

FILED DATE - **MAY 03 2023**

Department of Health

By: 

~~Deputy Agency Clerk~~

STATE OF FLORIDA
BOARD OF MEDICINE

DEPARTMENT OF HEALTH,

Petitioner,

vs.

DOH CASE NO.: 2022-15145

LICENSE NO.: ME00147272

DAVID LOPEZ, M.D.,

Respondent.

_____ /

FINAL ORDER

THIS CAUSE came before the BOARD OF MEDICINE (Board) on March 31, 2023, in Orlando, Florida. At the hearing, Petitioner was represented by Corynn Alberto, Assistant General Counsel. Respondent was not present and was not represented by counsel.

In response to the Board's Administrative Complaint (attached hereto as Exhibit A) of July 25, 2022, the Respondent forwarded his Election of Rights form on August 19, 2022, requesting a formal hearing but failed to specify any disputed issues of material fact. Accordingly, the Petitioner, via email of September 28, 2022, provided the Respondent with an opportunity to amend his hearing request by providing the Board with an amended petition setting forth disputed issues of fact. Respondent failed to provide any amended request setting forth disputed issues of material fact.

Based on the forgoing, the Board denied Respondent's request for a formal hearing with prejudice and the Board proceeded with a hearing not involving disputed issues of material fact pursuant to Section 120.57(2), Florida Statutes³

Upon consideration, it is ORDERED:

1. The allegations of fact set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the findings of fact by the Board.

2. The conclusions of law alleged and set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the conclusions of law by the Board.

3. The violations set forth warrant disciplinary action by the Board.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. Respondent shall be and is hereby issued a letter of concern by the Board.

2. Respondent shall pay an administrative fine in the amount of \$1,500.00 to the Board within 30 days from the date the Final Order is filed. Said fine shall be paid by money order or cashier's check.

3. Respondent shall document completion of five (5) hours of continuing medical education (CME) in the area of Laws, Rules and Ethics within one (1) year from the date the Final

Order is filed. These hours shall be in addition to those hours required for biennial renewal of licensure. Respondent shall first submit a written request to the Probation Committee for approval prior to performance of said CME course.

RULING ON MOTION TO ASSESS COSTS

The Board reviewed the Petitioner's Motion to Assess Costs and imposes the costs associated with this case in the amount of \$92.67. Said costs are to be paid within 30 days from the date this Final Order is filed.

(NOTE: SEE RULE 64B8-8.0011, FLORIDA ADMINISTRATIVE CODE. UNLESS OTHERWISE SPECIFIED BY FINAL ORDER, THE RULE SETS FORTH THE REQUIREMENTS FOR PERFORMANCE OF ALL PENALTIES CONTAINED IN THIS FINAL ORDER.)

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 28th day of
April, 2023.

BOARD OF MEDICINE

Paul A. Vazquez

Paul A. Vazquez: Ap. 20.2023.11435111

Paul A. Vazquez, J.D., Executive Director
For Scot Ackerman, M.D., Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to: David Lopez, M.D., 5158 Broadway Ave, Cleveland, OH 44127; 175 Hunting Trail, Chagrin Falls, OH 44022 and John Irwin, Esq., 17458 Lakesedge Trail, Chagrin Falls, OH 44023; by email to: Andrew Pietrylo, Chief Legal Counsel, Department of Health, at Andrew.Pietrylo@flhealth.gov; and Christopher R. Dierlam, Senior Assistant Attorney General, at Christopher.Dierlam@myfloridalegal.com this 3 day of May, 2023.

Elizabeth Eubanks
Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH CASE NO.: 2022-15145

DAVID LOPEZ, M.D.,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Health, by and through its undersigned counsel, files this Administrative Complaint before the Board of Medicine against Respondent, David Lopez, M.D., and alleges:

1. Petitioner is the state agency charged with regulating the practice of medicine pursuant to section 20.43, Florida Statutes; chapter 456, Florida Statutes; and chapter 458, Florida Statutes.

2. At all times material to this complaint, Respondent was a licensed physician within the state of Florida, having been issued license number ME 147272.

3. Respondent's address of record is 5158 Broadway Avenue, Cleveland, Ohio, 44127.

4. At all times material to this Complaint, Respondent was also a licensed physician within the state of Minnesota, having been issued license number 40309.

5. The Minnesota Board of Medical Practice (Minnesota Board) is the licensing authority in the state of Minnesota.

6. On or about March 11, 2022, Respondent and the Minnesota Board executed a Stipulation and Order (Order) to resolve allegations that Respondent engaged in conduct that departs from or fails to conform to the minimal standards of acceptable and prevailing medical practice.

7. Pursuant the Order, Respondent's Minnesota medical license was reprimanded, and he was required to complete coursework related to professional boundaries and professional ethics.

8. The March 11, 2022, Order constitutes action against Respondent's Minnesota medical license.

9. Section 458.331(1)(b), Florida Statutes (2021), provides that having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies and subdivisions, is grounds for discipline.

10. On or about March 11, 2022, the Minnesota Board acted against Respondent's Minnesota medical license through its Order.

11. Based on the foregoing, Respondent has violated section 458.331(1)(b), Florida Statutes (2021), by having his license to practice medicine acted against by the licensing authority of Minnesota.

WHEREFORE, the Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

[signature appears on the following page]

SIGNED this 25th day of July, 2022.

Joseph A. Ladapo, MD, PhD
State Surgeon General

Corynn Alberto

Corynn Alberto
Assistant General Counsel
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FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Elizabeth Eubanks*
DATE: July 25, 2022

PCP Date: July 22, 2022

PCP Members: Georges El-Bahri, M.D., Scot Ackerman, M.D.

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.