

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2019-013

In the Matter of)
)
)

ROBI M. ROSENFELD, D.O.)
_____)

CONSENT ORDER

Pursuant to G.L. c. 30A, § 10, Robi M. Rosenfeld, D.O. (the "Respondent") and the Board of Registration in Medicine (the "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. 16-325.

Findings of Fact

1. The Respondent was born on August 2, 1954. He graduated from the Kirksville 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.

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.

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.

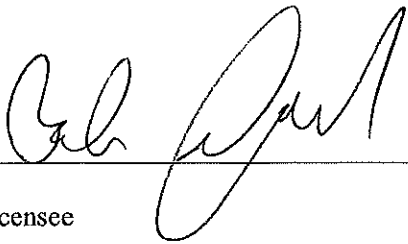
The Respondent waives any right of appeal that he may have resulting from the Board's acceptance of this Consent Order.

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.

A


Licensee

04/09/2018
Date

Attorney for the Licensee

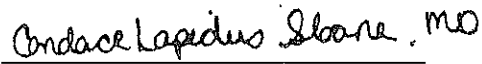
Date



4/26/18
Date

Complaint Counsel

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


Candace Lapidus Sloane, M.D.
Board Chair