COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS. Board of Registration in Medicine

Adjudicatory Case No. 2020-043

)

In the Matter of )

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NEIL E. TOBACK, M.D. )

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**CONSENT ORDER**

Pursuant to G.L. c. 30A, § 10, Neil E. Toback, M.D. (Respondent) and the Board of Registration in Medicine (Board) (hereinafter referred to jointly as the "Parties") agree the Board may issue this Consent Order to resolve the above-captioned adjudicatory proceeding. The Parties further agree 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 the Board may make the conclusions of law and impose the sanction set forth below in resolution of investigative Docket No. 20-099.

Findings of Fact

1. The Respondent was born on January 12, 1941. He graduated from Universite Catholique de Louvain in Belgium in 1969 and his current practice specialty is dermatology. The Respondent was licensed to practice medicine in Massachusetts under certificate number 35708 beginning on July 23, 1973 and until January 12, 2005. He is currently licensed to practice medicine in Rhode Island and was previously licensed in Maine, New York, and Pennsylvania.
2. On August 14, 2019 the Rhode Island Board of Medical Licensure and Discipline (State of Rhode Island) disciplined the Respondent when it accepted the Respondent’s Consent Order (Rhode Island Consent Order). In the Rhode Island Consent Order, the Respondent stipulated the State of Rhode Island had the authority to discipline him under R.I. Gen. Laws § 5-37-5.1(24); R.I. Gen. Laws § 5-37-2.1; and R.I. Gen. Laws § 5-37-5.1. R.I. Gen. Laws § 5-37-5.1(24) defines “unprofessional conduct” as “[v]iolating any provision or provisions…chapter [5-37 of the Rhode Island General Laws] or the rules and regulations of the [Board] or any rules and regulations promulgated by the [Director] or of any action, stipulation, or agreement of the [Board].”
3. In the Rhode Island Consent Order, the Respondent stipulated he engaged in the practice of medicine without a current license between July 1, 2018 and August 28, 2018 and failed to complete continuing medical education (CME) requirements for two renewal periods between July 1, 2014 and June 30, 2018 after asserting he had in his 2014 and 2016 license renewal applications. The Respondent stipulated that, if true, said allegations would subject him to discipline. The Rhode Island Consent Order is attached hereto as Attachment A and incorporated herein by reference.

Conclusion of Law

1. The Respondent has violated 243 CMR 1.03(5)(a)12 in that he has been disciplined in another jurisdiction 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:
2. The Respondent 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).
3. The Respondent continued to practice while his registration was lapsed, suspended, or revoked. *See* 243 CMR 1.03(5)(a)(8).
4. The Respondent fraudulently procured his certificate of registration or its renewal. *See* 243 CMR 1.03(5)(a)(1).

Sanction and Order

The Respondent’s license is hereby Reprimanded. This sanction is imposed for each violation of law listed in the Conclusion 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 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 Orderwith 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 in the year following the date of imposition of this reprimand**.** 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.

Signed by Neil E. Toback, M.D. 6/24/2020

Neil E. Toback, M.D. Date

Licensee

Signed by William Lynch 7/10/2020

William Lynch Date

Attorney for the Licensee

Signed by Patrick G. Fitzgerald 7/20/2020

Patrick G. Fitzgerald Date

Complaint Counsel

So ORDERED by the Board of Registration in Medicine this 8thday of October , 2020.

Signed by George Abraham, M.D.

George Abraham, M.D.

Board Chair

To obtain a copy of the out-of-state disciplinary order, please contact the appropriate state’s medical licensing board directly. A list of state medical boards and contact information is available at <https://www.fsmb.org/contact-a-state-medica-board/>. You may also obtain a copy of the out-of-state disciplinary order by submitting a public records request (PRR) with the Massachusetts Board of Registration in Medicine. PRR forms and additional information can be found at <https://www.mass.gov/board-of-registration-in-medicine-public-records>.