

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

BOARD OF REGISTRATION
IN MEDICINE

Adjudicatory Case No. 2019-030

In the Matter of)

MARCUS P. COOPER, M.D.)
_____)

FINAL DECISION AND ORDER

This matter came before the Board for final disposition on the basis of the Administrative Magistrate's December 11, 2019 Recommended Decision Allowing Petitioner's Motion for Summary Decision ("Recommended Decision") and the Board's Partial Final Decision and Order as to Findings of Fact and Conclusions of Law ("Partial Final Decision"), dated September 10, 2020. After hearing from the Parties and considering the Victim Impact Statement and the Partial Final Decision, which is attached hereto and incorporated by reference, as well as the Parties' Memoranda on Disposition, the Board amends the Partial Final Decision by adding the following:

Sanction

The Board's paramount responsibility is the protection of the public health, safety and welfare. See Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979). The uncontested facts of this case demonstrate that the Respondent has been convicted of a criminal offense which reasonably calls into question his ability to practice medicine, has demonstrated a lack of good moral character, and has engaged in conduct that undermines the public's confidence in the medical profession.

Good moral character has always been a requirement for licensure. Board statutes and precedent, as well as case law, have long supported this notion. As the Supreme Judicial Court stated in Lawrence v Board of Registration in Medicine, 239 Mass. 424 (1921):

Soundness of moral fiber to insure the proper use of medical learning is as essential to the public health as medical learning itself. Mere intellectual power and scientific achievement without uprightness of character may be more harmful than ignorance. Highly trained intelligence combined with disregard of the fundamental virtues is a menace.

The Board has disciplined the licenses of physicians who have been convicted of sexual offenses, regardless of whether the victim was a patient. See In the Matter of William L. Thompson, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2017-007 (Final Decision and Order, January 24, 2019)(revocation of inchoate right to renew medical licensure for physician who pled guilty to two counts of video voyeurism in the state of Rhode Island, based on allegations that he secretly videotaped his 16-year old stepdaughter while she was naked in the shower); In the Matter of Stephen F. Viegas, M.D., Adjudicatory Case No. 1370 (Final Decision and Order, July 10, 1986)(revocation for physician who pled guilty to open and gross, lewd and lascivious behavior). In a matter involving facts similar to the present matter, but which did not involve criminal prosecution, the Board indefinitely suspended the inchoate right to renew the medical license of a physician who surreptitiously videotaped his children's nanny engaging in private activities and disseminated those images over the Internet. See In the Matter of Raymond J. Maciewicz, Board of Registration in Medicine, Adjudicatory Case No. 00-15-DALA (Final Decision and Order, December 21, 2001).

It should be noted that, with the record closed, per M.G.L. c. 30A, §11(4) and 801 CMR 1.01(10)(k)(1), the Board has not considered any altered version of the facts through Complaint Counsel's introduction of new, unverified allegations. In fact, the Board hereby strikes from the

record any new information submitted to the Board which falls outside the adjudicatory record in this matter.

In light of the above, the Board hereby REVOKES the Respondent's license to practice medicine, with leave to petition for reinstatement after three years. 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; and the state licensing boards of all states in which he has any kind of license to practice medicine. The Respondent shall also provide this notification to any such designated entities with which he becomes associated for the duration of this revocation. 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 notify independently, at any time, any of the entities designated above, or any other affected entity, of any action 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: October 22, 2020



George Abraham, M.D.
Chair