

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2016-045

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In the Matter of)
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JONATHAN J. SILVERMAN, M.D.)
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STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine (Board) has determined that good cause exists to believe the following acts occurred and constitute a violation for which a licensee may be sanctioned by the Board. The Board therefore alleges that Jonathan J. Silverman, M.D. (Respondent) has practiced medicine in violation of law, regulations, or good and accepted medical practice, as set forth herein. The investigative docket number associated with this order to show cause is Docket No. 12-412.

Findings of Fact

1. The Respondent was born on August 23, 1962. He graduated from the State University of New York, Downstate Medical Center in 2002. He has been licensed to practice medicine in Massachusetts since 2009 under certificate number 238611. He is Board-certified in Emergency Medicine. The Respondent is currently employed at Lawrence General Hospital in Lawrence, Massachusetts.

2. On August 24, 2012, the Board's Data Repository Unit (DRU) received a Health Care Facility Disciplinary Action Initial Report (HCFD-1) from Good Samaritan Medical Center (GSMC) reporting the Respondent's termination of employment and resignation of hospital privileges following an investigation of improper prescribing practices for one patient, Patient A.

3. Around September 2010, Patient A asked the Respondent to write him a prescription for a sleep aid. The Respondent wrote Patient A a prescription for clonazepam, a long acting benzodiazepine.

4. The Respondent did not examine Patient A, but he was aware of Patient A's symptoms. The Respondent was also aware that Patient A had ulcerative colitis.

5. Patient A told the Respondent that he occasionally went to Norwood Hospital for treatment with Remicade, a last ditch treatment for ulcerative colitis. The Respondent never checked with Norwood Hospital to verify Patient A's claim.

6. One or two weeks after the initial prescription, the Respondent prescribed Lorazepam for Patient A.

7. In October 2010, the Respondent gave Patient A a prescription for 40 to 60 Percocet 5/325mg tablets to help with pain caused by urological stent surgery.

8. After roughly 7 months, the Respondent increased the dosage of the prescription to 60 tablets of Percocet 10/325mg.

9. The Respondent did not maintain a record of the medications he prescribed for Patient A, as required by Board regulation 243 CMR 2.07(13).

10. In October 2011, the Respondent told Patient A to come into the Emergency Room at GSMC and the Respondent would order a scan and hopefully have Patient A admitted. Patient A would then be followed by a hospitalist with a Gastrointestinal (GI) consult.

11. After Patient A was admitted, he began filing numerous complaints with the patient advocate, against the GI physician. The patient advocate never returned Patient A's calls.

12. The Respondent continued to prescribe to Patient A regularly until he left GSMC.

13. GSMC learned about the prescriptions the Respondent wrote for Patient A resulting in the Respondent's termination and resignation.

14. The Respondent never thought that he was doing anything improper because the prescriptions were written for a legitimate medical purpose.

15. The Respondent had never read the Board's regulations or prescribing guidelines prior to or during his prescribing for Patient A.

16. On various dates between July 2012 and August 2014, the Respondent completed fifteen Continuing Medical Education courses in prescribing.

LEGAL BASIS FOR PROPOSED RELIEF

A. Pursuant to G.L. c. 112, §5, eighth par. (h) and 243 CMR 1.03(5)(a)11, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has violated of a rule or regulation of the Board. Specifically: 243 CMR 2.07(5), which states that a licensee who violates G.L. c. 94C also violates a rule or regulation of the Board and;

1. 243 CMR 2.07(13)(a), which requires a physician to: maintain a medical record for each patient, which is adequate to enable the licensee to provide proper diagnosis and treatment;

B. Pursuant to *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 may discipline a physician upon proof satisfactory to a majority of the Board that said physician has engaged in conduct that undermines the public confidence in the integrity of the medical profession.

C. The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§ 5, 61 and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01, *et seq.*

NATURE OF RELIEF SOUGHT

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure, reprimand, fine, the performance of uncompensated public service, a course of education or training or other restrictions upon the Respondent's practice of medicine.

ORDER

Wherefore, it is hereby ORDERED that the Respondent show cause why he should not be disciplined for the conduct described herein.

By the Board of Registration in Medicine,

Candace Lapidus Sloane, MD

Candace Lapidus Sloane, M.D.
Chair

Dated: October 20, 2016