

## 08/20/13 5:29

Board of Registration in Medicine

In the Matter of

EUGENE OSTROFF, M.D.

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 Eugene Ostroff, 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. 11-461.

1. The Respondent was born on April 22, 1945. He graduated from the School of Medicine, State University of New York at Buffalo in 1973. He is certified by the American Board of Internal Medicine. He has been licensed to practice medicine in Massachusetts under certificate number 39495 since June 1976.

2. As of June 30, 2010, the Respondent retired from his position as an Emergency Department physician.

3. On April 22, 2011, the Respondent's license lapsed.

### Factual Allegations

4. The Respondent was unaware that his license had lapsed until September 2011.

5. On his Lapsed License Application, the Respondent disclosed that he had practiced medicine while his license was lapsed in that he issued prescriptions to treat family members and friends.

6. “Beyond documenting appropriate medical histories and physical examinations, physicians must maintain medical records that are detailed enough in nature that the physician’s clinical reasoning is discernable from his or her documentation.” Board of Registration in Medicine *Prescribing Practices Policy and Guidelines* (adopted Aug. 1, 1989; amended May 19, 2010).

7. From July 2010 through September 2011, the Respondent provided medical care to family members and friends, including prescribing medications to them, and failed to maintain medical records of their treatment.

8. The Respondent self-prescribed a Schedule III controlled substance on one occasion, while awaiting surgery and when his treating physician was unavailable, to treat a painful medical condition.

### Legal Basis for Proposed Relief

A. Pursuant to 243 CMR 1.03(5)(a)8, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician continued to practice medicine while his registration was lapsed, suspended, or revoked.

B. Pursuant to G.L. c. 112, §5, ninth 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 a rule or regulation of the Board:

1. Board regulation 243 CMR 2.07(19) prohibits physicians from prescribing controlled substances in Schedules II, III, and IV for their own use.

2. Board regulation 243 CMR 2.07(13)(a) requires a physician to maintain a medical record for each patient that is adequate to enable the licensee to provide proper diagnosis and treatment, and to maintain a patient's medical record in a manner which permits the former patient or a successor physician access to them.

C. 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. Pursuant to *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 343-344 (1996), violation of guidelines is "a particular example of conduct which undermines public confidence in the integrity of the medical profession over which the Board has authority."

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.

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Order

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

By the Board of Registration in Medicine,

  
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Gerald B. Healy, M.D.  
Vice Chair

Date: August 14, 2013