COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2019-028

In the Matter of

KEITH ABLOW, M.D.

**ORDER OF TEMPORARY SUSPENSION**

In accordance with the Rules of Procedure Governing Disciplinary Proceedings of the Board of Registration in Medicine, 243 CMR 1.03(11)(a), the Board of Registration in Medicine ("the Board") **ORDERS** that

> The certificate of registration to practice medicine in the Commonwealth of Massachusetts of Keith Ablow, M.D.'s Registration No. 70315, is **SUSPENDED** effective immediately. Keith Ablwo, M.D. must cease the practice of medicine immediately, and he is directed to surrender his wallet card and wall certificate to the Board forthwith.

The Board has determined that the health, safety, and welfare of the public necessitate said suspension.

The Respondent shall provide a copy of this Order of Suspension within twenty-four (24) hours 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 he practices medicine; any in- or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; and the state licensing boards of all states in which he has any kind of license to practice medicine; Drug Enforcement Administration Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent is further directed to certify to the Board within forty-eight (48) hours that he has complied with this directive.

Candace Lapidus Sloane, MD

Candace Lapidus Sloane, M.D.

Dated: May 15, 2019

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In the Matter of

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## 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 KEITH ABLOW, M.D. (Respondent) has practiced medicine in violation of law, regulations, and/or good and accepted medical practice, as set forth herein. The investigative docket number associated with this order to show cause is Docket No. 19-069.

### Biographical Information

1. The Respondent was born November 23, 1961. He is a 1987 graduate of Johns Hopkins University School of Medicine. He is certified by the American Board of Medical Specialties in Forensic Psychiatry and Psychiatry.
2. The Respondent has been licensed to practice medicine in Massachusetts under certificate number 70315 since February 1, 1989.
3. The Respondent is the sole practitioner at Baystate Psychiatry, P.C. located at 29 Water Street in Newburyport, MA. The Respondent co-owns The Brain-Mind Institute of New England, Inc. with Dr. Guido Navarra ("Dr. Navarra") located at 36 Water Street,

Newburyport, MA. The Respondent owns/owned various other business ventures including: Comunicare, Inc., Memorymountain.com, Inc., First Heritage, P.C., Medical Education Resources, Inc., Causemo, Inc., New England TIMS, Inc., Keith Ablow Creative, Inc., Living the Truth Holdings, LLC., Blue Water Wellness, Neuragain, and Dr. Keith Ablow Life Coaching, LLC.

## Factual Allegations

*Patient A*

4. Patient A was twenty-four years old when she began treating with the Respondent on or about November of 2011 for depression. Patient A's first appointment was at the Respondent's office in New York City. Patient A had appointments with the Respondent in New York approximately twice per month.

5. Patient A would communicate with the Respondent via text message and electronic communications ("e-mail") daily.

6. Early in Patient A's treatment with the Respondent, they engaged in sexual activities during scheduled sessions including oral sex and digital penetration. The Respondent introduced Patient A to Bondage, Discipline, Sadism, Masochism ("BDSM"), a form of erotic practices involving dominance and submission. This would involve the Respondent hitting Patient A with a belt during their sexual encounters and telling Patient A, "I own you."

7. The sexual nature of the relationship continued throughout Patient A's treatment with the Respondent and occurred at almost every in-person appointment with the Respondent.

8. Patient A traveled to the Respondent's practice located at 36 Water Street in Newburyport, MA for treatment on or about December of 2012.

9. When Patient A would travel to Newburyport, the Respondent would encourage Patient A to befriend another patient. The Respondent disclosed the other patient's diagnosis to Patient A.

10. The Respondent recommended that Patient A receive Ketamine infusions as a treatment for depression. Patient A received Ketamine infusions in 2012 and 2013 from The Brain-Mind Institute of New England. The Ketamine infusions would be administered by Dr. Navarra.

11. The Respondent would disclose personal information about his life to Patient A including, but not limited to: his relationship with his wife, the state of their marriage, his children, and his business ventures. He would also discuss personal views and opinions on topics such as politics and religion.

12. The Respondent discussed his own medical treatment with Patient A.

13. The Respondent showed Patient A tattoos on various parts of his body during multiple appointments.

14. In January 2013, Patient A got a tattoo of the Respondent's initials on her arm. This was encouraged by the Respondent to represent his ownership of Patient A. Patient A showed the Respondent the tattoo.

15. The Respondent would ask Patient A to send photos of various parts of her body to him.

16. At the suggestion of the Respondent, Patient A moved to Massachusetts in August 2014 to continue treatment with the Respondent and to attend law school. Prior to and after moving to Massachusetts, the Respondent offered to help Patient A gain employment.

17. The Respondent encouraged Patient A to become an escort and exotic dancer as a means to pay her bills. The Respondent would then ask Patient A to describe in detail her experiences.
18. The Respondent would discuss his illicit drug use with Patient A, including his use of cocaine and marijuana. The Respondent encouraged Patient A to use cocaine and asked Patient A to obtain cocaine for the Respondent's own use.
19. The Respondent would call Patient A various nicknames including "baby" and "angel."
20. Patient A ended her treatment with the Respondent in or around early 2018.

*Patient B*

21. Patient B was twenty-five years old when she began treating with the Respondent on or about January 2015 for depression. Patient B traveled from Ohio to receive Ketamine infusions at The Brain-Mind Institute of New England and for treatment with the Respondent. Patient B first met with Dr. Navarra at The Brain-Mind Institute to receive Ketamine infusions. Patient B then met with the Respondent at his office at Baystate Psychiatry.
22. Patient B traveled back and forth from Ohio to Newburyport to receive Ketamine infusions and attend in-person sessions with the Respondent. When in Ohio, Patient B would have phone and Skype sessions with the Respondent.
23. The Respondent and Patient B would communicate daily via text messages and e-mails. The Respondent would send texts at late hours of the night and early hours of the morning. The text and e-mail communication would range from "psychotherapy" with treatment recommendations to personal topics.

24. After Patient B returned to Ohio from her first trip to Massachusetts, the Respondent's conversations during sessions became inappropriate. The Respondent would comment on Patient B's appearance and tell Patient B that he missed her. The Respondent questioned Patient B about her sexual history, specifically asking if she liked to be dominant or submissive.

25. When Patient B was in Massachusetts for treatment, the Respondent and Patient B would meet for dinner and coffee outside of scheduled sessions.

26. The Respondent disclosed personal information about himself and his family with Patient B, including, but not limited to: the state of his marriage and his relationship with his wife, his children, his pets, and his business ventures.

27. The Respondent became physically intimate with Patient B. The Respondent would have Patient B perform oral sex on him and the Respondent would digitally penetrate Patient B. The Respondent and Patient B would engage in BDSM with the Respondent playing the dominant role. The sexual encounters would occur during scheduled sessions, coffee dates, and off-hour appointments at the Respondent's office.

28. The Respondent would tell Patient B that he loved her, that they would eventually be together, and that they were soulmates.

29. The Respondent instructed Patient B to download the phone application ("app") "Wickr". This "app" deletes messages after a period of time, messages cannot be traced to a phone number, and users are identified through a username of their choice. On this "app" the Respondent and Patient B would have sexually explicit conversations. Patient B would send nude photos through this "app" to the Respondent at his request.

30. At the Respondent's suggestion, Patient B moved to Massachusetts in November 2015. Despite Patient B not having signed a release, the Respondent assisted Patient B in finding employment by making a call on her behalf to a local business. The Respondent also told Patient B that they would do various activities together outside of treatment and he would also buy her expensive items.

31. The Respondent would visit Patient B at her Newburyport apartment where they would engage in sexual activities.

32. The Respondent gave Patient B various gifts including: a Canada Goose jacket, jewelry, a blue light therapy box, and an air conditioner. The Respondent gave Patient B a vaporizer and taught her how to use it for smoking marijuana.

33. The Respondent wrote Patient B a prescription for a double dose of intramuscular Ketamine. The Respondent then instructed Patient B to return the extra dose to him. This happened on more than one occasion.

34. Patient B ended treatment with the Respondent in February of 2018.

*Patient C*

35. Patient C was twenty-three years old when she began treating with the Respondent in the summer of 2015 for depression. Patient C traveled from Minnesota to Newburyport for Ketamine infusions at The Brain-Mind Institute and for treatment sessions with the Respondent.

36. During treatment sessions, the Respondent would comment on Patient C's appearance.

37. When Patient C returned home to Minnesota, scheduled appointments continued over the telephone and also by means of Skype sessions.

38. The Respondent and Patient C would also communicate via text message and e-mail daily. Text and e-mail communications would occur at late hours of the night or early morning hours and include "psychotherapy" and treatment options and modifications in addition to personal topics.

39. The Respondent would tell Patient C that he missed her during their phone sessions. The Respondent would say that he and Patient C had a special connection.

40. The Respondent would call Patient C nicknames like "baby," "honey," and "angel."

41. The Respondent offered to help Patient C with her music career. The Respondent facilitated Patient C in meeting with a music producer. There is no signed released contained in the medical record for Patient C.

42. The Respondent discussed his personal life with Patient C. Topics included: the Respondent's marriage and the Respondent's children. The Respondent would send photographs and videos of his children to Patient C.

43. The Respondent gave Patient C gifts including a bracelet.

44. On one occasion, the Respondent took Patient C out for breakfast. On multiple occasions, the Respondent met Patient C for coffee.

45. The Respondent discussed his illicit drug use with Patient C, including his use of cocaine.

46. During an in-person appointment with Patient C, the Respondent kissed her on her cheek. After the appointment, when the Respondent hugged Patient C, she could feel that he had an erection. The Respondent took Patient C's hand and placed it on his penis.

47. The Respondent took Patient C to dinner at a restaurant in Newburyport. After dinner, he drove Patient C back to where she was staying. Once there, the Respondent talked about what he would want to do sexually with her.

48. On October 29, 2015, Patient C met the Respondent at his office. This was not a scheduled appointment, but rather an impromptu meet-up before Patient C was scheduled to leave Massachusetts. The Respondent had sexual intercourse with Patient C in his office.

49. Patient C continued to have phone sessions with the Respondent after returning home to Minnesota.

50. Patient C terminated her treatment with the Respondent in February 2016.

51. Patient C moved to Massachusetts in the summer of 2016.

52. On August 10, 2016, Patient C requested her medical records via e-mail. Patient C repeatedly asked the Respondent to provide her medical records in order to receive treatment with another provider. On August 31, 2016, the Respondent provided Patient C with only a short summary of her treatment with the Respondent. When Patient C asked for a more detailed record, the Respondent stated that he would not have that kind of detailed information. The Respondent then refused to supply any more information regarding Patient C's medical record until the balance of her outstanding bill with the office had been paid.

*Patient D*

53. Patient D began treating with the Respondent in July 2012 for depression and an eating disorder.

54. The Respondent recommended Ketamine infusions for Patient D. Patient D received a series of Ketamine infusions from The Brain-Mind Institute. The infusions were administered by Dr. Navarra.

55. Patient D communicated daily with the Respondent via text message and e-mail. Text and e-mail conversations included "psychotherapy" and treatment options and modifications as well as personal conversations.

56. The Respondent sent Patient D a photo of his tattoo located on the left side of his torso.

57. The Respondent disclosed personal information about his life to Patient D, including but not limited to: his marriage, his children, and his business ventures. The Respondent discussed in-depth his negotiations for businesses and real estate with Patient D.

58. The Respondent encouraged Patient D to move to Newburyport from Cape Cod.

59. The Respondent assisted in the opening of Patient D's personal business. The Respondent offered Patient D business advice and provided her with a computer that was previously used at Baystate Psychiatry. The computer contained confidential patient records.

60. Patient D stopped treatment with the Respondent in 2014.

*Patient E*

61. In 2009, Patient E contacted the Respondent for life coaching and guidance in her career as a therapist. Patient E purchased a series of electronic coaching sessions with the Respondent.

62. Patient E traveled from New York to meet with the Respondent at his office in Newburyport for a life-coaching session. The Respondent began prescribing medication for depression to Patient E.

63. Patient E had weekly phone sessions with the Respondent and would meet with the Respondent whenever he was in his New York office. Patient E also traveled to Newburyport multiple times for in-person sessions with the Respondent.

64. Patient E and the Respondent communicated daily via text message and e-mail, often discussing topics unrelated to treatment for her depression.

65. The Respondent disclosed personal information about his life to Patient E. The Respondent discussed the dynamics of his family including his relationship with his parents, his relationship with his sister, and the death of this brother-in-law. The Respondent also discussed his children and his marriage with Patient E.

66. Patient E was present while the Respondent participated in phone treatment sessions with other patients.

67. The Respondent encouraged Patient E to get married in Las Vegas. However, after Patient E got married, the Respondent would tell Patient E that marriage is ridiculous and that her husband was not the person for her.

68. The Respondent contacted a literary agent on Patient E's behalf. However, there was no waiver contained in Patient E's medical record.

69. The Respondent would be flirtatious and physically affectionate with Patient E. The Respondent would frequently give Patient E a hug or a kiss on her forehead. The Respondent would give compliments to Patient E on her appearance. The Respondent would call Patient E nicknames like "angel" and "baby."

70. The Respondent took Patient E to a taping of his Fox News segment in New York.

71. When Patient E discussed financial issues with the Respondent, the Respondent suggested that she become an escort. The Respondent likened it to being a therapist because Patient E would be renting out herself.

72. The Respondent discussed his illicit drug use with Patient E. The Respondent discussed his use of cocaine.

73. In April 2011, the Respondent employed Patient E as part of Keith Ablow Life Coaching, LLC as a life-coach while Patient E was actively being treated by the Respondent. Patient E was paid by Keith Ablow Life Coaching for her services.

74. The Respondent prescribed Lexapro, an anti-depressant, and Klonopin, for anxiety. The Respondent then prescribed Xanax and Trazodone in addition to the Klonopin for anxiety. The Respondent also prescribed Valium and Adderall.

75. Patient E stopped treatment with the Respondent in 2011.

*Employee 1*

76. Employee 1 was an intern for the Respondent in 2010 and was hired by the Respondent in 2011 to work at Bay State Psychiatry. Employee 1's positon was that of Executive Assistant and Office Manager. Employee 1's duties included: scheduling patients, answering phone calls, answering e-mails, patient billing, booking travel and media events for the Respondent.

77. The Respondent would also request that Employee 1 perform duties unrelated to Baystate Psychiatry including picking up his children from school or extracurricular activities.

78. The Respondent would send non-work related emails to Employee 1 attempting to start a personal relationship with Employee 1. For example, the Respondent sent in an email:

"I can't stop staring at you." The Respondent would also call Employee 1 nicknames like "baby", "angel", and abbreviations of her name.

79. The Respondent would tell Employee 1 that he loved her and that they should get married. The Respondent would send Employee 1 pictures of engagement rings.

80. The Respondent would make physical contact with Employee 1 without her consent. For example, on one occasion, when Employee 1 was washing dishes in the kitchen of Baystate Psychiatry, the Respondent stood behind Employee 1 and pressed his body up against her. On another occasion, while Employee 1 was seated at a computer, the Respondent came up behind her and pressed his head against her ear and tried to kiss her.

81. If Employee 1 attempted to terminate her employment with the Respondent, the Respondent would tell her that he would not give her a reference and that she was not smart enough to get another job.

82. The Respondent would have Employee 1 schedule patients for off-hours. The Respondent would schedule in-person sessions, Skype, and phone sessions from 6:00 AM to 11:00 PM.

83. The Respondent disclosed to Employee 1 that he was trying to help Patient C with her music career. The Respondent would repeatedly play audio and video clips of Patient C's music for Employee 1. The Respondent made comments to Employee 1 about Patient C's physical appearance and musical talent.

84. Employee 1 had difficulty keeping patient medical records organized and up to date. The Respondent would not provide critical information on his written notes from patient sessions including: patient name and date. Employee 1 attempted to institute electronic

medical records system but the Respondent refused. The Respondent did not include a patient's prescription information in the files often causing confusion when patients called for refills.

85. The Respondent would have Employee 1 make dinner reservations for the Respondent and his patients, including Patient B and Patient C. The Respondent would have Employee 1 schedule coffee dates with multiple patients. The Respondent would not bill patients for dinner or coffee dates.

86. The Respondent revealed personal information about Patient A to Employee 1. The Respondent told Employee 1 that Patient A worked as an escort and that Patient A got a tattoo of the Respondent's initials.

87. The Respondent disclosed information about Patient D to Employee 1. The Respondent disclosed that she had a severe eating disorder and would discuss his suggested treatment of Patient D with Employee 1. The Respondent would also make disparaging comments about Patient D to Employee 1. For example, the Respondent told Employee 1 that he thought it would be funny if Patient D took out her dentures and performed oral sex on him.

88. The Respondent showed Employee 1 naked photos that a patient had sent him via text message.

89. The Respondent prescribed medication to Employee 1 approximately thirty-seven ("37") times from 2010-2015. The Respondent prescribed Adderall twenty-seven ("27") times. Often, the prescription would be for more than Employee 1 would need. The Respondent would ask that a portion of the pills prescribed to Employee 1 be given

to him. The Respondent prescribed Cyclobenzaprine, a muscle relaxant, one ("1") time to Employee 1. Adderall is classified as a Schedule II narcotic.

90. By prescribing medications to Employee 1 in a non-emergent setting, the Respondent created a physician-patient relationship with Employee 1. The employment of a patient is inappropriate.

91. The Respondent would brandish his firearm in front of Employee 1. He pointed the firearm at Employee 1 on multiple occasions in manner that scared Employee 1.

92. Employee 1 terminated her employment with the Respondent in July 2015.

*Employee 2*

93. Employee 2 met the Respondent in or around 1995 when she was approximately 22 years old while working in the outpatient psychiatric unit. In or around 1998, Employee 2 was employed by the Respondent at an internet start-up company that he owned.

94. Employee 2 had a romantic relationship with the Respondent outside of their professional interactions.

95. Employee 2 was hired by the Respondent at Bay State Psychiatry in 2013 as an executive assistant. Duties of the position included: scheduling patients, checking in patients, filing medical records, patient billing, and booking travel accommodations for the Respondent on business trips.

96. Employee 2's romantic relationship continued during her employment at Bay State Psychiatry.

97. Employee 2 was terminated in 2014, but returned to work for Baystate Psychiatry in 2015.

98. The Respondent prescribed Employee 2 Adderall seven ("7") times between2013 – 2015 and Clonazepam one ("1") time in 2013. Adderall and Clonazepam are Schedule II narcotics.

99. The Respondent would ask Employee 2 to give him part of her prescription on occasion.

100. The Respondent prescribed Ketamine HCL Nasal Spray on three ("3") separate occasions and Ketamine gel on one ("1") occasion to Employee 2. After Employee 2 filled the prescription, the Respondent instructed her to give the medication back to him.

101. By prescribing medications to Employee 2 in a non-emergent setting, the Respondent created a physician-patient relationship with Employee 2. The employment of a patient is inappropriate.

102. The Respondent would take out his firearm in front of Employee 2. On several occasions the Respondent pointed his gun at Employee 2 in, what Employee 2 perceived to be, a joking manner.

103. Employee 2's employment with Bay State Psychiatry ended in January of 2016.

*Employee 3*

104. Employee 3 started working for the Respondent in May of 2014. Employee 3 was hired as an executive assistant, her duties and responsibilities included: scheduling patients, filing, scheduling meetings and booking travel accommodations for the Respondent.

105. The Respondent's behavior towards Employee 3 became inappropriate early on in her employment. The Respondent would make comments about Employee 3's physical

appearance. The Respondent would repeatedly ask Employee 3 to dinner despite numerous rejections.

106. The Respondent would comment on patients' physical appearance to Employee 3.

107. The Respondent would buy employees gifts, including designer items, as an apology for a negative event that happened in the workplace between the Respondent and the employee.

108. The Respondent wrote nine ("9") prescriptions for Adderall, one ("1") prescription for Vyvanse, and one ("1") prescription for Zolpidem for Employee 3 from 2012-2015. Adderall and Vyvanse are Schedule II narcotics and Zolpidem is Schedule IV.

109. By prescribing medications to Employee 3 in a non-emergent setting, the Respondent created a physician-patient relationship with Employee 3. The employment of a patient is inappropriate.

110. Employee 3 left the practice in July of 2015.

*Employee 4*

111. The Respondent hired Employee 4 in January 2016 as the full-time office manager. Employee 4 replaced Employee2.

112. The Respondent would disclose personal information about patients to Employee 4 including diagnoses, prescriptions, sexual preferences, illicit drug use and behavior.

113. The Respondent would buy gifts for Employee 4.

114. The Respondent would write Employee 4 prescriptions for nasal Ketamine. Employee 4 would then give the nasal Ketamine to the Respondent at his request.

115. The Respondent wrote Employee 4 prescriptions for Viibryd, Klonopin, and Phentermine.

116. By prescribing medications to Employee 4 in a non-emergent setting, the Respondent created a physician-patient relationship with Employee 4. The employment of a patient is inappropriate.

117. The Respondent discussed his illicit drug use with Employee 4. The Respondent disclosed his preference for cocaine.

*Employee 5*

118. The Respondent wrote five ("5") prescriptions from 2017-2018 for Employee 5. The Respondent prescribed a methamphetamine, a Schedule II narcotic, one ("1") time to Employee 5.

119. By prescribing medications to Employee 5 in a non-emergent setting, the Respondent created a physician-patient relationship with Employee 5. The employment of a patient is inappropriate.

120. Employee 5 currently is employed by the Respondent.

*Employee 6*

121. The Respondent hired Employee 6 in the summer 2017 to assist at Bay State Psychiatry.

122. The Respondent wrote five ("5") prescriptions from 2017-2018 for Employee 6. The Respondent prescribed Cefaclor, a medications for bacterial infections, three ("3") times, Adderall one ("1") time, and Osmoprep, a laxative, one ("1") time.

123. By prescribing medications to Employee 6 in a non-emergent setting, the Respondent created a physician-patient relationship with Employee 6. The employment of a patient is inappropriate.

124. Employee 6 is currently employed by the Respondent.

*Employee 7*

125. Employee 7 is the daughter of Employee 6.

126. Employee 7 interned during vacations from school and during summer 2018.

127. The Respondent wrote Employee 7 a prescription for Adderall in February 2018.

128. By prescribing medications to Employee 7 in a non-emergent setting, the Respondent created a physician-patient relationship with Employee 7. The employment of a patient is inappropriate.

*Employee 8*

129. Employee 8 started treatment with the Respondent in 2008. Employee 8's treatment with the Respondent continued on and off for several years. Employee 8's last treatment session with the Respondent was in 2015.

130. In 2011, while Employee 8 was a patient, the Respondent referred Employee 8 to his wife for employment in her office.

131. In October 2017, Employee 8 was hired by the Respondent to work at Blue Water Wellness. Employee 8 administered TMS to the Respondent's patients. In April 2018, Employee 8 changed roles and worked as the Respondent's assistant at Baystate Psychiatry.

132. The Respondent wrote nine ("9") prescriptions for Employee 8 from 2010-2016. The Respondent prescribed Viibryd two ("2") times, Zoloft six ("6") times, and Ambien once. The Respondent wrote five ("5") prescriptions for Employee 8 in 2018: clonazepam two ("2") times and Adderall three ("3") times.

133. By prescribing medications to Employee 8 in a non-emergent setting, the Respondent created a physician-patient relationship with Employee 8. The employment of a patient is inappropriate.

134. Employee 8 observed the Respondent's firearm on multiple occasions. The Respondent would take it out and waive it around in the middle of a conversation. Employee 8 also observed a firearm taped underneath the Respondent's desk.

135. Employee 8 ended her employment with the Respondent in February 2019.

*New York Office of Professional Medical Conduct and Massachusetts License Renewal Applications*

136. The Respondent was notified by the New York Office of Professional Medical Conduct ("NYOPMC") that he was under investigation on or about August 2012. The investigation related to a complaint filed by Patient E. The Respondent retained counsel to represent him in the matter (OPMC #NY-12-07-3408A). The Respondent was interviewed by the New York Office of Professional Medical Conduct on April 8, 2014 with counsel present.

137. On October 17, 2017, the Respondent was notified that the matter had been closed. NYOPMC's letter to the Respondent specifically noted that the Respondent failed to render appropriate care, treatment, and management of Patient E; prescribed medications inappropriately to Patient E; and failed to maintain adequate documentation of her care. The Respondent was advised to be more diligent in documenting the evaluation, treatment and monitoring of his patients. It was also noted that the Respondent created and engaged in an extra-therapeutic relationship with a venerable patient. The Respondent was reminded to be cognizant of and refrain from any activity that would constitute a "Boundary Violation."

138. The Respondent submitted his Massachusetts License Renewal Application on October 28, 2013. In response to question 18(c) inquiring if the Respondent has been the subject

of an investigation by any government authority, including any other state medical board, the Respondent answered in the negative.

139. The Respondent submitted his Massachusetts License Renewal Application on October 5, 2015. In response to question 18(c) inquiring if the Respondent has been the subject of an investigation by any government authority, including any other state medical board, and the Respondent again answered in the negative.

140. The Respondent submitted his Massachusetts License Renewal Application on October 8, 2017. In response to question 18(c) inquiring if the Respondent has been the subject of an investigation by any government authority, any other state medical board and the Respondent answered, for a third time, in the negative.

Prescription Monitoring Program

141. The Respondent has not utilized the Prescription Monitoring Program ("PMP") since December 9, 2016. Prior to prescribing medications to Patients A, B, C, D, E, and Employees 1, 2, 3, 4, 5, 6, 7, and 8, the Respondent did not review the PMP.

Expert Review

142. An Expert in the field of Psychiatry and Forensic Psychiatry reviewed the Board's investigation. The Expert found several areas of the Respondent's medical practice that fell below the recognized standard of care, including but not limited to:

a. Inadequate documentation in the medical records of Patients A-E,

b. Substandard medical care provided to Patients A-E,

c. Inappropriate prescribing of medications and treatment of Employees 1-4,

d. Inappropriate personal relationships and boundary violations with Patients A-E,

e. Inappropriate employment of a patient,

f. Jeopardizing patient confidentiality, and

g. Engaging in behavior that was disruptive.

Board Policy

143. Board Policy Number 01-01 on Disruptive Physician Behavior states "Behaviors such as foul language; rude, loud or offensive comments; and intimidation of staff, patients and family members are now recognized as detrimental to patient care."

a. Disruptive behavior by a physician has a deleterious effect on the health care system and increases the risk of patient harm.

b. By his actions, the Respondent violated the Board of Registration in Medicine's Disruptive Physician Behavior Policy.

144. Board Policy Number 15-05, "Prescribing Practices Policy and Guidelines," states:

a. "To satisfy the requirement that a prescription be issued by a practitioner in the usual course of his or her professional practice, there must be a physician-patient relationship that is for the purpose of maintaining the patient's well-being and the physician must conform to certain minimum norms and standards for the care of patients. A minimum standard of proper medical practice requires that a physician establish a proper diagnosis and regimen of treatment. At a minimum, on first encounter with a patient, a physician must take and record an appropriate medical history and carry out an appropriate physical or mental status exam and record the results."

b. "Physicians are prohibited from prescribing controlled substances in Schedules II through IV for their own use."

c. As of 2015, all physicians are required to use the prescription monitoring program in the following circumstances:

   i. Prior to prescribing a narcotic drug in Schedule II or III to a patient for the first time;

   ii. Each time the prescriber issues a prescription to a patient for any drug in Schedule II or III that "has been determined by the Department of Public Health to be commonly misused or abused and which has been designated as a drug that needs additional safeguards in guidance to be issued by the Department of Public Health;"

   iii. Prior to prescribing a benzodiazepine to a patient for the first time;

   iv. Prior to prescribing a Schedule IV or V controlled substance, "as designated in guidance to be issued by the Department," to a patient for the first time.

d. The Respondent repeatedly violated the Board Policy Number 15-05.

Legal Basis for Proposed Relief

A. Pursuant to G.L. c. 112, §5, ninth par. (c) and 243 CMR 1.03(5)(a)3, the Board may discipline a physician upon proof satisfactory to a majority of the Board that he engaged in conduct that places into question the Respondent's 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.

B. Pursuant to G.L. c. 112, §5, eighth par. (b), and 243 C.M.R. 1.03(5)(a)11, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said

physician has committed an offense against any provisions of the laws of the Commonwealth relating to the practice of medicine, or any rule or regulation adopted thereunder, to wit:

i. 243 C.M.R. 1.03(5)(a)1 by procuring his certificate of registration or its renewal fraudulently.

ii. 243 CMR 2.07(13)(a), which requires a physician to maintain a medical record for each patient that is adequate to enable the licensee to provide proper diagnosis and treatment; and/or maintain a patient's medical record in a manner which permits the former patient or successor physician to access them.

iii. 243 CMR 2.07(13)(e), which requires that, upon a patient request, a physiatrist provide a copy of the patient's medical record to a patient, other licensee or other specifically authorized person, in a timely manner, unless, pursuant to M.G.L. c. 112 §12CC, the licensee determines that providing the entire medical record would adversely affect the patient's well-being, the licensee shall make a summary of the record available to the patient. If the patient continues to request the entire record, notwithstanding the licensee's determination, the licensee shall make the entire record available to the patient's attorney, with the patient's consent, or the patient's legal representative, or to such other psychotherapist as designated by the patient. .

iv. 243 CMR 2.07(5), which states that a licensee who violates G.L. c. 94C also violates a rule or regulation of the Board.

v. 243 CMR 2.07(19), which prohibits a physician from prescribing controlled substances in Schedules II, III, and IV for his/her own use .

vi. American Medical Association Code of Medical Ethics, Opinion 8.14, which states that sexual contact concurrent with the patient-physician relationship, constitutes sexual misconduct in the practice of medicine.

vii. The American Medical Association Code of Medical Ethics Opinion 3.3.1, requires that medical records are managed responsibly in order to safeguard confidentiality, retained for future need, and provided upon request to the patient or authorized third party.

viii. The American Medical Association Code of Medical Ethics Opinion 2.1.1, which requires that informed consent is obtained when patients are to undergo a specific medical intervention and that such be documented within the medical record.

ix. The American Psychiatric Association: The Principles of Medical Ethics (with Annotations Especially Applicable to Psychiatry) Section 1 (1) states a psychiatrist shall not gratify his or her own needs by exploiting the patient and requires vigilance of the boundaries of the doctor-patient relationship and well-being of the patient.

x. The American Psychiatric Association: The Principles of Medical Ethics (with Annotations Especially Applicable to Psychiatry) Section 2 (1), sexual activity with a current or former patient is unethical.

xi. The American Psychiatric Association: The Principles of Medical Ethics (with Annotations Especially Applicable to Psychiatry) Section 2 (2) requires that a psychiatrist diligently guard against exploiting information furnished by the patient and should not use the unique position of power afforded him by the

psychotherapeutic situation to influence the patient in any way not directly relevant to the treatment goals.

xii. The American Psychiatric Association: The Principles of Medical Ethics (with Annotations Especially Applicable to Psychiatry) Section 4 (2) requires authorization of the patient for the release of confidential information, including any identifying information.

xiii. Board Policy Number 01-01 on "Disruptive Physician Behavior."

xiv. Board Policy Number 15-05 on "Prescribing Practices Policy and Guidelines."

C. Pursuant to 243 C.M.R. 1.03(5)(a)1 the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has procured his certificate of registration or its renewal fraudulently.

D. Pursuant to Mass. Gen. Laws c. 112 § 5, eighth par. (b) and 243 CMR 1.03(5)(a)(2), the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has 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:

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

ii. G.L. c. 112, § 12CC, which requires that physicians provide patients with a copy of such patient's record upon request upon payment of a reasonable fee; in the case of a psychotherapist the term "records" in this section shall mean, at the discretion of the psychotherapist, the patient's entire record maintained by such

psychotherapist or a summary of the patient's record. If in the reasonable exercise of his professional judgement, the psychotherapist believes providing the entire record would adversely affect the patient's well-being, in such instances, the psychotherapist shall make a summary of the record available to the patient. If a patient requests the entire record, notwithstanding a determination that providing said record is deemed to adversely affect the patient's well-being, the psychotherapist shall make the entire record available to either the patient's attorney, with the patient's consent, or to such other psychotherapist as designated by the patient.

E. Pursuant to 243 CMR 2.07(5), any person who violates any provision of G.L. c. 94C violates the Board's regulations.

F. Pursuant to 243 CMR 1.03(5)(a)10, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician practiced medicine deceitfully, or engaged in conduct that has the capacity to deceive or defraud.

G. Pursuant to 243 CMR 1.03(5)(a)18, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician committed misconduct in the practice of medicine.

H. Pursuant to *Aronoff v. Board of Registration in Medicine*, 420 Mass. 830, 834 (1995), the Board may discipline a physician upon proof satisfactory to a majority of the Board that the physician has violated an ethical principle. Specifically:

    i. The American Medical Association Code of Medical Ethics, Opinion 8.14, sexual contact concurrent with the patient-physician relationship constitutes sexual misconduct in the practice of medicine.

ii. The American Medical Association Code of Medical Ethics Opinion 3.3.1, requires that medical records are managed responsibly in order to safeguard confidentiality, retained for future need, and provided upon request to the patient or authorized third party.

iii. The American Medical Association Code of Medical Ethics Opinion 2.1.1, which requires that informed consent is obtained when patients are to undergo a specific medical intervention and that such be documented within the medical record.

iv. The American Psychiatric Association: The Principles of Medical Ethics (with Annotations Especially Applicable to Psychiatry) Section 1 (1) states a psychiatrist shall not gratify his or her own needs by exploiting the patient and requires vigilance of the boundaries of the doctor-patient relationship and well-being of the patient.

v. The American Psychiatric Association: The Principles of Medical Ethics (with Annotations Especially Applicable to Psychiatry) Section 2 (1), sexual activity with a current or former patient is unethical.

vi. The American Psychiatric Association: The Principles of Medical Ethics (with Annotations Especially Applicable to Psychiatry) Section 2 (2) requires that a psychiatrist diligently guard against exploiting information furnished by the patient and should not use the unique position of power afforded him by the psychotherapeutic situation to influence the patient in any way not directly relevant to the treatment goals.

vii. The American Psychiatric Association: The Principles of Medical Ethics (with Annotations Especially Applicable to Psychiatry) Section 4 (2) requires

authorization of the patient for the release of confidential information, including any identifying information.

I. 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 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.
Chair

Date: May 15, 2019