COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS. Board of Registration in Medicine

Adjudicatory Case No. 2021-002

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In the Matter of )

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JONATHAN KIEV, M.D. )

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**STATEMENT OF ALLEGATIONS**

The Board of Registration in Medicine (the “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 Jonathan Kiev, M.D. (the “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 isDocket No. 20-155.

# Biographical Information

1. The Respondent was born on June 7, 1961. The Respondent graduated in 1989 from the Tulane University School of Medicine. He has been licensed to practice medicine in Massachusetts under license number 217103 since 2003.

Factual Allegations

1. The Respondent is Board certified in surgery and thoracic surgery.
2. On March 10, 2020, the Respondent entered into a Consent Order with the Illinois Department of Financial and Professional Regulation (the “Illinois Board”) to resolve an active case that the latter had open against him (the “Illinois Consent Order”) which related to the Respondent’s prescribing controlled substances to personal acquaintances outside of his professional practice of medicine.
3. With respect to the specific allegations resolved by the Illinois Consent Order, in April 2016, the Respondent prescribed a refill for his ex-girlfriend’s Xanax prescription.
4. The Respondent’s ex-girlfriend was not his patient when he prescribed the refill described in the preceding paragraph and, additionally, the Respondent did not maintain any medical records in connection with the aforementioned prescription.
5. Separately, on approximately four (4) separate occasions in 2017, 2018 and 2019, the Respondent prescribed Tylenol with codeine to a personal acquaintance.
6. The 2019 prescription for Tylenol with codeine that the Respondent wrote for his personal acquaintance as described in the preceding paragraph authorized three (3) refills.
7. The personal acquaintance to whom the Respondent prescribed Tylenol with codeine as described in ¶¶ 6-7, above, was never a patient of the Respondent and, additionally, the Respondent did not maintain any medical records in connection with the aforementioned prescriptions.
8. Furthermore, the Respondent prescribed Tylenol with codeine to his personal acquaintance as described in ¶¶ 6-8, above, without checking the acquaintance’s prescribing history in the Illinois Prescription Monitoring Program.
9. Finally, although the Respondent relocated to Kentucky from Illinois in 2017, he authorized the 2018 and 2019 prescriptions for his personal acquaintance, an Illinois resident, after his Controlled Substance License issued by the State of Illinois had lapsed into inactivity.
10. Pursuant to the Illinois Consent Order, the Respondent’s license to practice medicine in Illinois was reprimanded, his Controlled Substance License in that state was suspended for a period of thirty (30) days and thereafter returned to “not renewed” status, the Respondent was ordered to pay a fine in the amount of ten thousand dollars ($10,000.00), and the Illinois Board required the Respondent to complete ten (10) hours of category I Continuing Medical Education credits (“CMEs”) related to professional responsibility and ten (10) hours of category I CMEs related to prescribing controlled substances.
11. A true and accurate copy of the Illinois Consent Order is enclosed herewith as Attachment A and incorporated herein by reference.

Legal Basis for Proposed Relief

1. 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 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). More specifically, in Massachusetts, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has violated the following statutes, regulations, policies, and/or precedents:

* Mass. Gen. Laws c. 112, § 5, ¶ 9(c) and 243 CMR 1.03(5)(a)(3) (“Conduct which places into question the physician’s competence to practice medicine, including but not limited to ... beyond its authorized scope ... or with ... negligence on repeated occasions”);
* Mass. Gen. Laws c. 112, § 5, ¶ 9(b) and 243 CMR 1.03(5)(a)(2) (committed an offense/offenses against a provision of the laws of the Commonwealth relating to the practice of medicine, or a rule or regulation adopted thereunder, to wit:
  + Mass. Gen. LAWs c. 94C § 19(a); and
  + Prescribing Practices Policy and Guidelines, adopted by the Board of Registration in Medicine August 1, 1989, amended May 19, 2010.);
* 243 CMR 2.07(13)(a), which requires a physician to:
  + maintain a medical record for each patient which is adequate to enable the licensee to provide proper diagnosis and treatment;
  + maintain a patient's medical record in a manner which permits the former patient or a successor physician access to them;
* 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 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 of the Respondent's inchoate right to renew his license to practice medicine in Massachusetts.

# 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,

Signed by George M. Abraham, M.D.

George M. Abraham, M.D.

Board Chair

Date: January 14, 2021

To obtain a copy of the out-of-state disciplinary order, please contact the appropriate state’s medical licensing board directly. A list of state medical boards and contact information is available at <https://www.fsmb.org/contact-a-state-medica-board/>. You may also obtain a copy of the out-of-state disciplinary order by submitting a public records request (PRR) with the Massachusetts Board of Registration in Medicine. PRR forms and additional information can be found at <https://www.mass.gov/board-of-registration-in-medicine-public-records>.