COMMONWEALTH OF MASSACHUSETTS

BOARD OF REGISTRATION IN MEDICINE

Middlesex, ss. Adjudicatory Case No. 2020-0230

 (RM-20-0230)

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| In the Matter ofAlex M. Barrocas, MD. |

**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 (hereinafter “Recommended Decision”) dated July 29, 2020, which found Alex M. Barrocas, M.D. (hereinafter “Respondent”) in default. After full consideration of the Recommended Decision, which is attached hereto and incorporated by reference, and Complaint Counsel’s Memorandum on Disposition, the Board adopts the Recommended Decision, amending it by replacing with the following:

1. On page 1 in the caption and first paragraph, striking “Alejandro” and substituting “Alex M.” prior to Barrocas.

The Board also adds the following:

Findings of Fact

In light of the Respondent’s failure to respond to the Statement of Allegations (hereinafter “SOA”) and to appear for a scheduled prehearing conference at the Division of Administrative Law Appeals (hereinafter “DALA”), DALA found the Respondent in default. G.L. c. 30A, § 10(2), and 801 CMR 1.01(7)(a)(1). Therefore, the allegations contained in the SOA are deemed admitted. *See* *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 Paul M. Willette, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-035 (Final Decision and Order, September 13, 2018). The Board therefore makes the following findings:

Biographical Information

1. The Respondent was born in May 1973. The Respondent graduated from Rutgers New Jersey Medical School in 2000. The Respondent had been licensed to practice medicine in Massachusetts beginning on June 27, 2005 under license number 226101. His license to practice medicine in Massachusetts lapsed on May 10, 2010.

Factual Findings

 2. On February 19, 2020, the State of Florida Board of Medicine (the “Florida Board”) suspended the Respondent’s license to practice medicine in that state for six months and issued a reprimand. The Respondent was also ordered to complete Continuing Medical Education credits and was assessed an administrative find in the amount of 5,000.00.

3. The Florida Board’s Final Order (the “Florida Order”) is attached hereto as Attachment A, with exhibits, and incorporated herein by reference.

4. The Florida Order establishes that the Respondent’s license to practice medicine in that state was disciplined based on his pleas entered in a criminal case. Specifically, on April 11, 2016, the Respondent entered a plea of nolo contendere or guilty to one count of battery, in violation of section 784.03, Florida Statutes, and one count of domestic battery by strangulation, in violation of section 784.041(2)(a), Florida Statutes, in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. Pursuant to Section 456.072(1)(c) of the Florida Statutes (2015), the Respondent’s pleas constitute grounds for disciplinary action by the Florida Board.

5. On May 8, 2020, the Board issued a Statement of Allegations (“SOA”) against the Respondent and granted him twenty-one days to respond to same. The Respondent failed to submit an Answer.

6. On May 22, 2020, DALA issued a Notice of prehearing conference to be held on June 30, 2020 and informed the Respondent that it would be conducted by phone. The Notice was not returned to DALA as undeliverable. The Respondent received the Notice because he sent an email to the Board’s Complaint Counsel seeking to reschedule the prehearing conference. Complaint Counsel responded that he would need to notify the Magistrate. The Respondent failed to do so.

7. On July 6, 2020, the Magistrate issued an Order to Show Cause to the Respondent requiring that he explain his failure to participate in the conference or request that DALA reschedule the conference. The Respondent provided no response.

 Conclusion of Law

 Since the matter was decided on the basis of a default at DALA, the Magistrate made no determinations as to Conclusion of Law. Based upon the facts set forth in the SOA, and now admitted, the Board makes the following Conclusion of Law.[[1]](#footnote-1)

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

 Sanction

The Board has the authority to discipline a physician upon proof satisfactory that the physician has been disciplined by another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in G.L. c. 112, § 5 and 243 CMR 1.03(5).

 The Board may also discipline a physician for engaging in conduct that indicates a lack of good moral character and for conduct that undermines the public confidence in the medical profession. *Levy v. Board of Registration in Medicine*, 378 Mass. 519, 527, 392 N.E. 2d 1036, 1041 (1979) and *Raymond v. Board of Registration in Medicine*, 378 Mass. 709, 454 N.E.2d 391, 394, 395 (1982). “The practice of medicine, because of [its] peculiar relation to the public, require[s] that those holding licenses must have the important qualification of good character” and that “[t]he public has the right to expect the highest degree of integrity from members of the medical profession.” *See* *Levy, 37*8 Mass at 528. The unprofessional conduct need not be related to the practice of medicine. *See Raymond*, supra at 712-713.

The Respondent’s conduct underlying the criminal charges of battery and domestic battery by strangulation of his then-wife indicates that he lacks certain essential qualities to practice medicine, namely sound judgment and a respect for human life. The Respondent’s conduct also demonstrates a lack of good moral character and undermines the public confidence in the medical profession for which the Board may impose discipline pursuant to *Levy* and *Raymond.*

Where criminal cases have not resulted in a conviction, the Board has still imposed discipline where the physician’s conduct indicates a lack of good moral character and undermines the confidence in the medical profession *See* *In the Matter of Ernest Osei-Tutu, M.D.,* Board of Registration in Medicine Adjudicatory Case No. 2007-058 (November 14, 2007) (physician reprimanded after he admitted to sufficient facts in a domestic assault and battery case, criminal case continued without a finding and the Respondent was ordered to take a batterer’s class during two-year probation); *In the Matter of H. Scott Breen, M.D.,* Board of Registration in Medicine, Adjudicatory Case No. 04-40-XX (September 2004) (physician received a reprimand for slapping a child-patient; criminal case continued without a finding); *In the Matter of Murray Dimant, M.D.,* Board of Registration in Medicine, Adjudicatory Case No. 02-40-XX (September 8, 2002) (physician received a reprimand after he admitted to sufficient facts of indecent assault and battery); and *In the Matter of Raul Laguarda, M.D.,* Board of Registration in Medicine, Adjudicatory Case No. 02-18-XX (May 8, 2002) (physician received a reprimand after admitting to sufficient facts of indecent assault and battery).

 Revocation has been imposed by the Board where the physician has disregarded the Board’s administrative directives. *See* *In the Matter of Richard Mendel, M.D.,* Adjudicatory Case No. 2020-007 (Final Decision and Order, October 8, 2020) (Board revoked physician’s inchoate right to renew his medical license, after finding that he engaged in misconduct in the practice of medicine, failed to maintain medical records for each patient, and committed malpractice on more than one occasion). *See also, 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) and *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)

 The Board’s paramount responsibility is the protection of the public health, safety, and welfare. *See* *Levy v. Board of Registration in Medicine*, 378 Mass 519 (1979). In light of the Respondent’s default, which hindered the Board’s efforts in its fulfillment of this responsibility, it is appropriate to impose a sanction in this matter. The Board hereby **REVOKES** the Respondent’s inchoate right to renew his license to practice medicine. This sanction is imposed for the violation of law listed in the Conclusion of Law section.

 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 board 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 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: December 17, 2020 Signed by George M. Abraham, M.D.

George M. Abraham, M.D.

Chair

Board of Registration in Medicine

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>.

1. The Board acknowledges that it cannot discipline the Respondent for a violation of 243 CMR 1.03(5)(a)(7) (conviction of a crime) because the judge declined to impose a finding of guilty on either count in the Florida case. [↑](#footnote-ref-1)