

IN THE MATTER OF
GINA M. LOBO, RCP

Applicant

License Number: L05341 (Expired)

* * * * *

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHYSICIANS
* Case Number: 2222-0030 B

FINAL ORDER

On or about March 8, 2022, Disciplinary Panel B of the Maryland State Board of Physicians (the "Board") notified **GINA M. LOBO, RCP** (the "Applicant") of its intent to deny her *Application for Reinstatement of Respiratory Care Practitioners* (the "Reinstatement Application") under the Maryland Respiratory Care Practitioners Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ.") §§ 14-5A-101 *et seq.* (2021 Repl. Vol.).

The pertinent provisions of the Act provide:

§ 14-205. Miscellaneous powers and duties.

(b) *Additional powers.*

(3) Subject to the Administrative Procedure Act and the hearing provisions of § 14-405 of this title, a disciplinary panel may deny a license to an applicant . . . for:

(i) Any of the reasons that are grounds for action under... § 14-5A-17 of this title[.]

Health Occ. § 14-5A-17. Denials, reprimands, suspensions, and revocations – In general.

(a) *In general.* -- Subject to the hearing provisions of § 14-405 of this title, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may deny a license to any applicant.

reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

- (3) Is guilty of unprofessional or immoral conduct in the practice of respiratory care;
- (10) Willfully makes or files a false report or record in the practice of respiratory care;
- (14) Knowingly makes a misrepresentation while practicing respiratory care;
- (17) Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statutes;¹ [and]
- (22) Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes[.]

In its Notice, Disciplinary Panel B informed the Applicant that she had the opportunity to request a hearing by submitting a request in writing to the Board's Executive Director within thirty days of service of the Notice. More than thirty days have elapsed since the service of the Notice on the Applicant, and the Applicant has not requested a hearing.

FINDINGS OF FACT

Disciplinary Panel B makes the following Findings of Fact:

¹ The underlying grounds for disciplinary action under Health Occ. § 14-5A-17 include Health Occ. § 14-5A-17(a)(3), (10), (14) and (22).

I. The Application

1. The Applicant was initially licensed to practice respiratory care in the State of Maryland on or about January 7, 2010, under License Number L05341. The Applicant's license was non-renewed and expired on or about May 30, 2014.

2. On or about July 27, 2021, the Board received the Applicant's Reinstatement Application.

3. In the Reinstatement Application under Section 12, which is entitled "Character and Fitness Questions," the Applicant answered "YES" to the following question:

- b. Has a state licensing or disciplinary board (including Maryland), a comparable body in the armed services or the Veterans Administration, taken action against your license? Such actions include, but are not limited to, limitation of practice, required education admonishment or reprimand, suspension, probation or revocation.

4. In her written explanation, dated July 22, 2021, to the Board, the Applicant stated that on July 17, 2018, while employed as a Respiratory Therapy Manager at a health care facility in California ("Facility A"),² the Applicant took a prescription-only inhaler from a medication dispenser without authorization and used it. The Applicant stated that she was having trouble breathing due to several rural fires burning around the area. The Applicant's colleague (the "Colleague") witnessed the event and reported her to Facility A and the California Department of Consumer Affairs, Respiratory Care Board (the "CA

² To ensure confidentiality, the names of individuals, hospitals and healthcare facilities involved in this case are not disclosed in this document. The Applicant may obtain the identity of the referenced individuals or entities in this document by contacting the administrative prosecutor.

Board"). Facility A subsequently terminated the Applicant's employment, and the CA Board issued disciplinary charges against her. The Applicant stated that she did not receive the CA Board's disciplinary charges initially because they were mailed to the Applicant's parent's house. The Applicant stated when she later received the CA Board's disciplinary charges from her parent, she did not have time to attend the CA Board's hearing.

5. Based on the Applicant's affirmative response in her Reinstatement Application, the Board initiated an investigation of the Applicant.

II. Board Investigation

6. As part of its investigation, the Board obtained the CA Board's *Accusation* (the "CA Charges"), dated February 19, 2019, and *Decision and Order* (the "CA Order"), dated May 1, 2019, as well as her personnel file from Facility A.

7. The CA Charges alleged that on or about July 17, 2018, the Applicant was working a respiratory care shift at Facility A when she complained to the Colleague of wheezing. The Colleague later observed the Applicant with a vial of medication and a small volume nebulizer ("SVN") and proceeded to self-administer a breathing treatment. At approximately 2:00 p.m., the Colleague attempted to retrieve the medication, Albuterol, from the medication dispenser for a scheduled breathing treatment for a patient, but the medication dispenser indicated that the Applicant had retrieved the medication for the patient at 1:23 p.m. The Colleague made inquiries with the attending nurse and the patient, both of whom indicated that the Applicant had not provided breathing treatment to the patient recently. The patient's medical record also did not indicate the Applicant providing the patient a breathing treatment around the time the Applicant retrieved the medication

from the medication dispenser. Facility A's Chief Clinical Officer later asked the Applicant about the medication anomaly, and the Applicant admitted to using Facility A's SVN without authorization but denied taking the patient's ordered medication.

8. While under investigation by the CA Board, the Applicant submitted a written statement, dated September 17, 2018, under penalty of perjury, stating that she used her own Albuterol when she provided herself with a breathing treatment on July 17, 2018.

9. Based on the factual allegations, the CA Board charged the Applicant with: 1) Self-administration of a dangerous drug without a physician's order; 2) False or inconsistent entries in a medical record related to self-administration of a dangerous drug; 3) Commission of a fraudulent, dishonest, or corrupt act; 4) False statement to the Board; and 5) Negligence.

10. On May 1, 2019, the CA Board issued the CA Order making Findings of Fact, Determination of Issues, and a revocation of the Applicant's Respiratory Care Practitioner License No. RCP 19798. The CA Order was issued because the Applicant failed to file a Notice of Defense within 15 days after service upon her of the CA Charges. The CA Order further stated that a copy of the CA Charges was mailed to the Applicant on February 19, 2019, by Certified Mail, and a Certified Mail Receipt indicated the CA Charges were received on or about February 21, 2019. Moreover, a Courtesy Notice of Default was sent to the Applicant by Certified Mail on March 21, 2019, and a Certified Mail Receipt indicated the mailing was received on March 23, 2019. The Applicant failed to respond to the CA Charges or the Courtesy Notice of Default.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, Disciplinary Panel B concludes as a matter of law that the Applicant's actions, as set forth above, constitute a violation of Health Occ. § 14-5A-17(a)(3) – Is guilty of unprofessional or immoral conduct in the practice of respiratory care; Health Occ. § 14-5A-17(a)(10) - Willfully makes or files a false report or record in the practice of respiratory care; Health Occ. § 14-5A-17(a)(14) - Knowingly makes a misrepresentation while practicing respiratory care; Health Occ. § 14-5A-17(a)(17) - Is disciplined by a licensing or disciplinary authority or is convicted or disciplined by a court of any state or country or is disciplined by any branch of the United States uniformed services or the Veterans' Administration for an act that would be grounds for disciplinary action under the Board's disciplinary statute, *i.e.* Health Occ. § 14-5A-17(a)(3); (10), (14) and/or (22); and Health Occ. § 14-5A-17(a)(22) - Sells, prescribes, gives away, or administers drugs for illegal or illegitimate medical purposes, which are all grounds for denial of her Application under Health Occ. § 14-205(b)(3)(i).

ORDER


It is, on the affirmative vote of a majority of the quorum of Disciplinary Panel B, hereby:

ORDERED that the Application of Gina M. Lobo for a reinstatement of her license to practice respiratory care in the State of Maryland, filed on July 27, 2021, is **DENIED**, and it is further

ORDERED that this Final 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).

04/18/2022

Signature on File

Christine A. Farrelly 
Executive Director
Maryland State Board of Physicians

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 14-5A-17.1(a)(2021 Repl. Vol.), you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty (30) days of service of this Order and shall be made as provided for judicial review of a final decision in the Md. Code Ann., State Gov't §§ 10-201 *et seq.* (2021 Repl. Vol.) and Title 7, Chapter 200 of the Maryland Rules.