

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN MEDICINE

MIDDLESEX, ss

Adjudicatory Case No. 2020-019
(RM-20-0219)

)
In the Matter of)

Moutaz Almawaldi, M.D.)
_____)

FINAL DECISION AND ORDER

This matter came before the Board for final disposition on the basis of the Administrative Magistrate's Order of Default Recommended Decision, dated August 19, 2020, which found Moutaz Almawaldi, M.D. (Respondent), in default. Neither party filed objections to the Recommended Decision. After full consideration of that Recommended Decision, which is attached hereto and incorporated by reference, as well as the Memorandum on Disposition submitted by Complaint Counsel, the Board adopts the Recommended Decision and adds the following:

Findings of Fact

Biographical Information

1. The Respondent was born on June 26, 1961. He is a 1974 graduate of the Damascus University Faculty of Medicine and had been licensed to practice medicine in Massachusetts beginning on November 5, 1997 under certificate number 155045. His license to practice medicine in Massachusetts lapsed on June 26, 2006.
2. The Respondent has held a license to practice medicine in California, Colorado, Michigan, New Jersey, Ohio, South Carolina, South Dakota, Tennessee, Virginia, and West Virginia. But for California and Virginia, his licenses to practice medicine had lapsed.

Factual Allegations

3. The Respondent was arrested by the Lake County Sheriff's Office in California on February 7, 2018. A report was made regarding an assault that the victim said was

committed by the Respondent. The adult female victim reported that she was sexually assaulted by the Respondent while working at his medical practice. She reported that the Respondent forcefully kissed her and pulled down her shirt.

4. On July 26, 2018, the Respondent was indicted by the Lake County Criminal Grand Jury. The Respondent was indicted on one count of misdemeanor sexual battery.

5. On April 22, 2019, the Respondent entered a plea of nolo contendere and was convicted of one count of misdemeanor sexual battery. The Respondent was placed on probation for three years and required to register as a sex offender.

6. On June 14, 2019, the Medical Board of California revoked the Respondent's license to practice medicine.

7. On July 26, 2019, a notification letter requesting that the Respondent contact the Board was sent to the Respondent. This letter was returned with a new forwarding address.

8. On August 5, 2019, a second notification letter, requesting a response, was sent to the Respondent via USPS tracking. USPS confirmed delivery of the letter on August 9, 2019.

9. The Respondent did not respond to the notice.

Conclusions of Law

Since the matter was decided on the basis of a default at DALA, the Magistrate made no determinations as to Conclusions of Law. Based upon the facts set out in the SOA, which facts are now admitted, the Board can properly conclude the following:

A. The Respondent was disciplined in another jurisdiction 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, the Respondent has:

- i. violated G. L.c. 112, §5, eighth par. (g) in that he has been convicted of a criminal offense which reasonably calls into questions his ability to practice medicine;
 - ii. violated 243 CMR 1.03(5)(a)7 in that he has been convicted of a crime;
- and

- iii. violated 243 CMR 1.03(5)(a)10 by practicing medicine deceitfully, or engaging in conduct which has the capacity to deceive or defraud;

B. Pursuant to 243 CMR 1.03(5)(a)7, the Respondent has been convicted of a crime.

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

Sanction

When determining the appropriate sanction where there has been criminal conduct, the Board takes into consideration the nature of the offense, whether the criminal conduct occurred during the course of the practice of medicine or was related to the practice of medicine, the impact of the physician's misconduct and any mitigating or aggravating circumstances. The present matter involves a conviction for sexual battery involving a worker in his office. In the past, the Board has revoked the licenses of physicians who have been convicted of sexually based offenses, as in the following matters: *In the Matter of Marc Eichler, M.D.*, Board of Registration in Medicine, Adjudicatory Case No.: 2017-032 (Consent Order, September 14, 2017)(Physician's license was revoked after he was convicted in federal court of possession of material involving the sexual exploitation of minors and disciplined by the North Dakota Medical Board for same.); *In the Matter of Howard Kanter, M.D.*, Board of Registration in Medicine, Adjudicatory Case No.: 02-48-XX (Consent Order, November 20, 2002)(Physician's license was revoked after he was convicted of one count of possession of child pornography.). Revocation was the sanction even where the Respondent's conduct did not involve a patient and was not related to his practice of medicine. See, *In the Matter of Raymond J. Maciewicz, M.D.*, Board of Registration in Medicine, Adjudicatory Case No.: 00-15-DALA (Final Decision & Order, December 21, 2001) (Physician disciplined for secretly videotaping his children's nanny getting changed using the bathroom).

Where there has been a default, the Board has historically imposed revocation as the sanction. *See, e.g., In the Matter of Paul M. Willette, M.D.*, Board of Registration in

Medicine, Adjudicatory Case No. 2017-035 (Final Decision and Order, September 13, 2018); *In the Matter of John P. Katzenberg, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-054 (Final Decision and Order, August 9, 2018); *In the Matter of Christopher D. Owens, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-031 (Final Decision and Order, April 25, 2018); *In the Matter of John E. Strobeck, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-044 (Final Decision and Order, April 25, 2018). In these cases, the Board reasoned that a default demonstrates a physician's "utter disregard for the Board's statutory mandate." By failing to respond to the Board, a physician prevents the Board from investigating the allegations concerning his or her misconduct. The physician's failure to respond to these allegations hinders the Board's efforts to fulfill its mission to protect the public health, safety, and welfare.

The Respondent's failure to file an Answer to the Statement of Allegations, failure to appear for a pre-hearing conference, and failure to notify the Board of his change of contact information, and his default demonstrate his utter disregard for the Board's statutory mandate to protect the public, constitute several violations of the Board's regulations, and undermines the public's confidence in the medical profession. See *In the Matter of Joshua P. Golden, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 89-10-SU (Final Decision and Order, August 1, 1990) (Board may discipline a physician who "undermines public confidence in the integrity of the medical profession by flouting the rules and regulations of the agency which granted his license" by failing to respond to Board inquiries.)

The Board hereby REVOKES the Respondent's inchoate right to renew, effective as of the date of this Final Decision and Order.

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 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 he becomes associated for the duration of this revocation. 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 independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken. The Respondent has the right to appeal this Final Decision and Order within thirty (30) days, pursuant to G.L. c. 30A, §§14 and 15, and G.L. c. 112, § 64.

Date: January 14, 2021



George Abraham, M.D.
Chair
Board of Registration in Medicine