

The Board hereby rejects the Respondent's Objections. In doing so, the Board notes that the Respondent's primary argument is that he was not disciplined in the State of Oklahoma and that the Order Accepting Voluntary Submission to Jurisdiction, which he entered into with the Oklahoma State Board of Medicine (Oklahoma Board) on April 4, 2014, is not a disciplinary action. The Voluntary Submittal to Jurisdiction is a disciplinary action and thus the Respondent was disciplined by the Oklahoma Board. In regard to the Respondent's Objection that he did not fraudulently procure or renew his Massachusetts medical license, as set forth below, the Board need only show that the Respondent knowingly made a false statement and that statement was susceptible of actual knowledge. *See Fisch v. Board of Registration in Medicine*, 437 Mass. 128, 139 (2002)(citations omitted).

### Sanction

As a function of this Board's obligation to protect the public health, safety, and welfare, it is proper for the Board to discipline the Respondent. *See Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979). 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, §5 or 243 CMR 1.03(5)." The Board may impose discipline based on another state's disciplinary action, without re-litigating the underlying facts. *See In the Matter of Randolph Ramirez, M.D.* 441 Mass. 479 (2004). When the Board imposes reciprocal discipline, the Board may impose any sanction consistent with its policies and precedent and based on out-of-state facts, not the out-of-state sanction. *See In the Matter of Robert Schlossman, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 85-12-RO (Final Decision and Order, November 5, 1986) (Board noted that the fact that another state stayed its sanction did not require same outcome in Massachusetts).

The Board's regulations include, as a basis for discipline, "[m]isconduct in the practice." 243 CMR 1.03(5)(a)(18). In addition, the record reflects that the Respondent fraudulently procured his initial full license, as well as fraudulently renewed it in 2012 and 2014. The Board's regulations allow for the Board to impose discipline on a physician for "[f]raudulent procurement of his or her certificate or registration or renewal." 243 CMR 1.03(5)(a)(1). When a physician falsely answers a question on a licensing application, the physician deprives the Board of the opportunity to review his or her record and determine whether he or she should be licensed to practice medicine in Massachusetts. *In the Matter of Irina Z. Agronin, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 02-06-DALA (Final Decision and Order, August 21, 2002). The Board need not prove fraudulent intent; the Board need only show that the Respondent knowingly made a false statement and that statement was susceptible of actual knowledge. *See Fisch v. Board of Registration in Medicine*, 437 Mass. 128, 139 (2002)(citations omitted).

The record also reflects that the Respondent practiced medicine while impaired, which is a basis for sanction, pursuant to 243 CMR 1.03(5)(a)(4). Specifically, on September 5, 2012, the Respondent was removed from work at Harvard Street Neighborhood Health, Dorchester, MA when his colleagues observed him to be unwell. *See Also In the Matter of Alexander Kim, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2018-048 (Consent Order, October 25, 2018).

Moreover, the record also reflects that the Respondent violated 243 CMR 1.03(5)(11) (“[v]iolation of any rule or regulation of the board”). Specifically, the record reflects that the Respondent violated 243 CMR 2.07(8) and 243 CMR 2.04(12)(b), in that he failed to report in writing to the Board changes in registration information that occur during the licensing term within 30 days of the date that the change occurred; the Respondent failed to timely notify the Board of the Drug Enforcement Administration’s action taken against him, the temporary suspension of his Illinois medical license, and the Oklahoma Board’s disciplinary action. The Board has also imposed discipline on physicians who failed to disclose information on their applications. *See In the Matter of Peter Gherardi, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2008-030 (Consent Order, August 20, 2008) (physician reprimanded and fined \$5,000 for failing to disclose an arrest on his limited license application and his initial full license application, and for failing to disclose a subsequent arrest on a renewal application).

Lastly, the Board can also impose discipline when a licensee’s actions demonstrate a lack of good moral character. *See Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979). As determined by the Magistrate, and as set forth above, the Respondent failed to report and/or failed to update information during the licensing process on more than one occasion.

Taking into consideration all of the above, the Board hereby REVOKES the Respondent’s inchoate right to renew his medical license.

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; and the state licensing boards of all states in which he has any kind of license. The Respondent shall also provide this notification to any such designated entities with which he becomes associated during the duration of this revocation. 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. The Respondent has the right to appeal this Final Decision and Order within (30) days, pursuant to G.L. c. 30A, §§14 and 15, and G.L. c.112, §64.

Date: November 7, 2019

*Candace Lapidus Sloane, MD*

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Candace Lapidus Sloane, M.D.  
Board Chair  
Board of Registration in Medicine

## COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Division of Administrative Law Appeals

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Board of Registration in Medicine,  
Petitioner

Docket No. RM-16-131

v.

Joseph Knight, M.D.,  
Respondent

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### Appearance for Petitioner:

Stephen C. Hoctor, Esq.  
Harvard Mill Square, Suite 330  
Wakefield, MA 01880

### Appearance for Respondent:

*Pro Se*  
9751 West Mcrae Way  
Peoria, Arizona 85382

### Administrative Magistrate:

Bonney Cashin

### Summary of Recommended Decision

The Petitioner, Board of Registration in Medicine, has met its burden of proving by a preponderance of the evidence that the Respondent, Joseph Knight, M.D., fraudulently procured a certification of registration and its renewal, is subject to reciprocal discipline, practiced while impaired, failed to report discipline against him and the surrender of his DEA registration, and failed to comply with Massachusetts tax laws:

### RECOMMENDED DECISION

#### *Introduction*

On March 24, 2016, the Board of Registration in Medicine ("Board"; "Massachusetts Board") issued a statement of allegations ordering Joseph Knight, M.D. to show cause why he should not be disciplined by the Board. Specifically, the Board

alleged his: fraudulent procurement of a certificate of registration and its renewal; reciprocal discipline; practicing while impaired; failure to report disciplinary action against him and his surrender of DEA registration; and failure to comply with Massachusetts tax law.

The Board referred the matter to the Division of Administrative Law Appeals. DALA conducted a pre-hearing conference with the parties by telephone on May 4, 2016 and June 14, 2016.

On July 28, 2016, the Board filed a Motion for Summary Decision, which included 25 exhibits. Dr. Knight requested additional time to respond, which I allowed on August 25, 2016. On September 21, 2016, Dr. Knight requested additional time to respond to the Board's motion. DALA allowed Dr. Knight to respond by November 30, 2016.

On March 29, 2017, DALA issued an order to show cause pursuant to 801 CMR 1.01(g)(2), ordering Dr. Knight to show cause why his appeal should not be dismissed for failure to prosecute. Dr. Knight responded to the order on May 8, 2017, sufficiently showing cause. On July 5, 2017, DALA issued a ruling indicating that, "in the interest of fairness and under an abundance of caution," it would consider Dr. Knight's response to the Motion for Summary Decision to be several documents filed on May 8, 2017 and on August 29, 2016.

I marked the documents included with the Board's motion as Exhibits 1-25 and the two sets of documents filed by Dr. Knight as Exhibits A-J and AA-II. The exhibits are identified as follows:

Exhibit 1: Dr. Knight's Curriculum Vitae.

Exhibit 2: Dr. Knight's 2011 Initial Full License Application.

Exhibit 3: December 7, 2011 email from Board Licensing Analyst to Dr. Knight.

Exhibit 4: Application's Supplemental Form dated December 10, 2011.

Exhibit 5: December 28, 2012 Oklahoma Board Complaint.

Exhibit 6: Oklahoma Board meeting minutes dated March 6, 2014.

Exhibit 7: Oklahoma Board Order Accepting Voluntary Submission to Jurisdiction dated March 6, 2014.

Exhibit 8: April 8, 2014 DataBank One-Time Query Response.

Exhibit 9: Harvard Street Neighborhood Health Center (HSNHC) Offer Letter dated August 4, 2011 and Dr. Knight's acceptance dated August 5, 2011.

Exhibits 10A and B: September 5, 2012 HSNHC Incident Reports.

Exhibit 11: September 7, 2012 HSNHC Incident Report.

Exhibits 12A, B: October 3, 2012 HSNHC memos of conversations with Dr. Knight.

Exhibit 12C: October 5, 2012 HSNHC memo of conversation with Dr. Knight.

Exhibit 12D: October 17, 2012 HSNHC memo of conversation with Dr. Knight.

Exhibit 13: October 17, 2012 HSNHC letter to Dr. Knight.

Exhibit 14: October 25, 2012 "open letter" from Dr. Knight to HSNHC staff.

Exhibit 15: December 6, 2012 note about DEA's enforcement action.

Exhibit 16: Dr. Knight's August 28, 2012 Physician Renewal Application.

Exhibit 17: Dr. Knight's July 12, 2014 Physician Renewal Application.

Exhibit 18: September 8, 2014 correspondence to Board Licensing Division from Andrew Hyams, Esq., with attachments.

Exhibit 19: April 3, 2013 letter from Linda Scoggins, Esq. to DEA.

Exhibit 20: August 29, 2013 Oklahoma Board Order of Continuance.

Exhibit 21: April 11, 2014 letter from Linda Scoggins, Esq. to Board.

Exhibit 22: Undated document by Dr. Knight titled "Personal History of Headaches and Pain and Their Effect on My Work in Headache and Pain Management."

Exhibit 23: December 3, 2012 DEA Order To Show Cause and Immediate Suspension of Registration.

Exhibit 24: June 17, 2014 Illinois Board Notice of Temporary Suspension.

Exhibit 25: May 11, 2016 Final Order of the Medical Licensing Board of Indiana.

Exhibit A: Affidavit of Dr. Knight sworn to August 29, 2016.

Exhibit B: Letter and Submission to Board Complaint Committee from Andrew L. Hyams, Esq. to Jean M. O'Brien, Esq., dated April 15, 2015.

Exhibit C: Filing dated August 10, 2016, to Bonney Cashin, Administrative Magistrate and Stephen C. Hctor, Esq. from Dr. Knight.

Exhibit D: Dr. Knight's Curriculum Vitae.

Exhibit E: Document titled "Testimonials from Headache Patients."

Exhibit F: Letters of recommendation concerning Dr. Knight and physician's letters about his medical conditions.

Exhibit G: April 11, 2014 letter from Linda G. Scoggins, Esq. to Katherine Dudich, BRM Interim General Counsel.

Exhibit H: August 4, 2016 letter from Dr. Knight to Board.

Exhibit I: Document titled "Personal History of Headaches and Pain and Their Effect on My Work in Headache and Pain Management" by Dr. Knight.

Exhibit J: Documents identified as Exhibits A-F and H to Dr. Knight's April 15, 2015 submission to the Board's Complaint Committee (Exhibit B). An informed consent agreement marked as "G."

Exhibit AA: Order to Show Cause issued April 27, 2017.

Exhibit BB: FedEx Office Receipt dated August 29, 2016.

Exhibit CC: Filing dated April 27, 2017, to Bonney Cashin, Administrative Magistrate and Stephen C. Hctor, Esq. from Dr. Knight.

Exhibit DD: Letter from Andrew L. Hyams, Esq. to Board, dated June 11, 2014.



Exhibit EE: Letter from Paul B. Rizzoli, M.D., FAAN, "To Whom It May Concern" dated November 3, 2013.

Exhibit FF: Letter from M. V. Pfeifer, Consultant Surgeon "To Whom It May Concern" dated November 8, 2005.

Exhibit GG: Document titled "Personal History of Headaches and Pain and Their Effect on My Work in Headache and Pain Management" by Dr. Knight. (Duplicate of Exhibit I).

Exhibit HH: Document titled "Summary of Nine Patients (out of 600) Who Died During Five and a Half Years," undated, author unidentified.

Exhibit II: November 2013 document titled "Response to Allegations Made Against Me by Marissa Lane, Prosecutor For The Oklahoma State Board of Medical Licensure and Supervision," by Dr. Knight.

#### UNDISPUTED FACTS

The following relevant, material facts are undisputed by the parties:<sup>1</sup>

1. Dr. Knight graduated from Mt. Sinai School of Medicine in New York in 1979.

He is certified by the American Board of Internal Medicine and has a subspecialty in infectious disease. He has been licensed to practice medicine in Massachusetts under certificate 250162 since March 7, 2012. (Exs. 1, 16, 17, D.)

2. Dr. Knight has been licensed to practice medicine in numerous other jurisdictions, including in Oklahoma from September 21, 2006 to September 1, 2013. (Ex. 1.)

3. Dr. Knight signed a Voluntary Agreement Not to Practice, which the Board ratified on April 23, 2014. (Ex. 7.)

#### *Fraudulent Procurement of Registration.*

4. On November 28, 2011, the Board received a full license application from Dr. Knight. Various pages were dated September 14, 2011 by hand. (Ex. 2.)

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<sup>1</sup> To the extent the motion for summary decision argues facts not raised in the Statement of Allegations, I have not considered them.

5. The full license application included a page titled "Supplement Form," which contained questions that required a "Yes" or "No" answer. (Ex. 2.)

6. Dr. Knight supplemented his application on December 12, 2011, in response to a "missing items notice" from the Board. (Exs. 3, 4.)

7. On his application, Dr. Knight responded "no" to a series of questions, including 8A on the Supplemental Form, thus indicating that he was not the subject of any pending investigations or pending disciplinary charges.<sup>2</sup> (Ex. 2.)

*Reciprocal discipline.*

8. In 2009, Dr. Knight practiced in Oklahoma. On or about September 11, 2009 and following two complaints, the Oklahoma State Board of Medical Licensure and Supervision ("Oklahoma Board") issued Dr. Knight a Letter of Concern. (Ex. 5.)

9. On December 28, 2012, the Oklahoma Board filed a complaint against Dr. Knight, charging him with violations of the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act. (Ex. 5.)

10. The Oklahoma Board's actions concerning the Letter of Concern and the Complaint show that Dr. Knight was under investigation. (Ex. 5.)

11. Dr. Knight knew he was under investigation by the Oklahoma Board.

12. On March 6, 2014, the Oklahoma Board and Dr. Knight entered into an Order Accepting Voluntary Submission to Jurisdiction, "wherein [Dr. Knight] acknowledge[d] that a hearing before the Board could result in some sanction," he "[surrendered his Oklahoma Medical License, agree[d] that, if he applies for

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<sup>2</sup> He further indicated he did not have any medical conditions which would impair his ability to practice medicine. Finally, he indicated that, to the best of his knowledge and belief, he had filed Massachusetts state tax returns and paid any Massachusetts state taxes required under law.

reinstatement of his license, all allegations and charges in the Complaint would be considered by the Board." (Exs. 6, 7, 8.)

13. The Complaint and the Order "alleged prescribing violations, records violations, failure to provide necessary on-going medical treatment, violation of physician-patient relationship confidentiality, fraud or misrepresentation in applying for a medical license and reregistration of a medical license, gross or repeated negligence, inability to practice medicine with reasonable skill, use of false/fraudulent/deceptive statement in a document connected with the practice of medicine, and dishonorable/immoral conduct likely to deceive/defraud/harm the public...." (Ex. 6.)

14. The Oklahoma Board considered Dr. Knight's entering into the Order to be a disciplinary matter. (Ex. 6.)

*Practicing While Impaired.*

15. In early August 2011, Dr. Knight accepted an offer of employment as Medical Director of Harvard Street Neighborhood Health Center (HSNHC) in Dorchester, Massachusetts. (Ex. 9.)

16. On September 5, 2012, Dr. Knight, as a result of his colleagues' observations that he was unwell, was removed from work at HSNHC with the assistance of a mental health team and taken by ambulance to Beth Israel Hospital for care. (Exs. 10B, 14.)

17. Dr. Knight took a leave of absence from HSNHC. (Exs. 14, A.)

18. On October 9, 2012, HSNHC informed Dr. Knight he would not be permitted to return to work without medical clearance from his physician. (Ex. 13.)

19. On October 17, 2012, HSNHC informed Dr. Knight that the physician's note it had received from him that day did not meet its "clearance requirements"; Dr. Knight would not be permitted to return to work as a physician until he complied with the requirements in the October 9 letter. (Ex. 13.)

20. On October 25, 2012, Dr. Knight submitted a resignation letter to HSNHC. In his letter, Dr. Knight described his health problems, including kidney failure, stress, insomnia, and chronic headaches, the latter of which had worsened in September 2012. (Ex. 14.)

21. Dr. Knight has suffered from chronic headaches for numerous years. Dr. Knight admits these headaches interfered with his ability to practice medicine on at least two occasions: in 1985, and in October 2012, when he was employed by HSNHC. (Exs. 12, 14, C, I.)

*Fraudulent Procurement of License Renewal.*

22. On August 28, 2012, Dr. Knight filed a Physician Renewal Application in Massachusetts. By answering "no" to Question 18(C) on the application, he indicated he had never been the subject of an investigation or disciplinary action by any governmental authority (including state medical boards), health care facility, group practice, employer, or professional association. Dr. Knight admits he may have made mistakes on this application. (Exs. 16, A).

23. Dr. Knight knew he was under investigation by the Oklahoma Board.

24. On August 5, 2014, Dr. Knight filed another Physician Renewal Application in Massachusetts.<sup>3</sup> By answering "no" to Questions 18(B) and 23, he

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<sup>3</sup> On this application, he indicated that he had been the subject of an investigation by a governmental authority, health care facility, group practice, employer, or professional association. He indicated he had

indicated he did not take any leave of absence or have any medical conditions that would limit or interfere with his ability to practice medicine. Dr. Knight signed the 2014 renewal application under the penalties of perjury. (Exs. 17, A.)

25. Dr. Knight admits he made mistakes on the 2014 application. He recalls little about filling out the renewal application on line and suggests that various health issues affecting him could have contributed to his errors. (Ex. A.)

26. Dr. Knight did not inform the Board in his 2014 renewal application of his medical leave in 2012 from HSNHC, or of his medical condition that lead to his hospitalization and need for medical clearance before returning to work as a physician. (Ex 17.)

*Failures to Report Information to the Board.*

27. The Oklahoma Board filed its complaint against Dr. Knight on December 28, 2012, after he was licensed in Massachusetts. (Exs. 1, 5.)

28. Dr. Knight was required to notify the Board of the Oklahoma Board's action on or before January 28, 2013 because it was a change in the information he previously supplied in his renewal application. Dr. Knight did not notify the Board until August 5, 2014. (Ex. 17.)

29. Dr. Knight admits that on June 23, 2011, officers from the Drug Enforcement Administration (DEA) entered his apartment and office. (Ex. II.)

30. On December 3, 2012, the DEA issued to Dr. Knight an Order to Show Cause and Immediate Suspension of Registration. (Exs. 18, 23.)

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been the subject of a disciplinary action, but included a handwritten note reading: "no discipline in Oklahoma."

31. Dr. Knight was required to notify the Board of the DEA's action on or before January 3, 2013 because it was a change in the information he previously supplied in his renewal application.

32. Dr. Knight did not notify the Board of the DEA action until August 5, 2014. (Ex. 17.)

33. On April 3, 2013, Dr. Knight's attorney submitted a letter to the DEA that served as a "[voluntary] surrender of his controlled substances privileges." (Ex. 19.)

34. Dr. Knight was required to notify the Board of the letter to the DEA on or before May 3, 2013 because it was a change in the information he previously supplied in his renewal application. He did not notify the board of his surrender until August 5, 2014. (Ex. 17.)

35. On September 8, 2014, Dr. Knight's attorney responded to a letter from the Board that sought additional information from Dr. Knight, which he had not provided in his August 5, 2014 renewal application. Dr. Knight was required to submit the additional information because he had answered "yes" to several questions on his renewal application. Dr. Knight also indicated his privilege to possess, dispense, or prescribe controlled substances was suspended, revoked, denied, restricted, or surrendered.

36. The additional information he supplied revealed that Dr. Knight's license to practice medicine in Illinois had been temporarily suspended by the Illinois Board on June 17, 2014,<sup>4</sup> based on his voluntary submission to jurisdiction in Oklahoma; on April 16, 2014, Dr. Knight had entered into a voluntary agreement with the Massachusetts Board not to practice medicine based on the voluntary submission to jurisdiction in.

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<sup>4</sup> The order referred to a hearing scheduled on July 1, 2014 concerning the suspension, however the record does not reveal whether the hearing was held, and if so, what happened.

Oklahoma; the Oklahoma Board had initiated some disciplinary action or investigation on March 6, 2014; and Dr. Knight had voluntarily surrendered his DEA registration in 2013 "pending outcome of proceedings." (Exs. 18, 23.)

37. Dr. Knight's notice to the Board on September 8, 2014 about the action of the Illinois Board was filed after it was due.

*Failure to Comply with Massachusetts Tax Law.*

38. On his August 5, 2014 renewal application, next to a statement of certification that he had complied with Massachusetts state tax requirements, Dr. Knight handwrote a note: "Initial documents lost. Accountant presently in process of filing new documents. Withholding taken for entire period (June–October) [2]012 → Jan. 2013." (Ex. 17.)

39. Dr. Knight also attached a typed insert titled "Note Regarding Certification Number 8 – Massachusetts Tax Returns" in which he explained in more detail the reasons for the late filing of his 2012 and 2013 Massachusetts tax returns. (Ex. 17.)

40. The 12 certifications that are a part of the renewal application do not require an independent signature. Dr. Knight signed the full application under the pains and penalties of perjury. (Ex. 17.)

### DISCUSSION

When a party is of the opinion there is no genuine issue of fact relating to all or part of a claim or defense and he is entitled to prevail as a matter of law, the Party may move, with or without supporting affidavits, for summary decision on the claim or defense. If the motion is granted as to part of a claim or defense that is not dispositive of the case, further proceedings shall be held on the remaining issues.

801 CMR 1.01(7)(h).

Summary decision in administrative proceedings is the functional equivalent of summary judgment in civil proceedings. *Kraus v. Falmouth Ret. Bd.*, CR-16-288 (Div. Admin. Law App., May 4, 2018)(citations omitted), *see Mass. Outdoor Advertising Council v. Mass. Outdoor Advertising Bd.*, 9 Mass. App. Ct. 775, 785-786 (1980). A motion for summary decision may be granted when there is no genuine issue of material fact regarding the claims presented and a party is entitled to prevail as a matter of law. *Kobrin v. Bd. of Reg. in Med.*, 444 Mass. 837, 846 (2005). The moving party may show the absence of a genuine issue of material fact by submitting affirmative evidence that invalidates a central element of the opposing party's claim. *Kourouvacilis v. Gen. Motors Corp.*, 410 Mass. 706, 715 (1991). If the motion for summary decision is adequately made and supported, a party opposing it must respond with specific facts showing that there is a genuine, triable issue. Mass. R. Civ. P. 56(e), *Community Nat'l Bank v. Dawes*, 369 Mass. 550, 553(1976).

243 CMR 1.03(5)(a)12 allows the Board to impose reciprocal discipline against physicians who have "been disciplined in another jurisdiction in any way...for reasons substantially the same" as authorized in Massachusetts law and regulation. The rule is founded in the principle that the Board was created in order to regulate the practice of medicine to promote the public health, welfare, and safety. *Haran v. Bd. of Reg. in Med.*, 398 Mass. 571, 580 (1986).

There is no question that the conduct considered by the Oklahoma Board in its action against Dr. Knight is substantially the same as conduct for which the Board may discipline a physician in Massachusetts. 243 CMR 1.03(5)(a)(18) includes as grounds for



discipline "[m]isconduct in the practice of medicine." Under these circumstances, the Board does not need to re-litigate the underlying facts that resulted in the out-of-state discipline. *Ramirez v. Bd. of Reg. in Med.*, 441 Mass. 479 (2004).

The Board's regulations allow it to sanction a physician for the conduct for which Oklahoma disciplined Dr. Knight. Dr. Knight surrendered to jurisdiction in Oklahoma. He also voluntarily surrendered his license acknowledging that a hearing could have resulted in sanction. His violations in Oklahoma included fraud or misrepresentation in applying for a medical license and reregistration of a medical license, gross or repeated negligence, inability to practice medicine with reasonable skill, use of false/fraudulent/deceptive statement in a document connected with the practice of medicine, and dishonorable/immoral conduct likely to deceive/defraud/harm the public. The Board is authorized to discipline physicians for these same reasons. See 243 CMR 1.03(5)(a).

The Board may discipline a physician for "[f]raudulent procurement of his or her certificate of registration or its renewal." 243 CMR 1.03(5)(a)(1). In *Levy v. Bd. of Reg. in Med.*, 378 Mass. 519 (1979), the Supreme Judicial Court recognized that physicians "must have the important quality of good character...[and] the public has the right to expect the highest degree of integrity from members of the medical profession." 378 Mass. at 528 (citations omitted).

When Dr. Knight filed his full license application with the Board, he indicated that he was not the subject of any pending investigations or disciplinary charges. Dr. Knight knew when he filed the application that he was under investigation by the Oklahoma Board. Dr. Knight violated 243 CMR 1.03(5)(a)(1). *Fisch v. Bd. of Reg. in*

*Med.*, 437 Mass. 128 (2002) (fraudulent intent may be shown by proof a party knowingly made a false statement and that the subject was susceptible of actual knowledge).

In 2012, Dr. Knight fraudulently procured his Massachusetts license renewal. Again he indicated that he was not the subject of any pending investigations or disciplinary charges. Dr. Knight knew he was under investigation in Oklahoma. Dr. Knight violated 243 CMR 1.03(5)(a)(1) on a second occasion.

In 2014, Dr. Knight again fraudulently procured his Massachusetts registration renewal. Although he corrected his answers regarding the Oklahoma Board investigation, Dr. Knight indicated on his renewal application that he had never "taken a leave of absence from any health care facility, group practice, or employer." Dr. Knight, however, took a leave of absence from HSNHC. When asked if he had a medical condition that interfered or limited his ability to practice medicine, Dr. Knight failed to mention his headaches and failed to disclose the need for medical clearance before returning to work at HSNHC. Dr. Knight acknowledged that his headaches interfered with his ability to practice medicine while at HSNHC. Dr. Knight violated 243 CMR 1.03(5)(a)(1) for a third time.

In addition, Dr. Knight practiced while impaired, a serious violation. Under 243 CMR 1.03(5)(a)(4) "[p]racticing medicine while the ability to practice is impaired by alcohol, drugs, physical disability or mental disability" is grounds for discipline. 243 CMR 1.03(5)(a)(4). The Board's paramount responsibility is the protection of the public health, safety and welfare from the risk of harm. *Levy*, 378 Mass. at 528. Dr. Knight's chronic headaches impaired his ability to practice medicine when he was employed by HSNHC. Dr. Knight admitted that his headaches interfered with his ability to practice

medicine. Dr. Knight was taken to the hospital by ambulance on September 5, 2012 from HSNHC. Further, Dr. Knight did not meet HSNHC's requirement that would have permitted him to return to work as a physician. Dr. Knight's impairment led to his resignation on October 25, 2012.

Under 243 CMR 2.07(8) and 243 CMR 2.04(12)(b), a licensee has a duty to report to the Board in writing any changes in the registration information supplied that occur during the licensing term within 30 days of the date the change occurred, or the date that the licensee become aware of the change. Dr. Knight failed to timely report to the Board DEA's disciplinary action, the temporary suspension of his Illinois license, and the Oklahoma Board's disciplinary action. Dr. Knight violated 243 CMR 2.04(12)(b) and 2.07(8), which is grounds for discipline under 243 CMR 1.03(5)(a)(11).

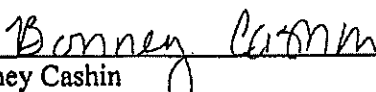
The Board alleges that Dr. Knight did not comply with Massachusetts tax law. This allegation is not supported. G.L. c. 62C, § 49A(a) requires applicants and licensees to swear under oath that they have "complied with all laws of the commonwealth relating to taxes." c. 62C, § 49A. The renewal application completed by Dr. Knight in 2014 contained a certification no. 8 stating that "I certify that I have complied with my obligations to file Massachusetts state tax returns and to pay Massachusetts taxes...." (Ex. 17.) Dr. Knight's explanatory handwritten note and typed statement acknowledges he had not yet filed his 2012 and 2013 tax returns. While he signed the application under the penalties of perjury, he was not untruthful about the status of his tax filings. As the Board implicitly recognizes in its motion for summary decision, it does not determine compliance with Massachusetts tax law.

The Board may discipline physicians for lack of good moral character and conduct that undermines the public's confidence in the integrity of the medical profession. *Levy*, 378 Mass. at 528; *Raymond v. Bd. of Reg. in Med.*, 387 Mass. 708 (1982). Dr. Knight's conduct in Oklahoma, his numerous failures to report disciplinary action in several jurisdictions, and his practicing while impaired do not meet the high standards expected of a physician. "The public has the right to expect the highest degree of integrity from members of the medical profession." *Levy*, 378 Mass. at 528.

Dr. Knight's statements about his health may be viewed as mitigating factors in the imposition of any discipline. The Board may consider this information as it sees fit.

Based on the foregoing, I recommend that the Motion for Summary Decision be allowed and that the Board impose the appropriate discipline on Dr. Knight.

DIVISION OF ADMINISTRATIVE LAW APPEALS

  
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Bonney Cashin  
Administrative Magistrate

DATED: **MAY - 8 2019**