

The Respondent shall provide a complete copy of this Final Decision and 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 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; the state licensing boards of all states in which he has any kind of license; 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 he becomes associated in the year following the date of imposition of this Order. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive. The Board expressly reserves the authority to notify independently, at any time, any of the entities designated above, or any other affected entity, of any action taken.

Date: December 16, 2009



Peter G. Paige, M.D.
Chairman

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THE COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Board of Registration in Medicine,
Petitioner

v.

Jafar Koupaie, M.D.,
Respondent

Division of Administrative Law Appeals
98 North Washington Street, 4th Floor
Boston, MA 02114
(617) 727-7060
www.state.ma.us/dala

Docket No. RM-07-617

Appearance for Petitioner:

James J. Barrett, Esq.
Board of Registration in Medicine
200 Harvard Mill Square, Suite 330
Wakefield, MA 01880

Appearance for Respondent:

W. Scott Liebert, Esq.
The Chatham Center
29 Crafts Street
Newton, MA 02460

Administrative Magistrate

James P. Rooney

Summary of Decision

Physician who signed off on improper changes his medical assistant made to a patient's medical records violated regulations of the Board of Registration in Medicine and is therefore subject to discipline by the Board.

RECOMMENDED DECISION

On August 22, 2007, the Board of Registration in Medicine issued a Statement of Allegations ordering Jafar Koupaie, M.D. to show cause why he should not be disciplined for signing off on improper changes his medical assistant made to a patient's medical records. See 243 CMR 1.03(5)(a)10 and (5)(a)18.

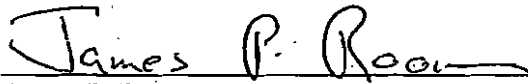
On that same date, the Board referred the matter to the Division of Administrative Law Appeals (DALA). Thereafter, Dr. Koupaie filed an answer and a hearing was scheduled.

On January 13, 2009, the parties notified the Division that they have agreed to resolve this matter and on that date they jointly filed a Stipulation of Facts and Conclusions of Law. The stipulation is signed by Dr. Koupaie, his counsel, and the Board's counsel. The Stipulation is attached as Exhibit I.

Other than the Stipulation and the admissions of fact it contains, I have not taken evidence with respect to the facts of this matter. I adopt the facts as stipulated. The conclusions of law set forth in the Stipulation are warranted and I therefore adopt them as well.

Based on the foregoing, I recommend that the Board impose such discipline on Dr. Koupaie as it deems appropriate in light of the facts and conclusions of law as stipulated by the parties.

DIVISION OF ADMINISTRATIVE LAW APPEALS


James P. Rooney
Administrative Magistrate

Dated: OCT 29 2009

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

Division of Administrative Law Appeals
Docket No. RM-07-617

_____)
Board of Registration in Medicine,)
Petitioner)
vs.)
Jafar Koupaie, M.D.,)
Respondent)
_____)

STIPULATION OF FACTS AND CONCLUSIONS OF LAW

Jafar Koupaie (the Respondent), the Respondent's attorney, and Complaint Counsel agree that this Stipulation shall be filed with the Administrative Magistrate for the Division of Administrative Law Appeals (DALA), as a resolution of questions of material fact and law as set forth by the Statement of Allegations in Docket No. RM-07-617 and as more fully set forth herein.

The Respondent admits to the Findings of Fact described below and agrees that the Administrative Magistrate and the Board may make the Conclusions of Law as set forth below, contingent upon the acceptance of the Stipulation by the Administrative Magistrate and the Board of Registration in Medicine (the Board).

FINDINGS OF FACT

1. The Respondent was born on May 13, 1944. He is a 1971 graduate of the University of Pahlavi Faculty of Medicine in Iran. His principal areas of specialty are dermatology and cosmetic surgery. He has been licensed to practice medicine in the

- Koupaie Exhibit 1 -

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Commonwealth of Massachusetts since May 15, 1985, under certificate number 54177.

He reports that he is affiliated with Norwood Caritas Hospital.

2. On August 8, 2005, Patient A filed a complaint with the Board alleging that the Respondent had altered her medical records.
3. On December 8, 1998, Patient A went to the Respondent's office and filled out a medical record intake form in which she indicated that the reason for her visit was sun spots.
4. After consulting with the Respondent on December 8, 1998, Patient A agreed to have a laser skin treatment on her face performed by the Respondent for treatment of spider veins. As Patient A was four and one-half months pregnant at that time, the Respondent informed her that she should not have treatment until after she delivered.
5. On August 6, 1999, the Respondent performed a laser skin treatment on Patient A's face.
6. On September 28, 1999, Patient A telephoned the Respondent's office and spoke to the Respondent's medical assistant.
7. During the September 28, 1999 telephone conversation, Patient A complained about divot marks on her nasal area and cheeks. The Respondent's medical assistant assured Patient A that the areas would heal and fill in with time.
8. On September 28, 1999, the Respondent's medical assistant made an entry in Patient A's medical record in which she stated that the "areas will heal and fill in with time."
9. On several occasions after September 28, 1999, Patient A telephoned the Respondent's office and complained of scars and pigment problems with her skin.

10. On July 11, 2000, the Respondent met with Patient A in his office to discuss Patient A's complaints of scarring and pigment problems.
11. On or about August 31, 2000, Patient A requested and received a copy of her medical records from the Respondent's office.
12. Patient A misplaced the medical records that she received from the Respondent some time after August 31, 2000.
13. On or about February 14, 2002, Patient A again requested and received a copy of her medical records from the Respondent's office.
14. Sometime after February 14, 2002, Patient A located the set of medical records that she misplaced.
15. After comparing the two sets of medical records that she received from the Respondent, Patient A noted that the records had been altered.
16. Sometime between August 31, 2000 and February 14, 2002, the Respondent's medical assistant put a check mark in a box entitled, "Laser Treatment Spider Veins" on the medical intake form that was filled out by Patient A on December 8, 1998.
17. Some time between August 31, 2000 and February 14, 2002, the Respondent's medical assistant altered the entry that she made in Patient A's medical record by writing over the word "will" with the word "may" in the entry that stated the "areas will heal and fill in with time."
18. Sometime between August 8, 2005 and September 9, 2005, the Respondent affixed his signature to the note of the September 28, 1999 telephone conversation between his medical assistant and Patient A.

19. The Respondent's medical assistant informed the Respondent of the two alterations that she made to Patient A's medical records prior to the time that the Respondent signed the note of the September 28, 1999 telephone conversation between his medical assistant and Patient A.

20. The Respondent's medical assistant stated that she made the changes in the medical records in order to accurately reflect the conversation that she had with Patient A.

CONCLUSIONS OF LAW

A. The Respondent has violated 243 CMR 1.03(5)(a)10 in that he has engaged in conduct that has the capacity to deceive by affixing his signature to the improper changes that his medical assistant made in Patient A's medical record.

B. The Respondent has violated 243 CMR 1.03(5)(a)18, in that he has committed misconduct in the practice of medicine by affixing his signature to the improper changes that his medical assistant made in Patient A's medical record.

SANCTION

The Respondent, the Respondent's attorney and Complaint Counsel expressly acknowledge that the Board may impose sanctions against the Respondent based upon the above Findings of Fact and Conclusions of Law. The Respondent, the Respondent's attorney and Complaint Counsel jointly agree to recommend to the Board that it impose the sanction set forth below. The parties hereto understand that the recommended sanction is not binding on the Board, and that the Board may wish to impose a different sanction on the Respondent.

At the time the Board considers this Stipulation, it will inform the parties of its inclination as to sanction. If the Board's sanction is different from the one recommended by the parties, the Respondent will be given an opportunity to either accept or reject the proposed sanction. If the Respondent rejects the proposed sanction, then the matter will continue through the adjudicatory process pursuant to General Laws chapter 30A and 801 CMR 1.00 et seq.

The Respondent, the Respondent's attorney and Complaint Counsel agree to recommend that Respondent be reprimanded and fined \$2,500.

EXECUTION OF THIS STIPULATION

The parties agree that the approval of this Stipulation is left to the discretion of the Administrative Magistrate and the Board. As to any matter this stipulation leaves to the discretion of the Administrative Magistrate or the Board, neither the Respondent, nor anyone else acting on his behalf has received any promises or representations regarding the same.

The signature of the Respondent, his attorneys, and Complaint Counsel are expressly conditioned on the Administrative Magistrate and the Board accepting this stipulation.

If the Administrative Magistrate rejects any provision contained in this Stipulation, the entire document shall be null and void and the matter will be scheduled for a hearing pursuant to General Laws c. 30A and 801 CMR 1.00 et seq.

If the Board rejects any provision in this Stipulation or modifies the Sanction and said modification is rejected by the Respondent, the entire document shall be null and

void and the matter will be recommitted to the Division of Administrative Law Appeals for a hearing pursuant to General Laws c. 30A and 801 CMR 1.00 et seq.

Neither the parties nor anyone else may rely on the Stipulation in these proceedings or in any appeal there from.

Jafar Koupaie
Jafar Koupaie, M.D.
Respondent

1/06/09
Date

W. Scott Liebert
W. Scott Liebert, Esquire
Attorney for the Respondent

January 12, 2009
Date

James J. Barrett Esquire
James J. Barrett, Esquire
Complaint Counsel

January 13, 2009
Date