COMMONWEALTH OF MASSACHUSETTS

BOARD OF REGISTRATION IN MEDICINE

MIDDLESEX, ss Adjudicatory Case No. 2014-022

(RM-14-309)

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)

In the Matter of )

) FINAL DECISION AND ORDER

Thomas M. Horiagon, M.D. )

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This matter came before the Board for disposition on the basis of the Administrative Magistrate’s Recommended Decision, dated June 4, 2015, which is attached hereto and incorporated by reference. There were no Objections to the Recommended Decision. A Memorandum on Disposition was submitted by the Petitioner. After full consideration of the Recommended Decision and the Petitioner’s Memorandum on Disposition, the Board adopts the Recommended Decision, adding the following:

Sanction

Pursuant to 243 CMR 1.03(5)(a)12, the Board has the authority to discipline a physician who 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, sec. 5 or 243 CMR 1.03(5).” The record demonstrates that the Respondent violated G.L. c. 112, sec. 5 ninth par. (c) and 243 CMR 1.03(5)(a)3, by engaging in conduct “that places into question the Respondent’s competence to practice medicine, including but not limited to gross misconduct in the practice of medicine…… or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions.” The Respondent also violated 243 CMR 1.03(5)(a)(4) by practicing medicine while his ability to do so was impaired by alcohol, drugs, physical disability or mental instability. Accordingly, it is proper for the Board to impose sanction. *See* Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982); Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979).

In cases of repeated acts of negligence, the Board has imposed an indefinite suspension followed by a skills assessment and/or clinical monitoring. *See, In the Matter of Alvin Chua, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2011-007 (Consent Order, March 16, 2011)(physician provided substandard care to nine patients); *In the Matter of Surender Singh, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2010-010 (Consent Order, April 14, 2010)(the Board indefinitely suspended the license of physician who improperly prescribed narcotics to one patient and who failed to competently treat three other patients; suspension stayed upon physician undergoing skills assessment); *In the Matter of N. Rag Birudavol, M.D.* Adjudicatory Case No. 02-16-DALA (Final Decision and Order, July 21, 2004)(physician’s license indefinitely suspended for substandard care of four patients spanning three years; Board would consider staying the suspension upon entry into a probation agreement that would include monitoring).

Where the Respondent’s license to practice medicine has lapsed, the Respondent’s inchoate right to renew his license is hereby INDEFINITELY SUSPENDED. The Respondent may petition the Board for a stay of suspension at such time as Respondent demonstrates he is fit to practice. Any stay would be conditioned upon 1) successful completion of a Board-approved clinical skills assessment program and a finding by that program that he is competent to practice medicine; 2) undergoing a Board-approved mental health assessment that concludes he is ready to return to practice, and 3) entry into a five-year Probation Agreement, which shall include participation in, and completion of, any remediation terms and/or educational programs recommended as the result of the assessments by the Board-approved entities; monitoring of the Respondent’s practice by a Board-approved monitor; and any conditions the Board deems appropriate. The sanction is imposed for each violation of the law, and not a combination of any or all of them.

The Respondent shall provide a complete copy of this Final Decision and 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 such designated entities with which he becomes associated for the duration of the indefinite suspension of his inchoate right to renew. 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.

Date: October 8, 2015 Signed by Candace Lapidus Sloane, M.D.

Candace Lapidus Sloane, M.D.

Chair

Board of Registration in Medicine