

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2019-013

In the Matter of)
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ROBI M. ROSENFELD, D.O.)
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STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine (the "Board") has determined that good cause exists to believe the following acts occurred and constitute a violation for which a licensee may be sanctioned by the Board. The Board therefore alleges that Robi M. Rosenfeld, D.O. (the "Respondent") has practiced medicine in violation of law, regulations, or good and accepted medical practice as set forth herein. The investigative docket number associated with this order to show-cause is Docket No. 16-325.

Biographical Information

1. The Respondent was born on August 2, 1954. He graduated from the Kirkville College of Osteopathic Medicine in 1983. He is certified by the American Board of Medical Specialties in Family Medicine. He has been licensed to practice medicine in Massachusetts under certificate number 234759 since 2008. He is also licensed to practice medicine in Maine, New Jersey, and New York.

Factual Allegations

2. In or around August 2014, the Respondent was contacted by representatives of a company named "24hoursphysician."

3. The Respondent understood from his interactions with representatives of

24hoursphysician that the company created contact between compounding pharmacies which produced pain-relieving creams and patients who needed such creams.

4. The Respondent further understood that staff from 24hoursphysician would interview prospective patients and then create a virtual chart and history for each patient which provided options for different compound medications that a physician working for the company could prescribe to that patient.

5. The Respondent worked for 24hoursphysician as one of its prescribing physicians from in or around September 2014 until in or around June 2015.

6. While working for 24hoursphysician, the Respondent received virtual patient charts, reviewed those charts to evaluate the company's prescription recommendations, and wrote only those prescriptions that he deemed to be appropriate.

7. 24hoursphysician paid the Respondent thirty dollars (\$30.00) for each patient chart reviewed, no matter how many prescriptions the Respondent issued.

8. The Respondent earned approximately twenty-six thousand dollars (\$26,000.00) from his work for 24hoursphysician and accordingly estimates that he prescribed to approximately 860 patients, less than ten percent (10%) of whom resided in Massachusetts.

9. When working for 24hoursphysician, the Respondent worked exclusively from his home office in New Jersey and did not meet with any patients that he prescribed to.

10. Patient contact information was available to Respondent and he was able to call any patient whose chart he evaluated if he had any questions or needed additional information.

11. The Respondent estimates that he called ten (10) patients whose charts he evaluated per month while working for 24hoursphysician.

12. The Respondent does not recall the name of any specific patient that he spoke to

while working for 24hoursphysician.

13. The Respondent did not maintain copies of the charts provided to him by 24hoursphysician, nor did he create any additional patient record of his own.

14. The Respondent has no knowledge of how 24hoursphysician obtained its patients, which 24hoursphysician staff members obtained intake information from the patients, or how intake interviews, if any, were conducted.

15. Accordingly, the Respondent does not know what medical credentialing, if any, such 24hoursphysician staff members may have had.

16. The Respondent's working relationship with 24hoursphysician ended in or around June 2015 when the company abruptly ceased responding to his communications.

Legal Basis for Proposed Relief

A. Pursuant to G.L. c. 112, § 5, eighth par. (h) and 243 CMR 1.03(5)(a)(11) the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician violated a rule or regulation of the Board concerning the practice of medicine, or a rule or regulation adopted thereunder, to wit:

i. Board of Registration in Medicine Policy 03-06 on Internet Prescribing.

B. Pursuant to *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); and *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982), the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has engaged in conduct that undermines the public confidence in the integrity of the medical profession.

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§ 5, 61, and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01.

Nature of Relief Sought

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may also order, in addition to or instead of revocation or suspension, one (1) or more of the following: admonishment, censure, reprimand, fine, the performance of uncompensated public service, a course of education or training or other restrictions upon the Respondent's practice of medicine.

Order

Wherefore, it is hereby **ORDERED** that the Respondent show cause why the Board should not discipline the Respondent for the conduct described herein.

By the Board of Registration in Medicine,

Candace Lapidus Sloane, MD
Candace Lapidus Sloane, M.D.
Board Chair

Date: February 28, 2019

3. The Respondent understood from his interactions with representatives of 24hoursphysician that the company created contact between compounding pharmacies which produced pain-relieving creams and patients who needed such creams.

4. The Respondent further understood that staff from 24hoursphysician would interview prospective patients and then create a virtual chart and history for each patient which provided options for different compound medications that a physician working for the company could prescribe to that patient.

5. The Respondent worked for 24hoursphysician as one of its prescribing physicians from in or around September 2014 until in or around June 2015.

6. While working for 24hoursphysician, the Respondent received virtual patient charts, reviewed those charts to evaluate the company's prescription recommendations, and wrote only those prescriptions that he deemed to be appropriate.

7. 24hoursphysician paid the Respondent thirty dollars (\$30.00) for each patient chart reviewed, no matter how many prescriptions the Respondent issued.

8. The Respondent earned approximately twenty-six thousand dollars (\$26,000.00) from his work for 24hoursphysician and accordingly estimates that he prescribed to approximately 860 patients, less than ten percent (10%) of whom resided in Massachusetts.

9. When working for 24hoursphysician, the Respondent worked exclusively from his home office in New Jersey and did not meet with any patients that he prescribed to.

10. Patient contact information was available to Respondent and he was able to call any patient whose chart he evaluated if he had any questions or needed additional information.

11. The Respondent estimates that he called ten (10) patients whose charts he evaluated per month while working for 24hoursphysician.

12. The Respondent does not recall the name of any specific patient that he spoke to while working for 24hoursphysician.

13. The Respondent did not maintain copies of the charts provided to him by 24hoursphysician, nor did he create any additional patient record of his own.

14. The Respondent has no knowledge of how 24hoursphysician obtained its patients, which 24hoursphysician staff members obtained intake information from the patients, or how intake interviews, if any, were conducted.

15. Accordingly, the Respondent does not know what medical credentialing, if any, such 24hoursphysician staff members may have had.

16. The Respondent's working relationship with 24hoursphysician ended in or around June 2015 when the company abruptly ceased responding to his communications.

Conclusions of Law

A. The Respondent has violated G.L. c. 112, § 5, eighth par. (h) and 243 CMR 1.03(5)(a)(11) by violating a rule or regulation of the Board concerning the practice of medicine, or a rule or regulation adopted thereunder, to wit:

- i. Board of Registration in Medicine Policy 03-06 on Internet Prescribing

B. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession. *See Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982).

Sanction and Order

The Respondent's license is hereby indefinitely suspended. Such suspension may be stayed upon the Respondent's entry into a standard, five-year Probation Agreement that requires:

- i. practice pursuant to a Board-approved practice plan;
- ii. clinical monitoring and reporting to the Board by a Board-approved monitor;
- iii. completion of fifteen (15) Board-approved continuous professional development ("CPD") credits in the areas of the physician-patient relationship, documentation, and ethics within ninety (90) days of the Board's approval of this Consent Order; and
- iv. such other terms as the Board may require.

These sanctions are imposed for each violation of law listed in the Conclusions of Law section and not a combination of any or all of them.

Execution of this Consent Order

Complaint Counsel, the Respondent, and the Respondent's counsel (if the Respondent has retained any) agree that the approval of this Consent Order is left to the discretion of the Board. The signature of Complaint Counsel, the Respondent, and the Respondent's counsel (if the Respondent has retained any) are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order in whole or in part, then the entire document shall be null and void; thereafter, neither of the Parties nor anyone else may rely on these stipulations in this proceeding.

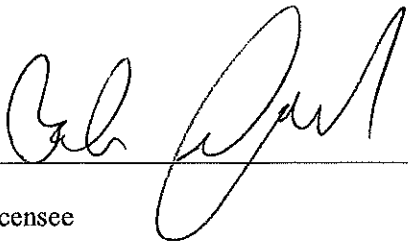
As to any matter in this Consent Order left to the discretion of the Board, neither the Respondent, nor anyone acting on his behalf, has received any promises or representations regarding the same.

The Respondent waives any right of appeal that he may have resulting from the Board's acceptance of this Consent Order.

The Respondent shall provide a complete copy of this Consent Order (and Probation Agreement, if any) with all exhibits and attachments within ten (10) days by certified mail,

return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which the Respondent practices medicine; any in- or out-of-state health maintenance organization with whom the Respondent has privileges or any other kind of association; any state agency, in- or out-of-state, with which the Respondent has a provider contract; any in- or out-of-state medical employer, whether or not the Respondent practices medicine there; the state licensing boards of all states in which the Respondent has any kind of license to practice medicine; the Drug Enforcement Administration Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which the Respondent becomes associated for the duration of this probation and/or suspension. The Respondent is further directed to certify to the Board within ten (10) days that the Respondent has complied with this directive.


The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.


Licensee

04/09/2018
Date

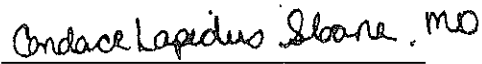
Attorney for the Licensee

Date


Complaint Counsel

4/26/18
Date

So ORDERED by the Board of Registration in Medicine this 28 day of February,
2019.


Candace Lapidus Sloane, M.D.
Board Chair

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

Board of Registration in Medicine
Adjudicatory Case. No. 2019-013

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Robi Rosenfeld, D.O.)
_____)

ORDER

The Board hereby ALLOWS Robi Rosenfeld, D.O. ("Respondent")'s Petition to Stay Suspension pursuant to the attached Probation Agreement.

Date: February 28, 2019

Candace Lapidus Sloane, MD
Candace Lapidus Sloane, M.D.
Board Chair

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN MEDICINE

MIDDLESEX, ss.

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PROBATION AGREEMENT

I. COMPLIANCE WITH AGREEMENT

The Respondent agrees that violation of this Probation Agreement ("this Agreement"), including such provisions which survive this Agreement, shall constitute sufficient grounds for the immediate suspension of the Respondent's license to practice medicine, or any such lesser sanction as the Board may deem fit to impose, without prior notice to the Respondent. The Respondent hereby waives any claim or defense to any subsequent action by the Board to suspend the Respondent's license or impose such other lesser sanction, for any such violation or violations of this Agreement, except that the Respondent shall be entitled to defend against the assertion of a violation of this Agreement. The Respondent acknowledges and agrees that by entering into this Agreement, the Respondent is relinquishing important procedural and substantive rights.

II. PARTIES

The parties to this Agreement are the Board of Registration in Medicine ("the Board") and, Robi M. Rosenfeld, ^{D.O.}~~M.D.~~ ("the Respondent").



III. JURISDICTION

The parties agree that the Board has the authority to enter into this Agreement, and that the Board may enforce the terms of this Agreement in accordance with applicable laws and regulations and the provisions of this Agreement.

IV. CONDITIONS OF PROBATION

During the probationary period, which shall be effective on the date the Board accepts this Agreement, the Respondent shall comply with each of the following requirements:

- A. The Respondent agrees to undergo monitoring by the Board for at least five years from the date of the Board's acceptance of this Agreement and for such further period thereafter as the Board shall for reasonable cause order. No early termination of the Agreement will be allowed. Any periods during which the Respondent is not practicing medicine during the probationary period, shall extend the probationary period.
- B. Within ninety (90) days of the approval of this Agreement, the Respondent shall complete fifteen (15) continuous professional development (CPD) credits in the areas of the physician-patient relationship, documentation, and ethics.
- D. The Respondent may engage in the practice of medicine under such conditions as the Board may impose. The Respondent is currently not practicing medicine in the Commonwealth and shall not practice medicine until such time as the Board approves a practice plan.
- E. Until the Board, upon petition of the Respondent, orders otherwise, the Respondent shall be monitored by a Board-approved worksite monitor(s). The Board-approved worksite monitor(s) shall submit quarterly reports to the Board. The Respondent's monitor(s) shall immediately (within 24 hours) report any concerns about potential violations of this Probation



Agreement by telephone, and in writing, directly to the Board. The Respondent agrees to submit along with any practice the name of a proposed monitor for the Board's approval.

F. In the event that the Respondent seeks licensure to practice medicine in another state, the Respondent shall notify the Board of such fact and shall disclose to the licensing authority in such state his status with this Board. The Respondent shall submit to the Board copies of all correspondence and application materials submitted to another state's licensing authority.

G. The Respondent currently resides out of Massachusetts. The Respondent shall promptly notify the Board in writing of the date of return to Massachusetts. Periods of residency or practice outside Massachusetts will not apply to the reduction of any period of the Respondent's probationary licensure, unless the Respondent enters into a monitoring agreement, approved by the Board, in the new location.

H. The Respondent shall appear before the Board or a committee of its members at such times as the Board may request, upon reasonable advance notice, commensurate with the gravity or urgency of the need for such meeting as determined by the Board or such committee.

I. The Respondent, and not the Board, shall be responsible for the payment of any fee or charge occasioned by the Respondent's compliance with this Probation Agreement.

J. The Respondent may request that the Board modify any of the conditions set forth above. The Board may, in its discretion, grant such modification. Except for requests for modifications related to the identity of the Respondent's employment, the Respondent may make such a request not more than once in any one year period, nor any sooner than one year from the date of this Probation Agreement.

K. The Respondent shall provide a complete copy of this Probation Agreement, with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by

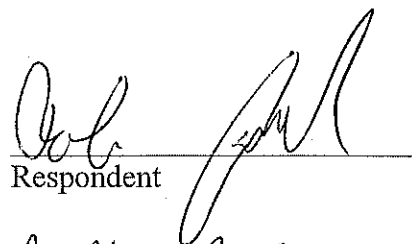
hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any in- or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; the Drug Enforcement Administration, Boston Diversion Group; Department of Public Health Drug Control Program, and the state licensing boards of all states in which he has any kind of license to practice medicine. The Respondent shall also provide this notification to any such designated entities with which he becomes associated for the duration of this Agreement. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive. The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.

V. TERMINATION OF PROBATION

A. If the Respondent complies with his or her obligations as set forth above, the Board, at the expiration of the five-year period, shall, upon petition by the Respondent, terminate the Respondent's probationary period and probation with the Board, unless the Respondent's probation is extended in accordance with paragraph IV(A).

B. If the Respondent fails to comply with his or her obligations as set forth above, the Respondent's license to practice medicine may be immediately suspended, as agreed in Section I.

01/07/2019
Date


Respondent

ROBI ROSENFIELD D.O.
1273 DICKERSON RD.
TEANECK, NJ 07666

Accepted this 28 day of February, 2019, by the Board of Registration
in Medicine.

Candace Lapidus Sloane, MD

Candace Lapidus Sloane, M.D.
Chair