

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

In the Matter of )

HALBERT B. MILLER, M.D. )  
\_\_\_\_\_ )

Adjudicatory Case No. 2015-009

CONSENT ORDER

Halbert B. Miller, M.D. (Respondent) and the Complaint Counsel agree that the Board of Registration in Medicine (Board) may issue this Consent Order, in lieu of convening an adjudicatory hearing, with all of 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 sanctions set forth below in resolution of investigative Docket Number 14-017.

FINDINGS OF FACT

1. The Respondent was born on November 20, 1940. He graduated from the Yale University School of Medicine in 1967. He is board-certified in Psychiatry. He lists a subspecialty certification in addiction psychiatry on his license renewal application, however that certification has expired. The Respondent had been licensed to practice medicine in Massachusetts under certificate number 31512 since 1969, but his license was revoked by operation of law on November 20, 2013, when he failed to renew it.

2. The Respondent's license to practice medicine in Massachusetts expired on November 20, 2013. The Board mailed a License Renewal Notice (LRN) to the Respondent on September 13, 2013. The U.S. Postal Service returned the LRN to the Board marked "returned to sender." The LRN could not be delivered due to the Respondent's failure to update his mailing address with the Board.

3. The Respondent continued to prescribe medications - including one patient on Oxycodone (Schedule II) and one patient on Ambien (Schedule IV) - after his license had lapsed. Between November 20, 2013, and January 15, 2014, 122 prescriptions were filled, including a substantial number of refills that were issued prior to the license lapse of November 20, 2013.

4. The Respondent wrote many of the prescriptions on the prescription pad from his Massachusetts practice and the remainder on the prescription pad from his practice in Nevada. The last prescription was issued on January 15, 2014.

5. The Respondent is Board-certified in psychiatry. He is not Board-certified in addiction psychiatry; that subspecialty certification expired in December of 2008. This expiration notwithstanding, the Respondent stated on his 2009 and 2011 Registration Renewal Applications that he was Board-certified in addiction psychiatry.

#### CONCLUSIONS OF LAW

A. The Respondent has violated 243 CMR 1.03(5) (a) 18 by committing misconduct in the practice of medicine.

B. The Respondent has violated 243 CMR 1.03(5) (a) 8 by continuing to practice medicine while his registration was lapsed.

C. The Respondent has violated 243 CMR 1.03(5) (a) 1 by fraudulently procuring the renewal of his certificate of registration.

D. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession pursuant to Sugarman v. Board of Registration in Medicine, 422 Mass. 338 (1996).

#### SANCTION AND ORDER

The Respondent is hereby reprimanded and required to pay a fine in the amount of two thousand five hundred dollars (\$2,500.00). This sanction is imposed for Conclusions of Law A, B, C, and D and individually and not for any combination of them.

### EXECUTION OF THIS CONSENT ORDER

The parties agree that the approval of this Consent Order is left to the discretion of the Board. The signature of the Respondent, his attorney, and Complaint 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 stipulations contained herein 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 that this Consent Order leaves 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 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 state licensing boards of all states in which he 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 designated entities with which s/he becomes associated in the year following the date of imposition of this reprimand and fine. 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.

Halbert B. Miller MD  
Halbert B. Miller, M.D.  
Respondent

11/26/14  
Date

Marc J. Gervais  
Marc J. Gervais, Esquire  
Counsel for the Respondent

12/23/14  
Date

Stephen C. Hctor  
Stephen C. Hctor, Esquire  
Complaint Counsel

1/7/15  
Date

So ordered by the Board of Registration in Medicine this 19th day of February, 2015

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