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FILED
June 29, 2012
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF HECTOR LOPEZ, M.D. License No. 25MA08272100 TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF NEW JERSEY	CONSENT ORDER

This matter was opened to the New Jersey State Board of Medical Examiners (hereinafter the "Board") upon receipt of information that Hector Lopez M.D. (hereinafter "Respondent" or "Dr. Lopez") had repeatedly billed for nerve conduction tests ("NCV") that were not performed. Dr. Lopez signed an interim consent order with the Board on November 11, 2011 where he voluntarily agreed to surrender his license.

The information provided to the Board and admissions made by Dr. Lopez on January 4, 2012 before a Committee of the Board revealed that Dr. Lopez, who was a founding partner and practitioner at Performance Spine and Sports Medicine

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(hereinafter "Performance"), billed approximately $80,000 for NCV procedures performed between April 2009 and April 2010. However, the information provided to the Board and Dr. Lopez's admissions establishes that the NCV procedures were not performed on the patients. Dr. Lopez entered into a separation agreement with Performance on May 24, 2010.

The Board had also received information that Dr. Lopez was also a co-founder and former practitioner at Shore Spine d/b/a North East Sports and Spine in Point Pleasant, New Jersey and at Advanced Spinal Care d/b/a North East Sports and Spine in Jackson, New Jersey. Dr. Lopez left the practice in 2011. The information and Dr. Lopez's admissions to the Committee of the Board established that Dr. Lopez owned 40% of both practices with the remaining 60% owned by two different chiropractors.

Information was also received by the Board that Dr. Lopez had sought licensure in Ohio in February 2011. Dr. Lopez admitted to the Committee of the Board that he did not disclose to Ohio his employment or ownership of Performance. He also admitted that he did not disclose to Ohio, though asked in its application, that he had previously withdrawn and resigned from a medical partnership.

The Board finds that that Respondent engaged in fraudulent billing practices while he was an owner and practitioner at Performance. The Board also finds that Dr. Lopez made

misrepresentations to the Ohio State Board of Medical Examiners in his application for licensure.

The Board also finds that Dr. Lopez's ownership of Shore Spine Center Physical Rehabilitation PC d/b/a North East Sports and Spine and Advanced Spinal Care and Physical Rehabilitation LLC d/b/a North East Sports and Spine violated the Board's permissible professional practice structure. Respondent is responsible for adhering to N.J.A.C. 13:35:6.16(b)(1)-(9). As he was not the majority owner of these practices, Respondent put himself in the position to not be able to assert his professional discretion.

Respondent's conduct constitutes violations of N.J.S.A. 45:1-21(b) (providing that disciplinary action may be taken against a licensee who engages in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense), 45:1-21(e) (providing that disciplinary action may be taken against a licensee who engages in professional or occupational misconduct), 45:1-21(f) (providing that disciplinary action may be taken against a licensee who has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the Board) and/or 45:1-21(h) (providing that disciplinary action may be taken against a licensee that has violated or failed to comply with the provisions of any act

or regulation administered by the Board, specifically, in the instant matter, N.J.A.C. 13:35:6.16(b)(1)-(9)).

The parties being desirous of resolving this matter without the necessity of further proceedings and it appearing that Respondent has read the terms of the within Order and understands their meaning and effect consents to be bound by same, and it further appearing that the Board finds the within disposition to be adequately protective of the public health, safety, and welfare,

IT IS ON THIS 29th DAY OF June, 2012,

ORDERED THAT

1. Respondent Hector Lopez's, M.D., license to practice medicine and surgery in the State of New Jersey is hereby suspended for a period of three (3) years. The first year shall be served as an active suspension, with the remaining two (2) years stayed and served as a period of probation conditioned upon Respondent's compliance with the provisions enumerated in this Order and during this time he shall employ a billing monitor who shall send reports to the Board. Based on Respondent's representations that he no longer has any ownership in any medical practice and has not actively practiced in any state since July 14, 2011, Respondent's active suspension shall be deemed to have commenced on July 14, 2011. Time spent in active practice in another jurisdiction during the active period

of the suspension shall toll the effective term of the suspension. In the event any information is received that indicates that Respondent had ownership in any medical practice and/or was engaged in the practice of medicine between July 14, 2011 and November 11, 2011, the day he entered into an interim consent order with the Board where he agreed to voluntarily surrender his license, the Board may pursue additional disciplinary action against Dr. Lopez.

2. Respondent shall, prior to commencing the stayed portion of his suspension, appear before a committee of the Board to propose his desired practice setting and to nominate a billing monitor, all of which shall be subject to Board review and approval.

3. Respondent is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22, in the amount of $20,000.00.

4. The civil penalty and costs shall be due and owing no later than sixty (60) days following the conclusion of Respondent's active suspension. Respondent may arrange a twelve-month installment payment plan with the Board to commence no later than sixty (60) days following the conclusion of Respondent's active suspension. Payment shall be submitted by certified check or money order made payable to the State of New Jersey and shall be forwarded to William Roeder, Executive Director, State Board of Medical Examiners at Post Office Box

183, Trenton, New Jersey 08625-0183. Failure to make timely payments shall be considered a violation of this Order, shall result in acceleration of the balance of debt, and shall constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e), thereby subjecting Respondent to any and all remedies available to the Board pursuant to N.J.S.A. 45:1-21 and 22.

5. Respondent shall also be required to attend the PrOBE Ethics Course. [The parties note that Respondent already satisfactorily completed the course and received a certificate on November 5, 2011. Respondent shall not be required to repeat the course].

6. Respondent shall comply with the attached Directives for physicians who are disciplined or whose surrender of licensure has been accepted by the Board, which are incorporated herein by reference.

7. Respondent shall return his original CDS registration to the New Jersey State Board of Medical Examiners, Post Office Box 183, Trenton, New Jersey 08625-0183, upon his receipt of a filed copy of this order. [The parties note that Respondent surrendered his CDS registrations for Jackson, New Jersey and Point Pleasant, New Jersey, through his attorney on November 29, 2011.]

8. Respondent shall immediately advise the DEA of this order.

9. The parties hereby stipulate that entry of this Consent Order is without prejudice to further action, investigation or restrictions upon any reinstatement, by this Board, the Attorney General, the Drug Control Unit, the Director of the Division of Consumer Affairs or other law enforcement entities resulting from Dr. Lopez's conduct prior to the entry of this Order.

10. The parties hereby stipulate that entry of this Consent Order shall not be deemed an admission by Hector Lopez, M.D. of any of the criminal activity referenced herein and shall not constitute a waiver of any defenses he may assert with reference to the criminal charges.

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

By: _____
PAUL T. JORDAN
Board President

I have read this Consent Order.
I further understand that this Order has serious legal consequences.
I understand the Order and agree to be bound by all terms and conditions. I consent to the entry of this Order

_____
Hector Lopez, M.D.
Dated: 6/25/12

Consented to as to form and entry.

Keith Roberts, Esq.
Counsel to Hector Lopez, M.D.
Dated: 6-25-2012

DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE HAS BEEN ACCEPTED

APPROVED BY THE BOARD ON MAY 10, 2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of

general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and Inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

NOTICE OF REPORTING PRACTICES OF BOARD REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

(1) Which revokes or suspends (or otherwise restricts) a license,
(2) Which censures, reprimands or places on probation,
(3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license(and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A.45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.