

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine
Adjudicatory Case No. 2021-036

In the Matter of)
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)

MARK J. STERLING, M.D.)
_____)

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 Mark J. Sterling, 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 Nos. 21-332, 21-298, and 20-879.

Biographical Information

1. The Respondent is a 1991 graduate of the New York Medical College and board certified in gastroenterology and internal medicine. He was initially licensed to practice medicine in Massachusetts under certificate number 78918 from January 26, 1994 through March 15, 1997 and has been again since 2008. The Respondent was previously licensed in New Jersey from 1997 until 2009 and Ohio from 1996 to 1998.

Factual Allegations

Impairment

2. On diverse dates from April 1, 2013 through November 3, 2020 the Respondent “nodded off” with his eyes closed and head down during endoscopic procedures for which he

was the assigned attending physician overseeing Fellows with varying levels of experience at Lahey Hospital and Medical Center and Tufts Medical Center.

3. In 2019 the Respondent was diagnosed with obstructive sleep apnea after a sleep study and began relevant specialized treatment and intervention.

4. On or about November 11, 2020 the Respondent's endoscopic privileges at Tufts Medical Center were temporarily suspended in a non-disciplinary manner due to his excessive sleepiness during endoscopic procedures after the last incident on November 3, 2020. The Respondent completed a medical evaluation and updated sleep assessment before his endoscopic privileges were reinstated on November 20, 2020.

5. On or about May 6, 2021 while the Respondent was performing a complicated endoscopic retrograde cholangiopancreatography (ERCP) procedure with SpyGlass, he handed the scope to a Fellow and sat down before he was observed by multiple staff and an outside representative to immediately "nod off" with his eyes closed and head down as he had before. When staff confronted him about their observations, the Respondent became belligerent towards them. On May 7, 2021 the Respondent's treatment for his obstructive sleep apnea was changed with positive results.

Disruptive Behavior

6. On diverse dates between October 2008 and May 2021 and while employed at Lahey Hospital and Medical Center and Tufts Medical Center, the Respondent engaged in the following conduct which had the potential to interfere with patient care:

- a. publicly chastised nurses and other hospital staff, including in front of patients;
- b. used belligerent, condescending, loud, and profane language with nurses and staff during procedures; and

- c. consistently started his schedule late and took extraordinary amounts of time to complete procedures causing staff to work unusually long hours and clinic patients to leave without being seen by him.

7. Board Policy Number 01-01 on Disruptive Physician Behavior states "Disruptive behavior by a physician has a deleterious effect on the health care system and increases the risk of patient harm."

8. Behaviors such as foul language; rude, loud or offensive comments; and intimidation of staff, patients and family members are now recognized as detrimental to patient care.

Legal Basis for Proposed Relief

A. Pursuant to G.L. c. 112, § 5, ninth par. (d) and 243 CMR 1.03(5)(a)(4) the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician practiced medicine while his ability to practice was impaired by a physical disability.

B. Pursuant to Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982) and Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979) the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician engaged in conduct that undermines the public confidence in the integrity of the medical profession.

C. Pursuant to 243 CMR 1.03(5)(a)(11) the Board may discipline a physician upon proof satisfactory to a majority of the Board that said violated a rule or regulation of the Board, to wit: Policy No. 01-01: Disruptive Physician Behavior Policy, Board of Registration in Medicine adopted June 13, 2001.

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.

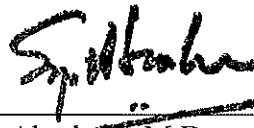
Nature of Relief Sought

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, the Respondent is hereby **ORDERED** to show cause why the Board should not discipline the Respondent for the conduct described herein.

By the Board of Registration in Medicine,

A handwritten signature in black ink, appearing to read "G. Abraham", is written over a horizontal line.

George Abraham, M.D.
Board Chair, Physician Member

Date: September 9, 2021