COMMONWEALTH OF MASSACHUSETTS BOARD OF REGISTRATION IN MEDICINE

Middlesex, ss.	Adjudicatory Case No. 2013-013
In the Matter of)	Partial Final Decision as
John E. Fattore, M.D.	to Findings of Fact and Conclusions of Law

This matter came before the Board on the basis of the Administrative Magistrate's Recommended Decision, dated December 11, 2013, for disposition as to Findings of Fact and Conclusions of Law only. Complaint Counsel submitted Limited Objection to Recommended Decision (Complaint Counsel's Objections) and the Respondent submitted Written Objections to the Administrative Magistrate's Recommended Decision (Respondent's Objections). The Board has determined that the Findings of Fact were based on substantial evidence.

After full consideration of the Recommended Decision, which is attached hereto and incorporated by reference, together with Complaint Counsel's Objections and Respondent's Objections, the Board hereby adopts the Recommended Decision as the Partial Final Decision as to Findings of Fact and Conclusions of Law Only, amending it to:

- 1. <u>replace</u> the first sentence on page 22, line 4, "The Board has not met its burden." with "The Board has not fully met its burden."
- 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).

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:

- 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).
- 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 deceit 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

Cordace lapidus Slane, mo

Candace Lapidus Sloane, M.D. Board Chair