

COMMONWEALTH OF MASSACHUSETTS  
BOARD OF REGISTRATION IN MEDICINE

Middlesex, ss.

Adjudicatory Case No. 2019-025  
(RM-19-224)

In the Matter of

Atif B. Malik, M.D.

**FINAL DECISION AND ORDER**

This matter came before the Board for final disposition on the basis of the Administrative Magistrate's Recommended Decision (hereinafter "Recommended Decision") dated July 3, 2019, which found Atif B. Malik, M.D. (hereinafter "Respondent") in default. After full consideration of the Recommended Decision, which is attached hereto and incorporated by reference, the Board adopts the Recommended Decision, amending it by adding the following:

**Findings of Fact**

In light of the Respondent's failure to respond to the Statement of Allegations (hereinafter "SOA"), to appear for a scheduled hearing at the Division of Administrative Law Appeals (hereinafter "DALA"), and respond to the Magistrate's May 21, 2019, Order to Show Cause, the Board hereby finds the Respondent in default. G.L. c. 30A, § 10(2), and 801 CMR 1.01(7)(a)(1). Therefore, the allegations contained in the SOA are deemed admitted. *See In the Matter of Christopher D. Owens, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-031 (Final Decision and Order, April 25, 2018); *In the Matter of Paul M. Willette, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-035 (Final Decision and Order, September 13, 2018).

The Board therefore makes the following findings:

### Biographical Information

1. The Respondent was born on October 27, 1969. He graduated in 1998 from the Saint Georges University School of Medicine in the West Indies. He was previously licensed to practice medicine in Massachusetts from 2002 until 2006 under certificate number 213450. The Respondent's license to practice medicine in Massachusetts lapsed on November 27, 2006 due to his failure to renew same.

### Factual Allegations

2. On December 12, 2017, the Respondent was found guilty after a jury trial in the U.S. District Court of Maryland of one (1) count of conspiracy to violate the Anti-Kickback Act and the Travel Act, twelve (12) counts of violating the Anti-Kickback Act through receipt of unlawful remuneration; and aiding and abetting, three (3) counts of violating the Travel Act; aiding and abetting, one (1) count of conspiracy to defraud the IRS, six (6) counts of health care fraud; aiding and abetting, and three (3) counts of making false statements relating to health care matters; aiding and abetting.

3. On September 11, 2018, the Respondent was sentenced to serve eight (8) years in prison, followed by three (3) years of supervised release, and was also ordered to pay fines, restitution, and to forfeit certain monies.

4. On February 13, 2019, the Respondent entered into a Consent Agreement and Order with the Pennsylvania State Board of Medicine in order to resolve an active case that the latter then had open against the Respondent which related to the above-referenced criminal convictions.

5. Pursuant to said Consent Agreement and Order, the Respondent agreed to permanently and voluntarily surrender his license to practice medicine in Pennsylvania, to cease practicing medicine in that state, and to not re-apply for said license at any time.

6. A copy of the Pennsylvania State Board of Medicine Consent Agreement (without exhibits) is attached hereto as Attachment A and is incorporated herein by reference.

#### Conclusions of Law

Since the matter was decided on the basis of a default at DALA, the Magistrate made no determinations as to Conclusions of Law. Based upon the facts set forth in the SOA, and now admitted, the Board makes the following Conclusions of Law:

A. The Respondent has been convicted of a criminal offense which reasonably calls into question his ability to practice medicine and the Board may impose discipline pursuant to G.L. c. 112, § 5, ninth par. (g).

B. The Respondent has been convicted of a crime and the Board may impose discipline pursuant to 243 CMR 1.03(5)(a)(7).

C. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession and the Board may impose discipline 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).

D. The Respondent has been disciplined in another jurisdiction by the proper licensing authority for reasons substantially the same as those set forth in M.G.L. c. 112, § 5 or 243 CMR 1.03(5) and the Board may impose discipline pursuant to 243 CMR 1.03(5)(a)12. Specifically, the Respondent violated:

- 243 CMR 1.03(5)(a)(7) for having been convicted of a crime;

- 243 CMR 1.03(5)(a)(10) for having practiced medicine deceitfully, or engaged in conduct which has the capacity to deceive or defraud; and
- 243 C.M.R. 1.03(5)(a)(18) for having committed misconduct in the practice of medicine.

### Sanction

The Respondent's failure to respond to the SOA, to appear for a scheduled hearing at DALA, to respond to the Order to Show Cause, and his default in connection with this action demonstrate his utter disregard for the Board's statutory mandate. By failing to respond to the Board, the Respondent prevented the Board from investigating the serious allegations concerning his criminal convictions and Pennsylvania discipline. In order for the Board to fulfill its mission to protect the public, a physician's cooperation is essential. By failing to respond to the serious allegations against him, the Respondent hindered the Board's efforts to fulfill its mission. *See In the Matter of Mark M. Kowalski, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 97-16-DALA (Final Decision and Order, April 1, 1998) ("A physician who obstructs the Board's investigation of a complaint and blatantly ignores repeated requests for a response threatens the public's health, welfare and safety, not only by denying the Board potentially important information, but also by draining the resources of the Board").

Revocation has been imposed by the Board "where physicians have repeatedly disregarded the Board's administrative directives." *See In the Matter of Anastasia Kucharski, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2008-048 (Final Decision and Order, April 14, 2010) (Board revoked physician's inchoate right to renew her medical license, finding she had continued to practice after her license had lapsed, practiced without malpractice

insurance, and engaged in licensing fraud by misrepresenting her malpractice insurance status and failing to report criminal charges).

The Board has imposed revocation in matters where a physician has provided prescriptions for controlled substances without a legitimate medical basis. *See In the Matter of Christopher D. Owens, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-031 (Final Decision and Order, April 25, 2018) (Board revoked physician's inchoate right to renew his license based on California discipline for prescribing controlled substances to his girlfriend and known drug users for non-medical purposes).

So, too, has the Board imposed revocation as the sanction where a physician has engaged in fraud. *See In the Matter of Joseph A. Zadrozny, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 93-5-DALA (Final Decision and Order, June 8, 1994) (Board revoked physician's license where physician filed multiple false Medicaid claims for treatment he never provided).

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). In light of the Respondent's default, which hindered the Board's efforts in its fulfillment of this responsibility, it is appropriate to impose a sanction in this matter. The Board hereby **REVOKES** the Respondent's inchoate right to renew his license to practice medicine. This sanction is imposed for each violation of law listed in the Conclusions of Law section and not a combination of any or all of them.

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 board 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 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 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: November 22, 2019

Candace Lapidus Sloane, MD  
Candace Lapidus Sloane, M.D.  
Chair  
Board of Registration in Medicine