



immediately notify Patient A, and failure to have office procedures in place to notify Patient A of abnormal test results in the event of a missed appointment.

#### Sanction

The record demonstrates that the Respondent committed negligence on multiple occasions and, therefore, engaged in conduct that calls into question his competence to practice medicine. Accordingly, it is proper for the Board to impose sanction. *See Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982); *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979).

When determining the appropriate sanction in a substandard care case, the Board takes into consideration the degree of deviation from the standard of care, the number of acts of negligence involved, the impact of the physician's conduct, and mitigating circumstances. Where there has been substantial deviation from the standard of care and multiple patients involved, the Board frequently has determined that revocation is the appropriate sanction. *See In the Matter of Viorel Boborodea, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 04-61-DALA (Final Decision & Order, March 15, 2006)(revocation, five patients involved). Where there is a less serious deviation from the standard of care, but repeated acts of negligence and more than one patient involved, the Board frequently has determined that suspension from practice is the appropriate sanction, with a return to practice conditioned upon entry into a monitoring agreement. *See In the Matter N. Raj Birudavol, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 02-16-DALA (Final Decision & Order, July 21, 2004)(license suspension with stay conditioned upon Probation Agreement).

In cases involving negligence in the treatment of a single patient, the Board frequently has limited the sanction to a reprimand. *See In the Matter of David Chapin, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 04-53-XX (Consent Order, November 7, 2004) (reprimand for failure to order x-ray when advised of a missing sponge). *See In the Matter of John Clapp, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 06-014 (Consent Order, April 12, 2006)(reprimand for failure to notify patient of abnormal test results and refer him to a specialist. *See In the Matter of Osei-Tutu, M.D.*, Board of Registration in Medicine, Adjudicatory Case No.

2007-004 (Final Decision and Order, February 25, 2009) (reprimand and fine in his treatment of one patient; for not telling the patient about the results of a test in a timely fashion; failing to repeat a test in a timely fashion; failing on five occasions to review pertinent medical records before treating the patient; failing to provide the patient's consulting specialist with the patient's relevant medical history, including current medications, active medical problems and previous test results; failing to advocate for the patient to receive an expedited biopsy, and previously disciplined for practicing with a lapsed license.)

The instant matter is most similar to *Osei-Tutu* in that there were multiple acts of negligence involving one patient and prior discipline. Consistent with Board precedent concerning multiple acts of negligence in the treatment of a single patient, the Board hereby REPRIMANDS the Respondent and imposes a FINE of \$5,000.00, payable within sixty (60) days of this Final Decision and Order. The Board will not renew the license of any physician who fails to pay a fine in a timely manner; this step will be taken automatically and no further notice or process will apply.

The Respondent shall provide a complete copy of this Final Decision and 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 he practices medicine; any in- or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; the state licensing boards of all states in which he 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 he becomes associated in the year following the Board's issuance of the Final Decision and Order. The Respondent is further directed to certify to the Board within ten (10) days that he 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. The Respondent has the right to appeal this Final Decision and Order within thirty (30) days, pursuant to G.L. c. 30A, §§14 and 15, and G.L. c. 112, § 64.

Date: April 16, 2015



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Michael Henry, M.D.  
Secretary  
Board of Registration in Medicine