

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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In The Matter of	:	No. 17-I-128
	:	
MARK JASON DOMINGUEZ, M.D.	:	CONSENT ORDER
	:	
(Certificate No. MD.200251),	:	_____
Respondent	:	
	:	
----- X	:	

The above-entitled proceeding was docketed for investigation by the Louisiana State Board of Medical Examiners (the "Board") following the receipt of apparently reliable information which indicated that Mark Jason Dominguez, M.D. ("Dr. Dominguez"), a physician that is, and was at all times material to the facts and matters alleged herein licensed and engaged in the practice of medicine in and around Covington, Louisiana, engaged in an inappropriate relationship with a co-employee who subsequently became a patient of his, and thereafter raised concerns about the quality of care of his surgical practice. Dr. Dominguez voluntarily removed himself from practice and submitted to evaluations related to allegations of boundary violations and quality of care. Thereafter, Dr. Dominguez underwent the initial phases of recommended treatment. His evaluating and treating healthcare providers have determined that under the appropriate circumstances, Dr. Dominguez is now capable of returning to the practice of medicine with requisite skill and safety to patients.

Predicated upon the foregoing information, the Investigating Officer assigned by the Board with respect to this matter determined reasonable cause existed such that a formal Administrative Complaint could be filed against Dr. Dominguez, charging him with violations of the Louisiana Medical Practice Act, La. Rev. Stat. §§37:1261 et. seq. ("the Act"), pursuant to La. Rev. Stat. §§37:1285A(13) and (14)¹.

¹ The board may refuse to issue, or may suspend or revoke any license or permit, or impose probationary or other restrictions on any license or permit issued pursuant to this Part for the following causes:... (13) Unprofessional conduct, including but not limited to, conduct manifested as sexual misconduct, disruptive behavior, failing to cooperate with the board, failing

While not admitting to any violation of any federal or state law or regulation, the Board's Rules, or any of the facts stated therein, Dr. Dominguez, nonetheless, acknowledges that the foregoing information could provide the Investigating Officer for the Board with probable cause to pursue formal administrative proceedings against him for violation of the Act, La. Rev. Stat. §§37:1285A(13) and (14), respectively, and further, that proof of such information upon administrative evidentiary hearing could establish grounds under the Act for the suspension, revocation, or imposition of such other terms, conditions, or restrictions on his license to practice medicine in the state of Louisiana as the Board may determine appropriate.

Recognizing his right to notice and administrative adjudication of any charges that may be asserted against him in these proceedings, at which time Dr. Dominguez would be entitled to be represented by legal counsel, to call witnesses and to present evidence on his own behalf in defense or in mitigation of the charges made and to a decision thereon by the Board based upon written findings of fact and conclusions of law pursuant to La. Rev. Stat. §49:955-965, Dr. Dominguez, nonetheless, hereby waives his right to notice and formal adjudication and pursuant to La. Rev. Stat. §49:955(D), consents to entry of the Order set forth hereinafter. Dr. Dominguez acknowledges that he hereby waives any right to which he may be entitled pursuant to the Louisiana Administrative Procedure Act, La. Rev. Stat. §§49:951 *et seq.*, or which may be afforded to him by any other law to contest or appeal his agreement to or the force and effect of the Board's investigation or this Order in any court or other forum. By his subscription hereto, Dr. Dominguez also hereby authorizes the Investigating Officer designated by the Board with respect hereto to present this Order to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation and he waives any objection to such disclosures under La. Rev. Stat. §49:960. Furthermore, Dr. Dominguez expressly acknowledges that the disclosure of such information to the Board by the Investigating Officer shall be without prejudice to the Investigating Officer's authority to proceed with the adjudication of an administrative complaint against him or to the Board's capacity to adjudicate such complaint should the Board decline to approve this Order.

Based upon the information provided, the Board has concluded that the public interest would be properly protected and served by allowing Dr. Dominguez to maintain his license subject to appropriate specified terms, conditions and restrictions. In consideration of this finding, accordingly, and on the recommendation of the Investigating Officer, the Board has concluded that its responsibility to insure the health,

to maintain independent medical judgment, improperly delegating or supervising, exercising undue influence, enabling the unauthorized practice of medicine, practicing or enabling practice by an impaired provider, failing to practice within the scope of education, training, and experience, intentionally falsifying or fraudulently altering records, or failing to create or maintain medical records. (14) Medical incompetency, including but not limited to, incompetency manifested by continuing or recurring medical practice which fails to satisfy the prevailing and usually accepted standards of medical practice in this state.

safety and welfare of the citizens of this state, pursuant to La. Rev. Stat. §37:1261, will be effectively served by entry of this Order set forth hereinafter by consent. Accordingly, in consideration of the foregoing, and pursuant to the authority vested in the Board by La. Rev. Stat. §37:1285 and La. Rev. Stat. §49:955(D);

IT IS ORDERED that the license of Mark Jason Dominguez, M.D. to engage in the practice medicine in the state of Louisiana, as evidenced by Certificate No. MD.200251, is hereby placed on **PROBATION** for three (3) years; *provided, however*, that such licensure and Dr. Dominguez's continuing exercise of rights and privileges granted thereby, shall be conditioned upon and subject to his acceptance of and strict compliance with the following terms, conditions and restrictions:

(1) Personal Appearance before the Board. Dr. Dominguez shall personally appear before the Board or its designee to permit the Board to consider his intentions to be in compliance with the terms, conditions and restrictions contained in this order.

(2) Continuing Treatment/PHP Monitoring Agreement/Reports to Board. Dr. Dominguez shall, if he has not already done so, enter into a monitoring agreement with the Healthcare Professionals' Foundation of Louisiana Professionals' Health Program ("PHP") for the entirety of the probationary period required by this Order. Dr. Dominguez shall continue in, abide by and strictly adhere to all recommendations for ongoing treatment and monitoring of his condition and all aftercare recommendations, which have or may be contained in his PHP monitoring agreement or modification of the PHP monitoring agreement, as well as those recommended by his evaluating and treating health care providers, and those prescribed by any other health care provider involved in his care. Dr. Dominguez shall, in addition, authorize and cause his evaluating, treating and monitoring healthcare providers and/or the PHP to submit to the Board, not less frequently than quarterly throughout the probationary period, written reports and/or verbal reports, should the Board desire the latter, on his then-current treatment diagnosis, prognosis, course of treatment, his fitness and ability to practice medicine with reasonable skill and safety to patients, and his compliance with the terms, conditions and restrictions of this Order and his PHP monitoring agreement.

(3) Practice Monitoring and Reports. Prior to returning to a surgical practice, Dr. Dominguez shall enter into a contract with a Board-approved practice monitor to monitor and review Dr. Dominguez's medical practice during the probationary period. The monitor will work in conjunction with the Board to develop parameters for monitoring Dr. Dominguez's practice, including assessing appropriate cases for surgery, intra-operative monitoring, and a review of Dr. Dominguez's patient records and charts. The practice monitor shall review no less than ten (10) cases and records

a quarter. The practice monitor shall provide quarterly reports to the Board that will include an opinion as to whether Dr. Dominguez is practicing medicine, performing surgery, and documenting his patient's evaluation and treatment in accordance with the prevailing standards of medical practice. The intra-operative monitoring of Dr. Dominguez's practice shall not conclude until the Board has received reports from the practice monitor on at least twenty (20) cases that provide that Dr. Dominguez is performing surgery with reasonable skill and safety to his patients. The remaining aspects of the practice monitoring of Dr. Dominguez shall not conclude until the Board has received at least four (4) positive quarterly reports from the practice monitor. After the Board has received four (4) positive quarterly reports in which the practice monitoring program has opined that Dr. Dominguez is practicing in accordance with the prevailing standards of medical practice, Dr. Dominguez may petition the Board to terminate this condition of his probation, which request the Board in its sole discretion may grant or deny. In the event the Board denies such a request, the practice monitoring will continue at the Board's discretion or until this probation is terminated. Dr. Dominguez shall bear all costs associated with the practice monitor program.

(4) Necessity for Chaperone; Duration of Requirements. Dr. Dominguez shall designate one or more workplace chaperones, acceptable to and preapproved by the Board or its designee, in whose physical presence and under whose direct observation he shall conduct the entirety of any and all visits and examinations of female patients in the office setting. Any chaperone shall be a nurse or other health care professional licensed by and in good standing with a health care professional and occupational regulatory board in this state. For all female patient encounters in any other healthcare setting (hospital, except during surgery, nursing home, etc.), Dr. Dominguez shall also use chaperones who also shall meet all of the licensing requirements of the preapproved clinic chaperones. The name and professional title of all licensed chaperones, regardless of the clinical setting, shall be entered by Dr. Dominguez into the medical record, and Dr. Dominguez shall insure that the chaperones sign and date the chart on each patient encounter. In all settings, Dr. Dominguez shall also insure that his chaperones strictly adhere to the recommendations and suggestions of the treatment program for chaperone education, monitoring and reporting. Unless modified or terminated by the Board, in its sole discretion, all chaperone requirements of this Order shall remain in effect so long as Dr. Dominguez shall hold any form of license or permit to practice medicine in the state of Louisiana. Dr. Dominguez may petition the Board at any time after the end of the probationary period, no more often than annually, to have these requirements modified or terminated.

(5) Reports from Chaperone/Sanctions. Dr. Dominguez shall promptly report, and he shall cause his chaperone to promptly report, verbally and in writing to the Board, any instance in which he conducts a visit or examination of any female in the absence of the chaperone required by this Order. Moreover, Dr. Dominguez shall cause his chaperone to promptly report to the Board any activity or conduct by him with a female patient that the chaperone considers improper or unprofessional. Dr. Dominguez shall cause each clinic chaperone to submit a report to the Board, not less frequently than semi-annually, attesting to the chaperone's presence during the entirety of all examinations required hereunder, as well as the propriety of Dr. Dominguez's conduct with patients. Additionally, Dr. Dominguez shall also report to the Board, not less frequently than semi-annually, attesting to presence of a chaperone at all female patient encounters required by the Order, as well as the propriety of his conduct with female patients. Unless modified or terminated by the Board, in its sole discretion, the requirements contained in this paragraph shall survive the probationary period and remain in effect so long as Dr. Dominguez shall hold a license to practice medicine in the state of Louisiana. Dr. Dominguez may petition the Board at any time after the end of the probationary period, no more often than annually, to have these requirements modified or terminated.

(6) Continuing Medical Education. Dr. Dominguez shall obtain not less than fifty (50) credit hours per year during his probationary term through attendance at and participation in continuing medical education programs ("CME") accredited by the American College of Surgeons, the American Medical Association, or such other national accrediting association or organization as the Board may approve in writing. On or before the anniversary of the effective date of this Order, Dr. Dominguez shall cause to be submitted to the Board written certification of the CME programs and credits completed by him during the preceding twelve (12) months.

(7) Absence from State/Practice/Effect on Probation. Should Dr. Dominguez at any time during the period of probation ordered herein be absent from the state of Louisiana, relocate to and/or take up residency in another state or country, discontinue practicing medicine for a period of thirty (30) days or more, or should he fail to renew his license to practice medicine in this state, he shall advise the Board in writing. In such instance, the probationary period ordered herein and all terms, conditions and restrictions thereof shall be deemed interrupted and extended and shall not commence to run until Dr. Dominguez notifies the Board in writing that he has returned to, relocated or taken up residency in, resumed the practice of medicine in this state, or renewed his Louisiana medical license.

(8) Certification of Compliance with Probationary Terms. At least sixty (60) days prior to the conclusion of the probationary term imposed herein, Dr. Dominguez shall provide the Board with an affidavit certifying that he has complied with each of the terms of probation imposed by this Order. The probationary period and all of its terms and conditions shall be, and shall be deemed to be, extended and continued in full force and effect pending Dr. Dominguez's compliance with the requirements of this provision.

(9) Cooperation with Board's Probation and Compliance Officer. Dr. Dominguez shall immediately notify the Board's Probation and Compliance Officer of any change in his current home and professional addresses and telephone numbers and he shall direct all matters required pursuant to this Consent Order to the attention of the Probation and Compliance Officer, with whom he shall cooperate on all matters and inquiries pertaining to his compliance with the terms, conditions and restrictions of this Order.

(10) Probation Monitoring Fee. For each year of the probationary term Dr. Dominguez shall pay the Board a probation monitoring fee of Three Hundred (\$300.00) Dollars. Payment of the initial fee shall be due not later than sixty (60) days from the effective date of this Order. All subsequent annual payments shall be due on or before the anniversary date of the initial fee payment.

(11) Payment of Fine. Within one (1) year of the effective date of this Order, Dr. Dominguez shall pay to the Board a fine in the amount of Three Thousand Five Hundred and no/100 (\$3,500.00) Dollars.

(12) Effective Date. This Consent Order shall be effective the date it is approved and accepted by the Board as shown by the signature of its representative below.

IT IS FURTHER ORDERED that any violation or failure of strict compliance with any of the terms, conditions or restrictions set forth by this Order by Dr. Dominguez shall be deemed adequate and sufficient cause, upon proof of such violation or failure, for such other action against Dr. Dominguez's license to practice medicine in the state of Louisiana as the Board may deem appropriate, as if such violations were enumerated among the causes provided in La. Rev. Stat. §37:1285(A).

IT IS FURTHER ORDERED that this Order shall be, and shall be deemed to be, a public record.

In the Matter of:

Mark Jason Dominguez, M.D.

Consent Order

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Signed at New Orleans, Louisiana, and effective on this 17th day of September, 2018.

**LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS**

By:



Christy L. Valentine, M.D.
President

**ACKNOWLEDGMENT
AND CONSENT**

STATE OF Louisiana
PARISH OF Orleans

I, Mark Jason Dominguez, M.D., hereby acknowledge that I have had the opportunity to seek the advice and guidance of legal counsel with respect to this Consent Order and that all of its terms and conditions have been fully explained to me and/or that I fully understand them. I further acknowledge that I approve, accept and consent to entry of the above and foregoing Order without duress and of my own free will and accord, this 7th day of September, 2018.



Mark Jason Dominguez, M.D.

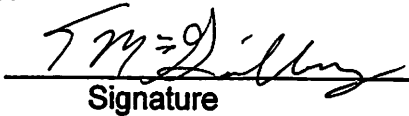
WITNESSES:


Signature

Jennifer M. Doll

Printed Name

909 Poydras Street, Suite 2600, New Orleans, LA 70112
Address

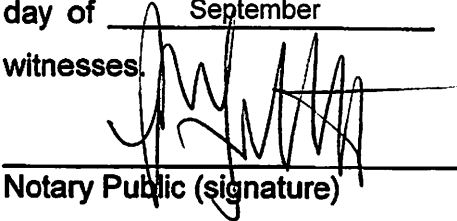

Signature

Tim R. McGibboney

Printed Name

909 Poydras Street, Suite 2600, New Orleans, LA 70112
Address

Sworn to and subscribed before me at New Orleans, Louisiana, this 7th day of September, 2018, in the presence of the two stated witnesses.


Notary Public (signature)

Brian D. Grubb / La. Bar. No. 31179
Printed Name/Notary or La. Bar No. #

