

## MIDDLESEX, ss

In the Matter of

George Hayao, M.D.

## FINAL DECISION AND ORDER

The Board initiated this matter by issuing a Statement of Allegations against Respondent on September 25, 2020 and referring the matter to the Division of Administrative Law Appeals (DALA). The DALA Magistrate issued a Recommended Decision on July 1, 2021 that incorporates the Parties' June 29, 2021 Stipulation. There were no objections to the Recommended Decision.

The Board has reviewed and hereby adopts the Recommended Decision in its entirety and incorporates it into this Final Decision and Order, imposing the following sanction:

The record demonstrates that the Respondent failed to meet the standard of care with respect to three patients. Specifically, the Respondent prescribed controlled substances to two patients, Patients A and B, for many years without conducting any physician examination of them, without communicating with their other providers, and without maintaining medical records for them. The record demonstrates, too, that the Respondent failed to meet the standard of care with respect to a third patient, Patient C, by prescribing inappropriate amounts of oxycodone. The Board “has long viewed with the utmost seriousness any physician’s inability or failure to discharge” his “grave responsibility for issuing prescriptions for controlled substances.”<sup>1</sup> 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).

<sup>1</sup> See *In the Matter of Earl Hoffman*, M.D., Board of Medicine, Adjudicatory Case No. 85-7-GR (Final Decision and Order, November 20, 1985).

When determining the appropriate sanction in a substandard care case, the Board takes into consideration the degree of deviation from acceptable medical care, the number of acts of negligence, the impact of the physician's misconduct, and any mitigating circumstances. The facts presented in this matter fall short of those presented in instances where the Board has imposed a revocation or suspension with respect to substandard prescribing practices. In those instances, the substandard prescribing was coupled with falsifying records to conceal the prescribing<sup>2</sup>, issuing prescriptions to non-patients known to have substance use disorders<sup>3</sup>, or issuing prescriptions in names of others to obtain controlled substances for his own use<sup>4</sup>.

In cases involving substandard care of two or three patients, the Board has imposed a range of sanctions, including an admonishment,<sup>5</sup> censure<sup>6</sup>, reprimand,<sup>7</sup> or practice restriction.<sup>8</sup> In such cases, the Board has sometimes included other discipline,

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<sup>2</sup> See *In the Matter of Michael Stevens, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2010-019 (Consent Order, August 28, 2010) (Board imposed indefinite suspension to be stayed upon entry into a five year probation agreement. In this matter the physician's narcotics prescribing practice had come to the attention of the facility medical director. In response to monitoring by the medical director the physician falsified medical records to make it appear that he was tapering narcotics when in fact he continued to issue prescriptions in higher amounts. He admitted to being overwhelmed by demands of drug-seeking patients and did not have the ability to set boundaries).

<sup>3</sup> See *In the Matter of Christopher Owens, M.D.* Board of Registration in Medicine, Adjudicatory Case No. 2017-031 (Final Decision and Order, April 25, 2018) (Board revoked inchoate right to renew based on California discipline for prescribing controlled substances to his girlfriend and non-patients known to have substance use disorders for non-medical purposes).

<sup>4</sup> See *In the Matter of Hiram Zengotita, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 00-34-DALA (Final Decision and Order, October 10, 2001) (Board suspended inchoate right to renew based on issuing prescriptions in the names of acquaintances who then filled the prescriptions for him, among other misconduct.)

<sup>5</sup> See *In the Matter of Michael N. Weinstein, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 88-89-TR (Final Decision and Order, March 7, 1990) (Board imposed an admonishment and required semi-annual reports for one year from hospitals with which physician was affiliated, where physician rendered substandard care to two patients and maintained a substandard medical record for the third). The Board stated that the physician acknowledged his errors and demonstrated commitment to improving his skills by completing a preceptorship prior to the imposition of discipline.

<sup>6</sup> See *In the Matter of Franklyn Carrington, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 00-18-DALA (Final Decision and Order, December 13, 2000) (Board imposed a censure and required 15 continuing professional development credits in medical record-keeping and interpretation of radiological studies, as well as entry into a Probation Agreement, where a physician rendered substandard care to two patients and maintained substandard records for those patients.)

<sup>7</sup> See *In the Matter of Peppino Butera, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2007-025 (Final Decision and Order, December 17, 2008) (Board imposed a reprimand, where physician with instances of substandard care completed an internal medicine review course and hospital monitoring program prior to the imposition of discipline.)

<sup>8</sup> See also *In the Matter of Marc F. Freedman, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2013-052 (Consent Order, October 23, 2013) (Board restricted physician to specific office procedures, where physician rendered substandard care to three patients and a pattern of practice called into question

such as probation, a required clinical skills assessment or continuing professional development (CPD).

In light of the Respondent's substandard care with respect to three patients and his failure to maintain adequate medical records with respect to two of the patients, the Board hereby imposes a REPRIMAND. In addition, the Respondent must document his completion of five Board-approved continuing professional development (CPD) credits in opioid prescribing and five Board-approved CPD in medical record-keeping within sixty days of this Final Decision and Order.

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 for one year within issuance of this 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: December 2, 2021



Julian Robinson, M.D.  
Chair  
Board of Registration in Medicine

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his competence to practice obstetrical surgery.) The Consent Order specified that the physician had completed a clinical skills assessment prior to the Board discipline.