

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2023-040

In the Matter of

Richard D. Chen, M.D.

CONSENT ORDER

Pursuant to G.L. c. 30A, § 10, Richard D. Chen, M.D. (Respondent) and the Board of Registration in Medicine (Board) (hereinafter referred to jointly as the "Parties") agree that the Board may issue this Consent Order to resolve the above-captioned adjudicatory proceeding. The Parties further agree that this Consent Order will have all the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact specified below and agrees that the Board may make the conclusions of law and impose the sanction set forth below in resolution of investigative Docket No. 23-115.

Findings of Fact

1. The Respondent graduated from Albany Medical College of Union University in 1990 and is board certified in Family Medicine. He was issued a license to practice medicine in Massachusetts under certificate number 80078 in 1994. The Respondent resided and practiced medicine in Massachusetts until approximately 2017 when he relocated to California. Presently, the Respondent practices functional medicine at a private practice in Petaluma, California.

2. On January 31, 2023, the Medical Board of California, Department of Consumer Affairs (California Board) adopted the Stipulated Settlement and Disciplinary Order (Order), which was signed by the Respondent and became effective on March 2, 2023.

3. As part of the Order, the Respondent agreed the California Board had sufficient grounds to discipline him for violating numerous provisions of the Medical Practice Act including Cal. Bus. & Prof. Code, § 2234(b) (grossly negligent conduct); Cal. Bus. & Prof. Code, § 2234(c) (repeatedly negligent conduct); and Cal. Bus. & Prof. Code, § 2266 (failure to maintain adequate and accurate records).

4. In pertinent part, the Respondent admitted to issuing medical exemptions for all school-required immunizations recorded on the American Academy of Pediatrics/California Academy of Family Physicians form, as well as some vaccines that were not required for school entry for Patients A, B and C who were between the ages of 3 and 12 at the time of their respective visits with the Respondent in 2017 and 2018.

5. The Respondent admitted that his care and treatment of Patients A, B and C was grossly negligent and departed from the standard of care in that he issued broad exemptions from immunization without appropriate indication.

6. The Respondent further admitted he either failed to perform physical examinations of Patients A, B and C at their respective visits and/or failed to document the examinations.

Conclusion of Law

A. The Respondent has been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in G.L. c. 112, § 5 or 243 CMR 1.03(5), specifically:

1. The Respondent engaged in conduct which places into question his competence to practice medicine, including but not limited to gross misconduct in the practice of medicine, or practicing medicine fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions. *See* 243 CMR 1.03(5)(a)3.
2. The Respondent committed an offense against any provision of the laws of the Commonwealth relating to the practice of medicine, or any rule or regulation adopted thereunder, to wit: failing to maintain a medical record for each patient, which is adequate to enable the licensee to provide proper diagnosis and treatment. *See* 243 C.M.R 2.07(13)(a)

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 REPRIMANDED. A permanent license restriction is imposed pursuant to M.G.L. c. 112, § 5A and 243 CMR 1.05(7), which prohibits the Respondent from issuing vaccine exemptions.

Execution of this Consent Order

Complaint Counsel and the Respondent 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 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 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 following the date of imposition of the permanent license restriction. 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.

Richard D. Chen, M.D.
Licensee

10/15/2023
Date

Megan Grew Pimentel, Esq.
Attorney for the Licensee

10/15/23
Date

Lisa L. Fuccione
Director of Enforcement

10/15/23
Date

So ORDERED by the Board of Registration in Medicine this 12th day of October,
2023.

Julian N. Robinson, M.D.
Board Chair