

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals  
14 Summer Street, 4th Floor  
Malden, MA 02148  
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BOARD OF REGISTRATION IN  
MEDICINE,

Petitioner,

Docket No.: RM-18-0579

v.

JOSEPH V. THAKURIA, M.D.  
Respondent.

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**Appearance for Petitioner:**

Karen A. Robinson, Esq.  
Board of Registration in Medicine  
200 Harvard Mill Square, Suite 330  
Wakefield, MA 01880

**Respondent:**

Joseph V. Thakuria, M.D.  
44 Varum Street  
Arlington, MA 02474

**Administrative Magistrate:**

Edward B. McGrath, Esq.  
Chief Administrative Magistrate

**SUMMARY OF RECOMMENDED DECISION**

The Petitioner, Board of Registration in Medicine, proved by a preponderance of the evidence that the Respondent, Joseph V. Thakuria, M.D., violated the Board's regulations by failing to timely complete clinical documentation for patients and by failing to make required disclosures in his 2014 and 2016 applications for renewal of his medical license. I, therefore, recommend that the Board of Registration in Medicine impose the discipline it believes is appropriate.

### RECOMMENDED DECISION

Pursuant to G. L. c. 112, § 5, and 243 CMR 1.03(5)(a)(3), the Petitioner, Board of Registration in Medicine ("Board"), issued on October 11, 2018, a Statement of Allegations and an Order of Reference to the Division of Administrative Law Appeals ("DALA") regarding the Respondent, Joseph V. Thakuria, M.D.. In its Statement of Allegations, the Board charged that Dr. Thakuria had failed to report a hospital investigation and disciplinary action taken against him in his license renewal application filed in 2014, and failed to adequately disclose criminal charges filed against him in his 2016 application. It further alleged that Dr. Thakuria failed to maintain adequate medical records. In addition, the board asserted that Dr. Thakuria practiced medicine deceitfully, or engaged in conduct which had the capacity to deceive or defraud and lacked "good moral character" and engaged in "conduct that undermines the public confidence in the integrity of the medical profession."

An evidentiary hearing was conducted on September 27 and December 17, 2019, at the Division of Administrative Law Appeals in Malden, Massachusetts. The Board called four witnesses to testify at the hearing: (1) John D. Landers, Jr., Compliance Officer for the Board of Registration in Medicine; (2) Dr. Elizabeth L. Hohmann, Senior Chair and Physician Director of the Partners Human Research Committee; (3) David Sweetser, M.D., Chief of Medical Genetics at MGH; and (4) Jacquelyn Held, Litigation and E-Discovery Specialist at the Partners Office of the General Counsel. Dr. Thakuria testified on his own behalf. The hearing was recorded stenographically.

At the hearing, I admitted 35 exhibits into evidence, 29 of which were filed by the Board and 6 filed by Dr. Thakuria. During the first day of testimony, I marked for identification three

additional documents submitted by Dr. Thakuria. With the exception of Dr. Thakuria's pre-hearing memorandum, which I marked as Exhibit A, these additional documents are duplicative of other exhibits admitted into evidence in this case.

At the end of the hearing, the record was kept open to provide the parties an opportunity to file hearing briefs, pursuant to 801 Code Mass. Regs. § 1.01(10)(j). The Board filed a closing brief on February 14, 2020. Dr. Thakuria did not file a closing brief, and the record is now closed.

### FINDINGS OF FACT

Based upon the documents in evidence, the testimony of the witnesses, and my assessment of their credibility, I make the following findings of fact:

1. Dr. Thakuria received his medical degree from St. Georges University School of Medicine in 1995. He then completed a medical residency in internal medicine at the University of Pennsylvania, followed by a residency and fellowship in clinical genetics and biochemical genetics at Harvard Medical School. He has been licensed to practice medicine in Massachusetts since June 2005. (Tr. vol. II p. 141-142.)<sup>1</sup>
2. Dr. Thakuria is a faculty member at Massachusetts General Hospital ("MGH"). Prior to 2014, he held a clinical position as Assistant in Pediatrics at MGH, in the division of medical genetics. (Tr. vol. II p. 83, 142; Pet.'s Ex. 27.)
3. In early 2011, Dr. David Sweetser took over as chief of the division of medical genetics and metabolism at MGH, thereby becoming the supervisor for Dr. Thakuria and the other physicians in that division. As chief, Dr. Sweetser oversaw the entire operations of the

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<sup>1</sup> I refer to the transcript in this decision using the abbreviation "Tr." followed by the volume and page number.

division, including the responsibility for maintaining regulatory compliance with respect to both clinical and research activities, overseeing patient scheduling and clinical care, ensuring that physician credentials were up-to-date, confirming that requirements have been met for timely preparation and maintenance of medical records and billing for services, and determining whether to grant approval for the physicians' proposed research activities. (Tr. vol. II p. 82-86.)

*Clinical documentation*

4. During his onboarding, Dr. Sweetser had a series of meetings with the outgoing chief of medical genetics, Dr. Lewis Holmes, during which he was informed of "chronic deficiencies" in Dr. Thakuria's clinical documentation. In particular, Dr. Thakuria had been delinquent in dictating clinical notes for the patients he had evaluated. Dr. Sweetser participated in a meeting that Dr. Holmes had scheduled with Dr. Thakuria to discuss the deficiencies in his clinical documentation and to develop plans to rectify them. (Tr. vol. II p. 83-86.)
5. The hospital required physicians to complete inpatient service notes within 24 hours and to complete notes from seeing patients in the clinics within eight days. (Tr. vol. II p. 85.)
6. When Dr. Sweetser took over as chief, he identified 64 patients that Dr. Thakuria had seen previously but had yet to complete clinical notes or submit bills for those appointments. (Tr. vol. II p. 87-88.)
7. On several occasions, the hospital was contacted by patients and referring physicians who were seeking the records from visits with Dr. Thakuria, but the records were not available due to his failure to complete them in a timely manner. The hospital also lost revenue

- because of delays in Dr. Thakuria's clinical documentation, because it was unable to bill for those services or collect payment on untimely bills. (Tr. vol. II p. 85-86, 90, 121.)
8. Dr. Sweetser and Dr. Holmes co-authored a memorandum of understanding and plan of action issued to Dr. Thakuria on January 14, 2011. The memo outlined the deficiencies at that time, and set forth a plan of action and a timeframe for completion, in order for Dr. Thakuria to bring his clinical documentation up to date. For perspective, they noted that there were 64 patients for whom Dr. Thakuria needed to dictate letters based on his clinical evaluations over the past year. (Tr. vol. II p. 87-88; Pet.'s Ex. 26.)
  9. Dr. Thakuria remedied the deficiencies in accordance with the memorandum, but then continued to fall delinquent in his documentation on a number of occasions over the course of the next two years. (Tr. vol. II p. 86-87.)
  10. Due to these ongoing deficiencies in his clinical documentation, Dr. Sweetser notified Dr. Thakuria by letter on January 6, 2013, that he was "officially being placed on probation due to longstanding unsatisfactory documentation of [his] clinic and inpatient consultations as well as [his] billing for services." Dr. Sweetser indicated that MGH would give him "one last chance to come into compliance," and would thus extend his employment at the hospital through the end of the month, but at a reduced rate of salary. The letter stressed that this was his final chance to achieve "absolute compliance" with the requirements and deadlines specified in the letter. If Dr. Thakuria was able to achieve full compliance, Dr. Sweetser agreed only to "consider extending" the agreement for further employment, and that MGH "may consider reinstating" his salary at its prior rate. (Tr. vol. II p. 89-91, 99; Pet.'s Ex. 2.)

11. Dr. Thakaria brought his documentation back into compliance before the end of the month, and MGH therefore reinstated his prior salary and continued his employment. (Tr. vol. II p. 91.)

*Research Project Initiative*

12. The Partners Institutional Review Board (Partners IRB) oversees research projects involving human subjects at MGH and affiliated facilities, including through review the prospective project's protocol. Its approval is required before the research may begin. (Tr. vol. I p. 49 & vol. II p. 103.)

13. On February 13, 2013, Dr. Thakaria contacted the Director of Human Research Affairs at Partners IRB, Pearl O'Rourke, M.D., regarding a research protocol he was working on for a proposal to conduct a new clinical genomics study he planned to submit for approval. Dr. Thakuria asked her whether she could provide an estimate of the expected turnaround time from submission of the protocol to Partners IRB to the time for prospective approval of the project. Dr. O'Rourke responded that Dr. Thakuria would need to describe what the proposed research entails before she would be able to determine whether it would be subject to full board review or expedited review, which would affect the timeframe for potential IRB approval. (Tr. vol. II p. 142-143; Resp.'s Ex. 1.)

14. In late 2013, Dr. Thakuria approached Dr. Sweetser to discuss a potential research project he wished to pursue involving the collection of saliva samples from members of the Young Presidents' Organization for genomic sequencing and inquired whether the hospital's existing research protocols would be sufficient for him to pursue the project. Dr. Sweetser informed him that they were not, and told him that he would need to submit

a research protocol to Partners IRB for approval. (Tr. vol. I p. 49-51 & vol. II p. 102-104.)

15. On January 9, 2014, Dr. Thakuria sent an email to Dr. O'Rourke at Partners IRB, indicating that he had a "different and more time-sensitive project to discuss." He reported that a member of the Austin chapter of the Young Presidents' Organization ("YPO"), Kevin Lalande, had approached him regarding the organization's plan to collect saliva samples from member-volunteers during an upcoming chapter meeting, for exome sequencing research through Ambry Genetics. Dr. Thakuria further stated that he had proposed to Mr. Lalande that the YPO instead do this project through him and his colleagues using an MGH protocol. Dr. Thakuria inquired whether he could pursue the project through the point of sample collection under an existing IRB approved protocol at MGH, and then have the remainder of the work covered under a separate protocol that he would submit to Partners IRB for approval. (Resp.'s Ex. 1.)
16. After discussing the project in some detail, Dr. O'Rourke advised Dr. Thakuria; on January 10, 2014, that he would need to submit a new research protocol for the project to Partners IRB for approval. (Resp.'s Ex. 1.)
17. On January 12, 2014, Dr. Thakuria proposed an alternative arrangement to Dr. O'Rourke, in which the first phase of the project, through sample collection, would be done through a biotech company he worked for, AbViro, under a protocol approved by an external IRB, Liberty IRB. Dr. Thakuria proposed having the remainder of the project covered under a separate protocol that he would submit to Partners IRB, or alternatively to Liberty IRB, for approval. (Resp.'s Ex. 1.)
18. Dr. Thakuria was the chief medical officer at AbViro. (Tr. vol. II p. 141-142.)

19. Dr. O'Rourke responded, on January 12, that Dr. Thakuria would need to develop a single protocol that covered the entire project, and that the use of an external IRB would require a formal reliance agreement between MGH and the external IRB. (Resp.'s Ex. 1.)
20. Due to time constraints, Dr. Thakuria did not submit a protocol to Partners IRB before commencing the salivary sampling project. He instead submitted it to Liberty IRB, and Liberty IRB approved his protocol. (Tr. vol. I p. 51-52.)
21. On February 14, 2014, Dr. O'Rourke notified Dr. Thakuria that she was reporting the project as noncompliant to the physician chair of Partners IRB, Dr. Libby Hohmann, and requested him to cease any further activity on the study that Liberty IRB had approved. (Resp.'s Ex. 1.)
22. Dr. Thakuria terminated the project effective March 10, 2014. (Tr. vol. I p. 54, 64-65; Pet.'s Ex. 1.)
23. An IRB panel at MGH investigated the matter and, during a meeting on March 11, 2014, concluded that Dr. Thakuria had violated institutional policy by commencing the project without obtaining prospective approval of his protocol from Partners IRB or a reliance agreement for approved use of an external IRB such as Liberty IRB. (Tr. vol. I p. 52-53; Pet.'s Ex. 1.)
24. On April 29, 2014, Dr. Thakuria requested a change in his position at MGH from a clinical to a nonclinical role, so that he could devote more time and attention to his research activities. He had stopped seeing patients at the hospital several months prior, around January 2014. MGH approved Dr. Thakuria's request and changed his position at the hospital from "Assistant in Pediatrics Clinical" to "Assistant in Pediatrics Non Clinical." (Tr. vol. II p. 92-94; Pet.'s Exs. 3, 23, 27, 28.)



*2014 License Renewal*

25. Dr. Thakuria filed a Physician Renewal Application with the Board, dated May 16, 2014, to renew his medical license for another two-year term. (Pet.'s Ex. 4.)

26. The 2014 application completed by Dr. Thakuria contained a series of specific inquiries by the Board into matters that potentially implicate the applicant's professional conduct or competency to practice medicine. Among other things, the application required Dr. Thakuria to disclose whether he had "been the subject of an investigation by any governmental authority, . . . health care facility, group practice, employer or professional association," and whether he had "been the subject of a disciplinary action taken" by any such authority. (Pet.'s Ex. 4, p. 2.)

27. Dr. Thakuria did not report on his 2014 license renewal application that he had been placed on probation and had his salary temporarily reduced at MGH in January 2013. In addition, he did not report the IRB panel's investigation or its determination that he had violated institutional policy concerning IRB review and approval. In particular, he responded "No" when specifically asked on the application whether he had been the subject of an investigation or of a disciplinary action taken by any health care facility or employer. (Pet.'s Ex. 4; Tr. vol. II p. 155.)

*Motor vehicle charges*

28. In August 2015, Dr. Thakuria was arrested and charged in Gloucester District Court with: (a) operating a motor vehicle under the influence of alcohol, (b) marked lane violations (a civil offense), and (c) driving with a suspended license. (Tr. vol. II p. 156; Pet.'s Ex. 6; Resp.'s Ex. 4.)

29. On December 14, 2015, Dr. Thakuria admitted to sufficient facts to support convictions on the criminal charges of operating under the influence and driving with a suspended license. (Tr. vol. I p. 22; Tr. vol. II p. 156-157; Pet.'s Ex. 6; Resp.'s Ex. 4.)
30. The court continued the matter without a finding until December 13, 2016, at which time the case was dismissed. (Tr. vol. I p. 23; Tr. vol. II p. 140; Pet.'s Ex. 6; Resp.'s Ex. 4.)
31. The court found Dr. Thakuria "not responsible" for the civil charge of marked lane violations. (Tr. vol. I p. 22-23; Pet.'s Ex. 6; Resp.'s Ex. 4.)
32. The criminal matter prompted an investigation by the Board's Enforcement Division, which assigned Compliance Officer John Landers to investigate. Among other things, Mr. Landers obtained the case docket from the Gloucester District Court and interviewed Dr. Thakuria on at least two occasions (February 18 and December 21, 2016). (Tr. vol. I p. 20-24, 33; Pet.'s Exs. 7 & 11.)
33. When interviewed by Mr. Landers, Dr. Thakuria confirmed that he had admitted to sufficient facts to support the criminal charges, but maintained his innocence on the charge of operating under the influence. Dr. Thakuria explained how the case was continued without a finding, and reported that during the probationary period he had to take a driver's safety course, a brain injury class, a Mother's Against Drunk Driving class, and attend two Alcoholics Anonymous meetings. (Tr. vol. I p. 23-24; Pet.'s Exs. 7 & 11.)
34. Mr. Landers did not discover any other evidence or allegations of substance abuse during his investigation of Dr. Thakuria. (Tr. vol. I p. 35.)

*2016 License Renewal*

35. In a Lapsed License Application Supplement dated December 15, 2016, Dr. Thakuria responded affirmatively when asked whether he had been charged with a criminal offense. In his supplemental response to this question, Dr. Thakuria reported the criminal charge of operating under the influence, but did not mention the additional criminal charge of driving with a suspended license. He further described the "circumstances leading up to criminal proceedings" as follows:

"Got into an accident hitting a telephone pole along narrow, winding, poorly lit roads I was unfamiliar with. No other passengers, cars, or persons involved or injured. Case is now dismissed."

(Pet.'s Ex. 10, p. 1 & 6.)

36. Dr. Thakuria did not mention the continuance without a finding, his admission to sufficient facts, or the period of probation and other requirements he had to satisfy to secure dismissal of the charges. (Pet.'s Ex. 10.)

37. In support of his lapsed license application, Dr. Thakuria submitted an evaluation form completed by Dr. Sweetser, dated December 20, 2016. Dr. Sweetser rated Dr. Thakuria as "superior" (i.e., the highest rank) in each of the listed categories of professional competency: clinical knowledge, clinical competency, professional judgment, character and ethics, technical skills, relationships with staff, relationship with patients, and cooperativeness/ability to work with others. He noted the issue of Dr. Thakuria's timely clinical documentation, however, which he described as follows:

"Dr. Thakuria's privileges were never formally suspended or restricted, however, the Dept. of Pediatrics did adjust his clinical time on a number of occasions to allow him to catch up on his documentation[.] His timely documentation became an ongoing challenge over many years. ...."

(Tr. vol. II p. 97-99; Pet.'s Ex. 15; Resp.'s Ex. 5.)

38. During his testimony, Dr. Sweetser stressed how highly MGH valued Dr. Thakuria as faculty member and how instrumental his research had been in the relatively novel field of genomic sequencing. He characterized Dr. Thakuria as being "uniquely talented" for this work, based on both his substantial clinical background as well as his substantial research background with respect to bioinformatics. He opined that there were very few people who were capable of doing what Dr. Thakuria could do in terms of analyzing and interpreting sequencing data and then applying it in a clinical setting in order to diagnose and provide treatment to patients, some of whom had life-threatening decompensations and had remained undiagnosed for a long period of time. (Tr. vol. II p. 95-96.)

### ANALYSIS

Pursuant to G. L. c. 112, § 5, the Board of Registration in Medicine may discipline a physician upon proof satisfactory to the Board that the physician has engaged in certain misconduct or has violated any of the Board's rules or regulations governing the practice of medicine. The statute delineates specific grounds for taking disciplinary action against a physician. In addition, the Board has adopted a regulation that specifies additional grounds for discipline, in accordance with the statute's delegation of regulatory authority. The Board has raised the following statutory and regulatory grounds for imposing discipline against Dr. Thakuria in this case:

- (1) Failure to report to the Board disciplinary action taken against him by a health care institution for acts or conduct substantially the same as acts or conduct that would constitute grounds for a Board complaint against him, pursuant to 243 CMR 1.03(5)(a)(15).
- (2) Fraudulent procurement of his certificate of registration or its renewal, pursuant to G. L. c. 112, § 5, ¶ 8(a) and 243 CMR 1.03(5)(a)(1);

- (3) Practicing medicine deceitfully, or engaging in conduct which has the capacity to deceive or defraud, pursuant to 243 CMR 1.03(5)(a)(10);
- (4) Violating Board regulations concerning the maintenance of patient medical records, pursuant to G. L. c. 112, § 5, ¶ 8(h) and 243 CMR 1.03(5)(a)(11); and
- (5) For lack of "good moral character" and engaging in "conduct that undermines the public confidence in the integrity of the medical profession," citing *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979) and *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982).

The Board has the burden of proving by a preponderance of the evidence the specific grounds and factual allegations for which it seeks to take disciplinary action against Dr. Thakuria, pursuant to G. L. c. 112, § 5. See *Craven v. State Ethics Commission*, 390 Mass. 191, 200 (1983) ("Proof by a preponderance of the evidence is the standard generally applicable to administrative proceedings."). To meet this burden, the Board must produce sufficient evidence to show, after due consideration of the weight of the evidence, that the proposition at issue appears "more likely or probable in the sense that actual belief in its truth, derived from the evidence, exists in the mind or minds of the tribunal notwithstanding any doubts that may still linger there." *Sargent v. Massachusetts Accident Co.*, 307 Mass. 246, 250 (1940). After careful review and consideration of all of the evidence in this case, I have concluded that the Board has met its burden of proof with respect to each of the grounds set forth above for taking disciplinary action against Dr. Thakuria.

First, the Board proved that Dr. Thakuria violated 243 CMR 2.07(13) by failing to timely complete clinical notes for patients and referring physicians regarding his evaluations, and he is therefore subject to discipline under G. L. c. 112, § 5, ¶ 8(h) and 243 CMR 1.03(5)(a)(11). The Board's regulations require physicians to maintain patient medical records that are "complete, timely, legible, and adequate to enable" proper diagnosis and treatment and to provide copies of such records to patients in a timely manner upon request. 243 CMR § 2.07(13)(a), (b). The Board presented evidence that showed substantial deficiencies in the timeliness of Dr. Thakuria's clinical

documentation, which on several occasions resulted in MGH being unable to provide medical records from his clinical evaluations to patients and referring physicians who requested these records from the hospital. As a result, Dr. Thakuria's clinical documentation failed to comply with 243 CMR 2.07(13)(a) and (b) and the Board may impose discipline pursuant to G. L. c. 112, § 5, ¶ 8(h) and 243 CMR § 1.03(5)(a)(11) for those failures.

Second, the Board established ground for discipline under 243 CMR 1.03(5)(a)(15), based on Dr. Thakuria's failure to report in his 2014 license renewal application that he had been subject to disciplinary action at MGH in January 2013. In his license renewal application, which he filed in May 2014, Dr. Thakuria was specifically asked whether he had "been the subject of a disciplinary action taken by any . . . health care facility," to which he responded "No". The Board's regulations require applicants for either an initial license or a renewal to supply "all required information" and that the application be "sworn to by the applicant." 243 CMR 2.04(4)(a) and (b). Dr. Thakuria argued at the hearing that this matter did not need to be reported because it was an "informal issue" that had been resolved, but he has not offered any legal authority or argument for this position. Contrary to his position, the Board's regulations define "disciplinary action" to include both formal and informal action and include a broad array of disciplinary measures such as suspension, restriction of privileges, censure, reprimand, admonition, and fines. 243 CMR 1.01(2). Accordingly, I conclude that Dr. Thakuria was required to report in his 2014 renewal application that he had been placed on probation and had his salary reduced at MGH during January 2013. He failed to do so, and the Board may therefore impose discipline pursuant to 243 CMR 1.03(a)(15).

With respect to the additional reporting violations alleged by the Board, Dr. Thakuria does not dispute either that his 2014 license renewal application made no mention of the

investigation by Partners IRB or that his disclosure of the August 2015 criminal matter in his 2016 application omitted the specific details that the Board claims were necessary (i.e., identification of the criminal charge of driving with a suspended license and details concerning the disposition of the charges).<sup>2</sup> Rather, Dr. Thakuria claims that he did not consider the IRB panel's inquiry to be a matter that he would need to disclose to the Board, and he believed his disclosure of the criminal matter on his 2016 application provided sufficient detail in light of the Board's ongoing investigation of the criminal charges at that time. (See Tr. vol. II p. 157-158, 173-174.) I did not find Dr. Thakuria's testimony on these points credible and I am persuaded that he knew that the Board asked for the information and that he should provide it. The intent to deceive or defraud may be shown "by proof that a party knowingly made a false statement and that the subject of that statement was susceptible of actual knowledge. No further proof of actual intent to deceive is required." *Fisch v. Board of Registration in Med.*, 437 Mass. 128, 139 (2002) (citation omitted).

I agree with the Board that Dr. Thakuria failed to satisfy his reporting obligations with respect to both the omission of the IRB panel investigation on his 2014 license renewal application as well as the lack of sufficient detail in his disclosure of the criminal charges on his 2016 license application. In the 2014 application, the Board's inquiry concerning investigations was broad in scope. It was not limited to matters that would necessitate a mandated report under 243 CMR 2.14, or to matters that are punitive or disciplinary in nature. The Board sought disclosure of any instances in which the applicant was the subject of an investigation by a health

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<sup>2</sup> In its statement of allegations, the Board alleged that Dr. Thakuria did not identify the criminal charges his license renewal application. Dr. Thakuria clearly identified the charge of operating under the influence in the appropriate location by using the common and well-recognized abbreviation "OUI."

care facility. The IRB panel's investigation falls within the scope of this inquiry, and Dr.

Takuria was therefore required to disclose the investigation in his 2014 renewal application.<sup>3</sup>

Similarly, the Board's Lapsed License Application Supplement, which Dr. Takuria filed in late 2016, required disclosure of the criminal "charge(s)" at issue, as well as the "status" of the criminal proceeding. Dr. Takuria correctly identified the OUI charge, but made no mention of the charge of driving with a suspended license. He identified the "status" as "case dismissed," which was a true but incomplete description of the disposition. Both the Lapsed License Application form,<sup>4</sup> and the Board's instructions for completion of that form, clearly seek disclosure of the full disposition and "court action" taken, not just the end result.<sup>5</sup>

I conclude that Dr. Takuria failed to include sufficient details of the criminal charges in his application, which should have identified *both* criminal charges and disclosed the process by which the case resolved (i.e., through the alternative disposition authorized by G. L. c. 90, § 24). Pertinent details concerning the disposition include, for example, his admission to sufficient facts to support the criminal charges, the subsequent entry of a continuance without a finding by the

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<sup>3</sup> Question 18(c) on the 2014 Physician Renewal Application asked: "Have you been the subject of an investigation by any governmental authority, including the Massachusetts Board of Registration in Medicine or any other state medical board, health care facility, group practice, employer or professional association." (Pet.'s Ex. 4.)

<sup>4</sup> The application form requests the applicant to identify the criminal charges at issue and the court in which the action is pending, describe the circumstances leading to the criminal proceedings, and specify the current status of the matter. In addition, the applicant is required to "submit copies of the indictment, complaint, judgment or other disposition in any criminal proceeding" in which the applicant is a defendant.

<sup>5</sup> The Board's instruction in effect at the time (revision date of March 2015) provide (on page 5): "For each criminal proceeding in which you were named a defendant, certified copies of the complaint, judgment or other disposition must be sent to the Board by your lawyer, the police department, the court, or other appropriate agency. You must also provide a detailed explanation of the incident, including date, time, place, who was with you, and the court action."



court, and the terms of the probationary period that Dr. Thakuria needed to satisfy to obtain dismissal of the charges.

I further conclude that the omissions in his 2014 and 2016 applications establish grounds for the Board to impose discipline for fraudulent procurement of his license renewal and for engaging in deceptive conduct, pursuant to 243 CMR 1.03(5)(a)(1), (10). Dr. Thakuria did not provide sufficient justification for omitting the IRB panel investigation and disciplinary action by MGH on his 2014 application, or for the lack of detail concerning the criminal charges on his 2016 application.

The 2014 application included questions that specifically asked whether he was subject to an investigation or to disciplinary action by a health care facility or employer, and he responded "No" to each of these questions. His only explanation was that he did not believe these matters needed to be reported. He did not provide any evidence or legal authority in support of his position, and I did not find his testimony credible with respect to his reasons for the omissions. The Board relies on self-reporting by physicians on their license renewal forms, and a physician's lack of candor in responding to the Board's inquiries on the application warrants disciplinary action for such deceit, under 243 CMR 1.03(5)(a)(1) & (a)(10). It also establishes a lack of "good moral character" and constitutes "conduct that undermines the public confidence in the integrity of the medical profession." See *Kellogg v. Board of Registration in Med.*, No. SJ-2010-0382, 2011 WL 13224166, at \*10 (Feb. 4, 2011), *aff'd*, 461 Mass. 1001 (2011) (upholding discipline imposed under 243 CMR 1.03(5)(a)(1), (10) for false information in license renewal forms).

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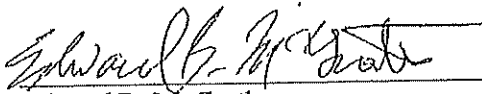
MAR 15 2022

Board of Registration in Medicine

CONCLUSION AND ORDER

For the reasons stated above, I recommend the Board impose upon Dr. Thakuria the discipline it deems appropriate.

DIVISION OF ADMINISTRATIVE LAW APPEALS



Edward B. McGrath  
Chief Administrative Magistrate

Dated: MAR 11 2022