

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2019-003

_____)
 In the Matter of)
)
 JONATHAN S. WEISS, M.D.)
 _____)

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 S. Weiss, 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 is Investigative Docket No. 15-082.

Findings of Fact

1. The Respondent was born on September 30, 1952. He graduated from University of California School of Medicine, Los Angeles in 1983. He has been licensed to practice medicine in Massachusetts under certificate number 53424 since 1984. He is certified by the American Board of Medical Specialties in Psychiatry. He is also licensed to practice medicine in New Hampshire.

2. On or around July 8, 2014, the Respondent was specifically advised by Diversion Investigators of the Drug Enforcement Administration (the “DEA”) of the need to specify a date of issuance on post-dated prescriptions, as is required by the 2007-01 Joint Policy Regarding Issuance of Multiple Prescriptions for Schedule II Controlled Substances (the “Joint Policy”).

3. In or around January-February 2015, the Respondent wrote prescriptions for Schedule II Controlled Substances for two (2) patients which were post-dated by up to three (3) months in advance.

4. In the prescriptions described in ¶ 3, above, the Respondent did not include a “Date of Issuance” as referred to in Mass. Gen. Laws c. 94C § 23 or otherwise specify a date before which a pharmacy could not fill the prescriptions pursuant to the Joint Policy.

Legal Basis for Proposed Relief

A. Pursuant to Mass. Gen. Laws c. 112, § 5, eighth par. (h) and 243 CMR 1.03(5)(a)(11), the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has violated a rule or regulation of the Board concerning the practice of medicine, or a rule or regulation adopted thereunder, to wit:

- i. 2007-01 Joint Policy Regarding Issuance of Multiple Prescriptions for Schedule II Controlled Substances.

B. 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), 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 Mass. Gen. Laws c. 112, §§ 5, 61 and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of Mass. Gen. Laws 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,

Candace Lapidus Sloane, MD

Candace Lapidus Sloane, M.D.
Board Chair

Date: January 10, 2019

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CONSENT ORDER

Pursuant to G.L. c. 30A, § 10, Jonathan S. Weiss, M.D. (the “Respondent”) and the Board of Registration in Medicine (the “Board”) (hereinafter referred to jointly as the “Parties”) agree that the Board may issue this Consent Order to resolve the above-captioned adjudicatory proceeding. The Parties further agree that this Consent Order will have all the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact specified below and agrees that the Board may make the conclusions of law and impose the sanction set forth below in resolution of investigative Docket No. 15-082.

Findings of Fact

1. The Respondent was born on September 30, 1952. He graduated from University of California School of Medicine, Los Angeles in 1983. He has been licensed to practice medicine in Massachusetts under certificate number 53424 since 1984. He is certified by the American Board of Medical Specialties in Psychiatry. He is also licensed to practice medicine in New Hampshire.

2. On or around July 8, 2014, the Respondent was specifically advised by Diversion Investigators of the Drug Enforcement Administration (the “DEA”) of the need to specify a date of issuance on post-dated prescriptions, as is required by the 2007-01 Joint Policy Regarding Issuance of Multiple Prescriptions for Schedule II Controlled Substances (the “Joint Policy”).

3. In or around January-February 2015, the Respondent wrote prescriptions for Schedule II Controlled Substances for two (2) patients which were post-dated by up to three (3) months in advance.

4. In the prescriptions described in ¶ 3, above, the Respondent did not include a “Date of Issuance” as referred to in Mass. Gen. Laws c. 94C § 23 or otherwise specify a date before which a pharmacy could not fill the prescriptions pursuant to the Joint Policy.

Conclusions of Law

A. The Respondent has violated Mass. Gen. Laws c. 112, § 5, eighth par. (h) and 243 CMR 1.03(5)(a)(11) by violating a rule or regulation of the Board concerning the practice of medicine, or a rule or regulation adopted thereunder, to wit:

- i. 2007-01 Joint Policy Regarding Issuance of Multiple Prescriptions for Schedule II Controlled Substances

B. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession. *See Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982).

Sanction and Order

The Respondent’s license is hereby admonished. The Respondent is further hereby ordered to complete five (5) Board-approved CME credits in controlled substance prescribing

which must be approved in advance by the Complaint Committee. The CPD credits required by this Consent Order are to be completed in addition to the CPD credits required as part of the license renewal process. These sanctions are imposed for each violation of law listed in the Conclusions of Law section and not a combination of any or all of them.

Execution of this Consent Order

Complaint Counsel, the Respondent, and the Respondent's counsel (if the Respondent has retained any) agree that the approval of this Consent Order is left to the discretion of the Board. The signature of Complaint Counsel, the Respondent, and the Respondent's counsel (if the Respondent has retained any) are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order in whole or in part, then the entire document shall be null and void; thereafter, neither of the Parties nor anyone else may rely on these stipulations in this proceeding.

As to any matter in this Consent Order left to the discretion of the Board, neither the Respondent, nor anyone acting on his behalf, has received any promises or representations regarding the same.

The Respondent waives any right of appeal that he may have resulting from the Board's acceptance of this Consent Order.

The Respondent shall provide a complete copy of this Consent 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 the Respondent practices medicine; any in- or out-of-state health maintenance organization with whom the

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

Jonathan S. Weiss MD
Licensee

10/9/18
Date

Attorney for the Licensee

Date

Yvonne Perich
Complaint Counsel

10/12/18
Date

So ORDERED by the Board of Registration in Medicine this 10 day of January, 2019.

Candace Lapidus Sloane, MD

Candace Lapidus Sloane, M.D.
Board Chair