

(Faint, illegible text from bleed-through)

In the Matter of
John E. Fattore, M.D.

1. replace the first sentence on page 22, line 4, "The Board has not met its burden." with "The Board has not fully met its burden."
2. strike lines 7-15 on page 22, the Magistrate's recommendations that the Board *not* find that the Respondent: practiced medicine deceitfully or engaged in conduct that has the capacity to defraud (Legal Basis B; 243 CMR 1.03(5)(a)10); or engaged in misconduct in the practice of medicine. (Legal Basis C; 243 CMR 1.03(5)(a)18).

3. add, a new paragraph following the end of the Magistrate's final sentence, p. 22:

In addition to the Magistrate's Conclusion of Law that the Respondent engaged in conduct that undermines the public confidence in the medical profession, the Board concludes, as a matter of law:

- 1) The Respondent has practiced medicine deceitfully, or engaged in conduct that has the capacity to deceive or defraud, in violation of 243 CMR 1.03(5)(a)10. (Legal Basis B).
- 2) The Respondent has committed misconduct in the practice of medicine, in violation of 1.03(5)(a)18. (Legal Basis C).

The amendments reflect the Board's determination that, in addition to engaging in conduct that undermines the integrity of the medical profession, the Respondent engaged in conduct with the capacity to deceive or defraud and committed misconduct. The Board bases these conclusions of law on the Magistrate's determination that the Respondent used his scrubs, hospital identification, familiarity with the hospital, and familiarity with the nurses to gain access to Patient A, who was not his patient, for a non-medical purpose, and then lied to the Board and to the Administrative Magistrate about his whereabouts during the relevant time period.

After the Board hears from the Parties on the issue of sanction, as well as any individuals who qualify as victims pursuant to Mass. Gen. Laws c. 112, § 5, it will issue a complete Final Decision and Order, including any sanction and notification requirements.

Date: April 2, 2014

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

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