

LICENSE NO. J4310

IN THE MATTER OF
THE LICENSE OF
IVETTE C. LOZANO, M.D.

BEFORE THE
TEXAS MEDICAL BOARD

MEDIATED AGREED ORDER

On the 10 day of December, 2021, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Ivette C. Lozano, M.D. (Respondent).

On April 29, 2021, Respondent appeared by videoconference, with counsel Louis Leichter, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. The Board's representatives were Robert Gracia, a member of the Board, and Leanne Burnett, M.D., a member of a District Review Committee (Panel). Claudia Kirk represented Board Staff.

A formal complaint was subsequently filed at the State Office of Administrative Hearings (SOAH), SOAH Docket No. 503-21-3461.MD. Prior to the matter going to hearing, it was referred for mediation. Robert Martinez, M.D., a member of the Board, represented the Board at the Mediated Settlement Conference. Respondent was represented by counsel Louis Leichter. Claudia Kirk represented Board Staff.

Upon the recommendation of the Board's representative and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Mediated Agreed Order.

BOARD CHARGES

Board Staff charged that Respondent failed to meet the requirements of Board Rule 200 for two Patients treated for COVID-19.

BOARD HISTORY

Respondent has not previously received a disciplinary order or a Remedial Plan from the Board.

Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

FINDINGS

The Board finds the following:

1. General Findings:

- a. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the Act) or the Rules of the Board.
- b. Respondent currently holds Texas Medical License No. J4310. Respondent was originally issued this license to practice medicine in Texas on November 20, 1993. Respondent is not licensed to practice in any other state.

2. Specific Panel Findings:

- a. Respondent failed to meet Board Rule 200 requirements for two patients she treated for COVID-19 with complementary and alternative medicine. The care and treatment included hydroxychloroquine.
- b. Respondent is fully fluent in Spanish and English with no accent detectable when speaking in either language.

3. Mitigating Factors:

In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:

- a. Respondent has no prior Board history.
- b. Respondent was successful in treating over one-thousand patients during a worldwide pandemic and presented voluminous supportive letters from patients who recovered from Covid and attribute their recovery to Respondent's treatment

which included face to face clinical evaluations and house calls despite the catastrophic situation.

- c. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent neither admits nor denies the information given above. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rules: 190.8(1)(I), failure to obtain informed consent from the patient or other person authorized by law to consent to treatment on the patient's behalf before performing tests, treatments, or procedures; and 190.8(1)(K), prescription or administration of a drug in a manner that is not in compliance with Chapter 200 of this title (relating to Standards for Physicians Practicing Complementary and Alternative Medicine) or, that is either not approved by the Food and Drug Administration (FDA) for use in human beings or does not meet standards for off-label use, unless an exemption has otherwise been obtained from the FDA.
3. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule.
4. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
5. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

I. Within 30 days from the date of the entry of this Order, Respondent shall submit **informed consent forms** to be used in her practice to the Medical Director of the Board for review. The informed consent forms must comply with Board statutes and rules, and shall include at a minimum the following information:

- a. A designated section to include the specific treatment plan that each patient will be receiving, including any diagnostic tests ordered; and any changes made to the treatment plan.
- b. A designated section to include a statement listing the potential risks and benefits of the treatment plan, as well as a statement affirming that Respondent or other treating providers at Respondent's practice, and the patient have discussed the potential risks and benefits of the treatment plan together.
- c. A statement identifying all entities, individuals, facilities, laboratories, or pharmacies related to the individual patient's care in which Respondent has an ownership or interest, and the nature of that interest.
- d. A designated section to include a statement which clearly states what, if any, of Respondent's treatment plan could be covered by the patient's insurance; and
- e. A designated section where Respondent and the patient must all sign the consent form containing these statements.

Upon review and approval of the informed consent form, Respondent shall be required to present this form to each and every patient receiving medical care or being evaluated at Respondent's practice. Respondent shall obtain each patient's consent and signature *prior to* the issuance of any order for, or prescription to the patient, or the billing of and receipt of any payment from the patient. This consent form shall be in addition to individual consent forms for laboratories, drugs, or procedures that may be otherwise required. If the patient or patient's guardian does not speak English or is a non-native English speaker, this consent form shall be translated into and executed in the patient's or guardian's native language. Respondent shall not bill any patient or patient representative for the cost of translation. Respondent or the patient's

treating providers at Respondent's practice, and the patient or guardian shall all review, sign, and date the consent form together. This consent process may not be delegated to an unlicensed individual or anyone who is not a treating physician.

Respondent must provide a copy of the signed consent form to each patient and keep the signed consent form in the medical record of each patient. All medical records as needed, shall be made available to the compliance division upon request to verify compliance with this ordering provision.

2. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least eight hours of continuing medical education (CME) approved for Category I credits by the American Medical Association or the American Osteopathic Association, divided as follows: four hours in the topic of medical records; and four hours in the topic of informed consent which may extend into consent as it applies to alternative and/or complimentary medicine as defined herein and by Rule 200. Each Course must be applied for and approved in writing in advance by the Executive Director or a designee. To obtain approval for the course, Respondent shall submit in writing to the Compliance Department information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Department on or before the expiration of the time limit set forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

3. At all times while Respondent is under the terms of this Order, Respondent shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities in Texas where Respondent has privileges, has pending an application for privileges, applies for privileges, or otherwise practices. Within 30 days of being first contacted by the Compliance Division of the Board following entry of this Order, Respondent shall provide to the Compliance Division of the Board documentation, including proof of delivery, that the Order was delivered to all such facilities.

4. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

5. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

6. Respondent shall inform the Board in writing of any change of Respondent's practice or mailing address within 10 days of the address change. This information shall be submitted to the Registrations Department and the Compliance Department of the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that 10 days' notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance with this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent agrees that any proceeding related to this Order may be held in person, by teleconference, or by videoconference at the discretion of the Board.

7. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

8. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

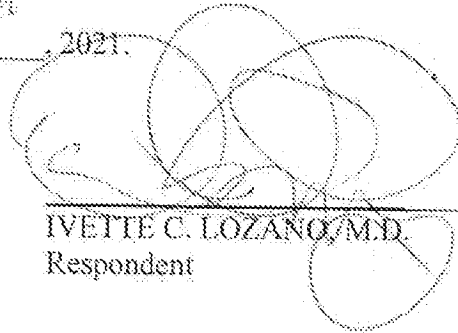
9. This Order shall automatically terminate upon Respondent's submission of sufficient evidence to the Compliance Division of the Board that Respondent successfully completed the requirements ordered in Ordering Paragraph Nos. 1-3.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

I, IVETTE C. LOZANO, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: November 6th, 2021.



IVETTE C. LOZANO, M.D.
Respondent

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this 10
day of December, 2021.



Sherif Z. Zaafran, M.D., President
Texas Medical Board