COMMONWEALTH OF MASSACHUSETTS

BOARD OF REGISTRATION IN MEDICINE

Middlesex, ss. Adjudicatory Case No. 2013-004

(RM-13-184)

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In the Matter of ) PARTIAL FINAL DECISION AND ORDER )

John C. Clapp, M.D. )

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This matter came before the Board for disposition on the basis of the Administrative Magistrate’s Recommended Decision, dated August 27, 2014, which is attached hereto and incorporated by reference. After full consideration of the Recommended Decision, Respondent’s Objections to the Recommended Decision, and the Parties’ Memoranda on Disposition, the Board adopts the Recommended Decision, as amended:

* By striking on Page 1, under ‘Summary of Recommended Decision’, “engaged in misconduct in violation of the standard of care of a primary care physician by not timely informing Patient A of the adverse results of his PSA (“prostate-specific antigen”) test”, and substituting in its place, “practiced negligently on repeated occasions in his treatment of Patient A”;
* By substituting on Page 1, line 3, “for negligence” in place of ‘based on misconduct’;
* By striking on Page 22, line 3-4, “and competency to practice involving a single event”;
* By substituting on Page 22, line 4, “for discipline” in place of ‘as possible misconduct’;
* By striking on Page 27, line 12, the sentence beginning with “Dr. Clapp engaged in….” and ending with “the end of March 2008”, and substituting in its place:

Therefore, as a matter of law, there is a violation of 243 CMR 1.03(5)(a)(3), based on multiple acts of negligence involving a single patient, including failure to detect another patient’s results erroneously placed in Patient A’s file, failure to red-flag abnormal test results and/or 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.

The Findings of Fact in the Recommended Decision demonstrate that there were multiple acts of negligence with a single patient, including failure to detect another patient’s results erroneously placed in Patient A’s file, failure to red-flag abnormal test results and/or 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. These findings satisfy the criteria for discipline contained in G.L. c. 112, §5 ninth par. (c) and 243 CMR 1.03(5)(a)(3), in that there was “negligence on repeated occasions”. See *In the Matter of Ernest Osei-Tutu, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2007-004 (Final Decision and Order, November 19, 2008).

As to the Respondent’s Motion to Dismiss, the Board adopts the recommendation of the Administrative Magistrate and denies the Motion to Dismiss.

The Board will consider the issue of sanction separately and, at that time, will issue a complete Final Decision and Order, including any sanction and notification requirements.

March 19, 2015 Signed by Candace Lapidus Sloane, M.D.

Date Candace Lapidus Sloane, M.D.

Chair

Board of Registration in Medicine