

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF MEDICINE**

IN THE MATTER OF :
 :
NAMYR MARTINEZ, M.D. :
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Respondent :

FINAL ORDER OF REVOCATION

Jurisdiction

This matter comes before the District of Columbia Board of Medicine (“the Board”) pursuant to the Health Occupations Revision Act (HORA), D.C. Official Code § 3-1201.01 *et seq.* (2016 Repl.). The Board has broad jurisdiction to regulate the practice of medicine and to impose a variety of disciplinary sanctions upon a finding of a violation of the HORA. D.C. Official Code, § 3-1202.03; *Mannan v. District of Columbia Board of Medicine*, 558 A.2d 329, 333 (D.C.1989).

Background

Dr. Martinez (Licensee) was licensed as a physician in the District of Columbia on April 18, 2018. His license is currently set to expire on December 31, 2020. On June 6, 2019, prior to completing the third year of residency, Dr. Martinez voluntarily resigned in lieu of termination for cause, from the pediatric residency program at Children’s National Medical Center (CNMC). Dr. Martinez has previously been on probation for providing false information concerning written prescriptions he has filed. While on probation he was absent without notice for eight (8) clinical duty assignments and filed a clinical log attesting to seeing patients on a

date when he had not seen them. On July 15, 2019, the CNMC Program Coordinator, received a request from Weatherby Healthcare in Florida for confirmation of his completion of his residency program, for which Dr. Martinez had submitted a certificate of completion. Dr. Martinez provided a false document as verification of having completed the residency program, which was also false. Dr. Agrawal, Director of the Pediatric Residency Program at CNMC, reported this to the Board who requested that a Notice of Intent to Take Disciplinary Action (NOI) be issued to Dr. Martinez.

On Dec. 19, 2019, an NOI was issued against Dr. Martinez. The NOI listed the following as bases for disciplinary action:

- a. Dr. Martinez willfully made or filed a false report or record in the practice of a health occupation in accordance with D.C. Official Code § 3-1205.14(a)(8)**
- b. Dr. Martinez failed to conduct business with honesty and fair dealing with the public in accordance with the public in accordance with § 3-1205.14(a)(25)**
- c. Dr. Martinez failed to conform to the standard of acceptable conduct and prevailing practice within a health profession in accordance with D.C. Official Code § 3-1205.14(A)(26)**
- d. Dr. Martinez committed fraud or made a false claim in connection with the practice of an occupation regulated by D.C. Official Code § 3-1201.01 et seq., the Health Occupations Revision Act (HORA), in accordance with D.C. Official Code § 3-1205.14(a)(45).**

The NOI was delivered by certified mail, in accordance with 17 DCMR § 4105.2(c), to Dr. Martinez's home address listed in his licensure information. No response was ever received from Dr. Martinez.

The District of Columbia Municipal Regulations provide that the Respondent may request a hearing within twenty (20) days after the service of the notice. 17 DCMR § 4102.4(c)(1). To date, Dr. Martinez has not requested a hearing. In accordance with 17 DCMR § 4103.1. the Board may, without hearing, take the action contemplated in the notice.

Findings of Fact

Based upon the preponderance of the evidence, the Board hereby makes the following findings of fact:

- 1) On November 26, 2018, Dr. Martinez was formally placed on probation by his residency program at CNMC for professionalism concerns because he had produced false and deceptive information to program leadership regarding his written prescriptions.
- 2) On June 6, 2019 a written notification was sent to Dr. Martinez from Dr. Agrawal regarding the program management's joint decision to accept Dr. Martinez's voluntary registration from the pediatric residency program due to his additional professional violations during his probation.
- 3) On July 15, 2019, Janet Barbour, Children's National Medical Center (CNMC) Program Coordinator, received a request to verify Dr. Martinez's resident program completion certification from Weatherby.
- 4) On July 17, 2019 the D.C. Board of Medicine received a complaint from Dr. Agrawal of CNMC alleging that Dr. Martinez falsified a completed residency certification when he in fact had resigned from the residency program in lieu of termination for cause.
- 5) On August 8, 2019, the D.C. Board of Health requested a preparation of a Notice of Intent to Take Disciplinary Action (NOI) to be issued to Namyr Martinez, M.D. License No. MD046140.
- 6) On December 11, 2019, the Board issued a Notice of Intent to Take Disciplinary Action (NOI) against Dr. Martinez which was served on Dr. Martinez at his home address via certified mail on Dec. 21, 2019. Dr. Martinez had twenty (20) days from the date of service to request a hearing. To date no response has been received from Dr. Martinez.

CONCLUSIONS OF LAW

Accordingly, the Board now concludes that Respondent's conduct violates:

- 1) D.C. Official Code § 3-1205.14(a)(1) in that he willfully made a misrepresentation falsifying residency documentation;
- 2) D.C. Official Code § 3-1205.14(a)(25) in that he violated District of Columbia law or regulation related to the practice of a health profession;
- 3) D.C. Official Code § 3-1205.14(a)(26) in that he failed to conform to standards of acceptable conduct and prevailing practice within a health profession by engaging in the practice of medicine without authority to do so;
- 4) D.C. Official Code § 3-1205.14(a)(45) in that he committed fraud or made false in claims connection with the practice of medicine or relating to Medicaid, Medicare, or insurance
- 5) D.C. Official Code § 3-1205.14(c) provides, in pertinent part:

Upon determination by the board that an applicant, licensee, or person permitted by this subchapter to practice in the District has committed any of the acts described in subsection (a) of this section, the board may:

- (1) Deny a license to any applicant;
- (2) Revoke or suspend the license of any licensee;
- (3) Revoke or suspend the privilege to practice in the District of any person permitted by this subchapter to practice in the District;
- (4) Reprimand any licensee or person permitted by this subchapter to practice in the District;
- (5) Impose a civil fine not to exceed \$5,000 for each violation by any applicant, licensee, or person permitted by this subchapter to practice in the District;
- (6) Require a course of remediation, approved by the board, which may include:

- (A) Therapy or treatment;
 - (B) Retraining; and
 - (C) Reexamination, in the discretion of and in the manner prescribed by the Board, after the completion of the course of remediation;
- (7) Require a period of probation; or
- (8) Issue a cease and desist order pursuant to § 3-1205.16.

In fashioning the sanction, the Board is guided by the established case law in the District. Health licensing boards have discretion concerning an array of statutory sanctions or remedies to apply. *Falkenstein v. District of Columbia Bd. of Med.*, 727 A.2d 302, 308 (D.C. 1999). In determining the appropriate sanction in this case, the Board is conscious that its decision should be supported by the record and is not an abuse of discretion. *See, e.g. Gropp v. District of Columbia Bd. of Dentistry*, 606 A.2d 1010, 1014 (D.C. 1992); *see also Kegley v. District of Columbia*, 440 A.2d 1013, 1020 n. 11 (D.C. 1982). The court reasoned further that a “health professional maintains a position of trust toward not only his patients but to the community.” Disciplinary proceedings are held to determine whether a health professional is fit to continue practicing his profession. A betrayal of that trust which a practitioner is required to maintain “demands appropriate discipline.” *Id.* at 1017. The Board’s ultimate decisions must always be guided by its mandate to protect the public. The HORA “was designed to ‘address modern advances and community needs with the paramount consideration of protecting the public interest.’” *Joseph v. District of Columbia Board of Medicine*, 587 A.2d 1085, 1088 (D.C.1991) (*quoting* Report of the D.C. Council on Consumer and Regulatory Affairs on Bill 6-317, at 7 (November 26, 1985) (emphasis added by court)). Courts have found that a licensing agency has broad discretion to suspend or revoke a license for reasonable cause in order to protect public

health, safety, or morals. *Arthur v. DC Nurses' Examining Bd.*, 459 A.2d 141, 147 (D.C. 1983);
Proctor v. District of Columbia Hackers' License Appeal Bd., 268 A.2d 267, 269 (D.C.1970).


ORDER

Based upon the aforementioned it is hereby **ORDERED** that **NAMYR MARTINEZ's**
medical license, **MD046140**, be and is hereby **REVOKED**,¹ effective as of the date of service.

DISTRICT OF COLUMBIA BOARD OF MEDICINE

07/13/2020

Date



By: Andrea Anderson, MD, FAAFP
Chairperson

¹ Pursuant to D.C. Official Code § 3-1201.01(12A), "revocation" means termination of the right to practice a health profession and loss of licensure for five (5) years or more.