the disciplinary panel to initiate these proceedings and to issue and enforce this Consent Order. I voluntarily enter into and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

I sign this Consent Order, without reservation, and fully understand the language and meaning of its terms.

6/17/2020
Date

***Signature on File***
Karlene Ross, M.D.

**NOTARY**

**STATE OF:** Maryland

**CITY/COUNTY OF:** Baltimore City

**I HEREBY CERTIFY** that on this 17th day of June, 2020, before me, a Notary Public of the State and City/County aforesaid, personally appeared Karlene Ross, M.D. and made oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

**AS WITNESS**, my hand and Notary Seal.

KISHA LENORA THOMAS NOTARY PUBLIC MY COMMISSION EXPIRES 7/18/2020 BALTIMORE CITY, MD

Notary Public

My commission expires: 7-18-20