

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

BOARD OF REGISTRATION
IN MEDICINE

Adjudicatory Case No. 2019-057

In the Matter of)

LEE R. WOLFER, 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, dated November 30, 2020. After full consideration of the Recommended Decision, which is attached hereto and incorporated by reference, as well as Respondent's Objections to the Recommended Decision, Petitioner's Response to Respondent's Objections to the Recommended Decision, Respondent's Memorandum on Disposition, Petitioner's Memorandum on Disposition, Respondent's Response to Memorandum on Disposition/Response to Petitioner's Response to Respondent's Objections, and the Administrative Magistrate's January 14, 2021 Recommended Decision on Motion for Reconsideration, the Board ADOPTS the November 30, 2020 Recommended Decision and the January 14, 2021 Recommended Decision on Motion for Reconsideration, amending the November 30, 2020 Recommended Decision as follows:

Sanction

The record indicates that, on March 14, 2019, the California Board disciplined Lee R. Wolfer, M.D. (Respondent") for a variety of conduct including, but not limited to, self-prescribing, behaving in a disruptive manner during a hospital visit as evidenced by her throwing a chair and then providing false information to the police, resulting in her arrest, and, during a

psychiatric evaluation, being evasive, providing inconsistent and contradictory statements, and leaving out parts of her mental health history. In signing a Stipulated Order, the Respondent admitted to the alleged conduct and surrendered her California medical license.

Through her actions, the Respondent:

(A) violated 243 CMR 1.03(5)(a)12, by being disciplined in another jurisdiction in any way 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) – to wit:

a. The Respondent has demonstrated a lack of good moral character and engaged in conduct that undermines the public confidence in the integrity of the medical profession, 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); and

(B) violated M.G.L. c. 94C, § 19(a), which requires that physicians issue prescriptions for controlled substances for a legitimate purpose and in the usual course of the physician's medical practice.

In allowing the Board's Motion for Summary Decision and ruling that there exists no genuine issue of material fact, the Administrative Magistrate has concluded that the Board may discipline the Respondent based solely on the discipline imposed by the California Board. Pursuant to M.G.L. c. 112, §5 and 243 CMR 1.03(5), the Board may impose discipline based on another state's disciplinary action, without re-litigating the underlying facts. As a function of this Board's obligation to protect the public health, safety, and welfare, it is proper for the Board to discipline the Respondent. See Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979). When the Board imposes reciprocal discipline, the Board may impose any sanction

consistent with its policies and precedent and based on out-of-state facts, not the out-of-state sanction. See In the Matter of Robert Schlossman, M.D., Board of Registration in Medicine, Adjudicatory Case No. 85-12-RO (Final Decision and Order, November 5, 1986) (Board noted that the fact that another state stayed its sanction did not require the same outcome in Massachusetts).

In cases involving multiple acts of misconduct, the Board often imposes revocations. However, the Board may wish to consider that certain of the acts of misconduct in this case do not rise to the level of severity as many revocation cases, as well as the fact that the California Board's expert attributed some of the behavior to issues of mental health. The Board hereby INDEFINITELY SUSPENDS the Respondent's inchoate right to renew her medical license. To ensure the public health, welfare and safety, the Board may wish to allow the Respondent to petition for a stay of the suspension under certain conditions, including: (a) proof of fitness to practice medicine, including completion of Board-approved psychiatric, medical, and clinical skills assessments; (b) maintained compliance with any out-of-state orders or probation agreements; (c) maintained compliance with any other Board's requirements; and (d) entry into a five-year probation agreement that includes the recommendations of any Board-approved evaluator and requires that the Respondent enter into a Physician Health Services contract, if deemed necessary, as well as a worksite monitoring agreement.

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 she practices medicine; any in- or out-of-state health maintenance organization with which she has privileges

or any other kind of association; any state agency, in- or out-of-state, with which she has a provider contract; any in- or out-of-state medical employer, whether or not she practices medicine there; the state licensing boards of all states with which she 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 she becomes associated for the duration of this suspension. The Respondent is further directed to certify to the Board within ten (10) days that she 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 taken.

DATE: May 6, 2021

A handwritten signature in black ink, appearing to read "G. Abraham", written over a horizontal line.

George Abraham, M.D.
Chair