

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2023-040

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In the Matter of)
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Richard D. Chen, M.D.)
_____)

STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine (Board) has determined that good cause exists to believe the following acts occurred and constitute a violation for which a licensee may be sanctioned by the Board. The Board therefore alleges that Richard D. Chen, M.D. (Respondent) has practiced medicine in violation of law, regulations, or good and accepted medical practice as set forth herein. The investigative docket number associated with this order to show cause is Docket No. 23-115.

Biographical Information

1. The Respondent graduated from Albany Medical College of Union University in 1990 and is board certified in Family Medicine. He was issued a license to practice medicine in Massachusetts under certificate number 80078 in 1994. The Respondent resided and practiced medicine in Massachusetts until approximately 2017 when he relocated to California. Presently, the Respondent practices functional medicine at a private practice in Petaluma, California.

Factual Allegations

2. On January 31, 2023, the Medical Board of California, Department of Consumer Affairs (California Board) adopted Stipulated Settlement and Disciplinary Order (Order), which was signed by the Respondent and became effective on March 2, 2023. *See* California Board Decision at **Exhibit A** and incorporated herein by reference.

3. As part of the Order, the Respondent agreed the California Board had sufficient grounds to discipline him for violating numerous provisions of the Medical Practice Act including Cal. Bus. & Prof. Code, § 2234(b) (grossly negligent conduct); Cal. Bus. & Prof. Code, § 2234(c) (repeatedly negligent conduct); and Cal. Bus. & Prof. Code, § 2266 (failure to maintain adequate and accurate records).

4. In pertinent part, the Respondent admitted to issuing medical exemptions for all school-required immunizations recorded on the American Academy of Pediatrics/California Academy of Family Physicians form, as well as some vaccines which were not required for school entry for Patients A, B and C who were between the ages of 3 and 12 at the time of their respective visits in 2017 and 2018.

5. The Respondent admitted that his care and treatment of Patients A, B and C was grossly negligent and departed from the standard of care in that he issued broad exemptions from immunization without appropriate indication including two permanent exemptions.

6. The Respondent further admitted he either failed to perform physical examinations of Patients A, B and C at their respective visits and/or failed to document performing physical examinations.

Legal Basis for Proposed Relief

A. Pursuant to 243 CMR 1.03(5)(a)12, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has been discipline in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in G.L. c. 112, § 5 or 243 CMR 1.03(5), specifically:

1. The Respondent engaged in conduct which places into question his competence to practice medicine, including but not limited to gross misconduct in the practice of medicine, or practicing medicine fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions. *See* 243 CMR 1.03(5)(a)3.
2. The Respondent committed an offense against any provision of the laws of the Commonwealth relating to the practice of medicine, or any rule or regulation adopted thereunder, to wit: failing to maintain a medical record for each patient, which is adequate to enable the licensee to provide proper diagnosis and treatment. *See* 243 C.M.R 2.07(13)(a)

B. Pursuant to *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982), the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician lacks good moral character and has engaged in conduct that undermines the public confidence in the integrity of the medical profession.

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§ 5, 61 and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01.

Nature of Relief Sought

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure, reprimand, fine, the performance of uncompensated public service, a course of education or training or other restrictions upon the Respondent's practice of medicine.

Order

Wherefore, it is hereby **ORDERED** that the Respondent show cause why the Board should not discipline the Respondent for the conduct described herein.

By the Board of Registration in Medicine,

A handwritten signature in black ink, appearing to read 'Julian N. Robinson', is written over a horizontal line.

Julian N. Robinson, M.D.
Board Chair

Date: October 12, 2023