

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Board of Registration in Medicine

Adjudicatory Case No. 2024-003

In the Matter of

DALE K. WELDON, M.D.

CONSENT ORDER

Pursuant to G.L. c. 30A, § 10, Dale K. Weldon, M.D. (Respondent) and the Board of Registration in Medicine (Board) (hereinafter referred to jointly as the “Parties”) agree that the Board may issue this Consent Order to resolve the above-captioned adjudicatory proceeding. The Parties further agree that this Consent Order will have all the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact specified below and agrees that the Board may make the conclusions of law and impose the sanction set forth below in resolution of investigative Docket Nos. 20-654, 20-707, and 22-536.

Findings of Fact

1. The Respondent graduated from the Emory University School of Medicine in 1985 and has been licensed to practice medicine in Massachusetts under license number 71075 since 1989. She is board-certified in obstetrics and gynecology. She works at Brigham & Women’s Hospital, Faulkner Hospital, and is affiliated with Nantucket Cottage Hospital.

2. From January 2013 through May 21, 2017, the Respondent owned and operated her own practice, Upper Cape Gynecology.

3. When the Respondent closed her practice, she retained her medical records on an encrypted hard drive from eClinicalWorks, her electronic medical record (EMR) provider.

4. When the Respondent closed her practice, she notified her approximately 2000 patients how to request their medical records.

5. Following the closure of her practice, the Respondent was contacted by a small number of patients who had not previously had their medical records sent to their new providers, and each time the Respondent had been able to access patient records on the encrypted hard drive.

Patient A

6. Patient A requested her medical records from the Respondent via telephone and through her new providers.

7. In April 2019, Patient A filed a complaint with the Board when the Respondent failed to produce her medical records.

Patient B

8. Patient B requested her medical records from the Respondent via telephone, mail fax, and through her new providers.

9. In April 2019, Patient B filed a complaint with the Board when the Respondent failed to produce her medical records.

Board Requests for Information

10. The Board notified the Respondent of Patient A's complaint via certified mail on October 16, 2020, and requested a response within thirty days.

11. The Board notified the Respondent of Patient B's complaint via certified mail on October 26, 2020, and requested a response within thirty days.

12. The Board emailed the Respondent Patient A's and Patient B's complaints on February 23, 2022.

13. On October 18, 2022, the Complaint Committee issued a Ten-Day Order for the Respondent to submit a response to the two complaints within ten days of the order.

14. On October 18, 2022, the Ten-Day Order was sent to the Respondent via email and certified mail.

15. The Respondent failed to submit a response and the Board docketed another complaint on November 10, 2022.

Respondent's Efforts to Access Records

16. In October 2020, the Respondent attempted to access Patient A's and Patient B's medical records on the encrypted hard drive from eClinicalWorks but was no longer able to open any of the files.

17. Consequently, the Respondent contacted eClinicalWorks for assistance but was unable to obtain assistance from the company with the encrypted hard drive that they had provided to her.

18. In February 2022 and November 2022, the Respondent again attempted to access Patient A's and Patient B's medical records on the encrypted hard drive from eClinicalWorks and sought assistance with the same from eClinicalWorks.

19. The Respondent subsequently worked with the IT department at her new practice and with an independent IT specialist to access the records on the encrypted hard drive. These attempts were unsuccessful.

20. On or about October 5, 2023, the Respondent contacted eClinicalWorks again and offered to pay for the practice records for a second time in order to access Patient A's and Patient

B's records. However, the Respondent was informed by eClinicalWorks that the back-up copies of the practice records had been deleted by eClinicalWorks and were unretrievable.

Conclusions of Law

A. The Respondent has violated G.L. c. 112, § 5, eighth par. (h) and 243 CMR 1.03(5)(a)11 by violation regulations of the Board – to wit:

1. 243 CMR 2.07(12), which requires a physician to respond to a written communication from the Board within thirty days;
2. 243 CMR 1.03(7), which requires a physician to respond within ten days to an Order for Answering issued by the Complaint Committee;
3. 243 CMR 2.07(13)(b), which requires that, upon a patient request, a physician provide a copy of the patient's medical record to a patient, other licensee or other specifically authorized person, in a timely manner.

B. The Respondent has violated 243 CMR 1.03(5)(a)16 by failing to furnish the Board, its investigators or representative, information to which the Board is legally entitled.

C. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession. See Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979); Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982).

Sanction and Order

The Respondent's license is hereby ADMONISHED and FINED \$3,000 total. This sanction is imposed for each violation of law listed in the Conclusion section and not a combination of any or all of them.

Execution of this Consent Order

Complaint Counsel and the Respondent agree that the approval of this Consent Order is left to the discretion of the Board. The signature of Complaint Counsel and the Respondent are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order in whole or in part, then the entire document shall be null and void; thereafter, neither of the parties nor anyone else may rely on these stipulations in this proceeding.

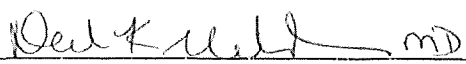
As to any matter in this Consent Order left to the discretion of the Board, neither the Respondent, nor anyone acting on his behalf, has received any promises or representations regarding the same.

The Respondent waives any right of appeal that she may have resulting from the Board's acceptance of this Consent Order.

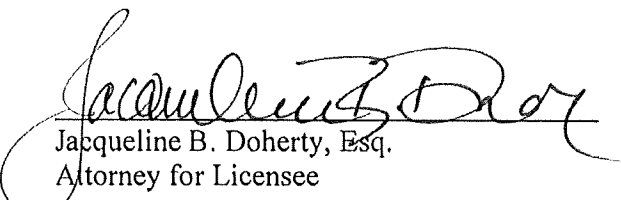
The Respondent shall provide a complete copy of this Consent Order with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which the Respondent practices medicine; any in- or out-of-state health maintenance organization with whom the Respondent has privileges or any other kind of association; any state agency, in- or out-of-state, with which the Respondent has a provider contract; any in- or out-of-state medical employer whether or not the Respondent practices medicine there; the state licensing boards of all states in which the Respondent has any kind of license to practice medicine; the Drug Enforcement Administration Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which the Respondent becomes associated in the year following the date

of imposition of this admonishment. The Respondent is further directed to certify to the Board within ten (10) days that the Respondent has complied with this directive.

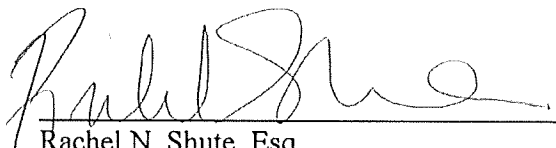
The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.


Dale K. Weldon, M.D.
Licensee

12/7/23
Date

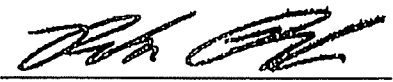

Jacqueline B. Doherty, Esq.
Attorney for Licensee

7 Dec 2023
Date


Rachel N. Shute, Esq.
Complaint Counsel

12/27/2023
Date

So ORDERED by the Board of Registration in Medicine this ____ 25th day of _____, 2024__.


Booker T. Bush, M.D.
Acting Chair