

Middlesex, ss.

COMMONWEALTH OF MASSACHUSETTS

Division of Administrative Law Appeals  
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Docket No. RM-21-0567

**BOARD OF REGISTRATION  
IN MEDICINE,**  
*Petitioner*

v.

**GLENROY HEYWOOD, M.D.,**  
*Respondent*

**Attorney for Petitioner:**

Lawrence Perchick, Esq.  
Complaint Counsel  
Board of Registration in Medicine  
200 Harvard Mill Square, Suite 330  
Wakefield, MA 01880

**Appearance for Respondent:**

Glenroy Heywood, M.D.  
11105 Desert Classic Lane  
Albuquerque, NM 87111

**Administrative Magistrate:**

Angela McConney Scheepers, Esq.

**RECOMMENDED DECISION  
ON PETITIONER'S MOTION FOR SUMMARY DECISION**

**SUMMARY**

The Respondent has failed to raise a genuine issue of material fact regarding the  
Petitioner's allegation that the Respondent (1) was indicted in the United States District Court

District of New Mexico for violations of 18 U.S.C. § 1591(a) (trafficking of children or by force, fraud or coercion), § 1591(b)(2) (child had attained the age of 14 years but had not attained the age of 18 years at the time of such offense) and 1594(a) (attempt to violate section [ ] 1591 shall be punishable in the same manner as a completed violation of that section); (2) entered into a plea agreement to resolve the matter by pleading guilty to a violation of 18 U.S.C. § 1591(d) (obstructing or attempting to obstruct enforcement of the child trafficking statute); and (3) was sentenced to twenty-four (24) months of imprisonment to be followed by ten (10) years of supervised release on May 30, 2019.

#### INTRODUCTION

On November 18, 2021, the Petitioner, Board of Registration in Medicine, issued a Statement of Allegations ordering the Respondent, Glenroy Heywood, M.D., to show cause why he should not be disciplined for lacking moral character and engaging in conduct which undermines the public confidence in the integrity of the medical profession; committing an offense against the provisions of the laws of the Commonwealth relating to the practice of medicine by violating 18 U.S.C. § 1591(d); being convicted of a criminal offense which reasonably calls into question his ability to practice medicine; engaging in conduct which calls into question his competence to practice medicine; practicing medicine deceitfully, or engaging in conduct that has the capacity to deceive or defraud; and committing misconduct in the practice of medicine, which is prohibited by 243 C.M.R. § 1.03(5)(a)(7).

The Board alleges that the Respondent obstructed or attempted to obstruct enforcement of the child trafficking statute on February 10, 2017.

On November 19, 2021, the matter was referred to the Division of Administrative Law Appeals (DALA). A telephonic prehearing conference was scheduled for January 11, 2022; both

parties participated. The Respondent had been released from the Englewood Federal Correctional Institution, Littleton, CO in March 2021. This magistrate confirmed the Respondent's address, telephone number and email address.

The Petitioner filed a Motion for Summary Decision with accompanying Exhibits 1-5 on February 11, 2022. 801 C.M.R. §1.01(7)(h). The Respondent failed to file a response.

### FINDINGS OF FACT

#### *A. Statement of Allegations*

1. The Respondent graduated from the State University of New York Medical School in 1990, and was licensed to practice in Massachusetts from January 6 to September 28, 1999.

2. The Respondent's license to practice medicine lapsed on September 28, 1999 when he failed to renew it.

#### *B. Facts as established by documents and affidavit*

3. On or about August 22, 2017, the Respondent was indicted in the United States District Court for the District of New Mexico (No. 17-2240 JAP), for violations of 18 U.S.C. §§ 1591 (a) (trafficking of children by force, fraud or coercion), 1591 (b)(2) and 1594(a). (Statement of Allegations.)

4. On May 1, 2018, the Respondent entered into a plea agreement, pleading guilty in the to a single charge of Obstructing or Attempting to Obstruct Enforcement of the Child Sex Trafficking Statute in violation of 18 U.S.C. § 1591(d). (Statement of Allegations.)

5. On or about March 21, 2019, the United States of America filed an unopposed motion to dismiss the indictment. The motion explained that pursuant to a plea agreement, the

United States agreed to dismiss the indictment of the Respondent following his sentencing.

(Exhibit 3.)

6. On or about May 1, 2018, the Respondent entered into a plea agreement after admitting to various facts, including but not limited to having "solicited a commercial sex act from an individual" on February 8, 2017 after viewing an advertisement for commercial sexual activity on the website Backpage.com. The Respondent negotiated to have sex with an individual that he believed was fifteen (15) years old. The Respondent then agreed to meet the individual at a hotel in Albuquerque, NM where he was ultimately arrested by law enforcement officials. 18 U.S.C. § 1591. (Exhibit 1.)

7. On or about May 30, 2019, the Court entered an Amended Judgment, sentencing the Respondent to twenty-four (24) months of incarceration, to be followed by ten (10) years of supervised release.<sup>1</sup>

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<sup>1</sup> The Defendant understands that by pleading guilty, the Defendant shall be required to register as a sex offender upon the Defendant's release from prison as condition of supervised release pursuant to 18 U.S.C. § 3583(d). (Exhibit 2.)

The Defendant was also required to follow special conditions of supervision, including but not limited to (1) participating in a mental health treatment program and follow the rules and regulations of that program, (2) signing a waiver of the rights of confidentiality in order for the treatment officer to release treatment records to the probation officer and signing all necessary releases to enable the probation officer to monitor his progress, (3) undergoing a sex offense-specific assessment to determine the level of risk for sexual dangerousness, recidivism, and amenability to treatment and formulate treatment recommendations to treatment if necessary, (4) a prohibition of viewing or possessing any material that depicts sexually explicit conduct as defined in 18 U.S.C. § 256, including images, books, writings, drawings, video games, or videos depicting actual sexual intercourse, no direct contact with children under the age of 18 without written approval of the treatment provider in conjunction with the probation officer, restriction from engaging in an occupation with access to children without prior approval of the probation officer, possessing a computer or personal internet capable device without the written approval of the probation officer, allowing the installation of monitoring software/hardware on his computer system as defined by 18 U.S.C. §1030 (e)(1), permitting random unannounced examination of the computer system as defined in 18 U.S.C. §1030 (e)(1). (Exhibit 4.)

8. While incarcerated, the Respondent had to participate in the Bureau of Prisons Sex-Offender Treatment Program. (Exhibit 4.)

9. The Defendant's supervised release carried the mandatory condition that he cooperate in the collection of DNA as directed by the probation officer. (Exhibit 4.)

## DISCUSSION

### A. *Standard for Summary Decision*

The procedural rules that apply to this proceeding provide that:

[w]hen a Party is of the opinion there is no genuine issue of fact relating to all or part of a claim or defense and he is entitled to prevail as a matter of law, the Party may move, with or without supporting affidavits, for summary decision on the claim or defense. If the motion is granted as to part of a claim or defense that is not dispositive of the case, further proceedings shall be held on the remaining issues.

801 C.M.R. § 1.01 (7) (h).

A motion for summary decision may be granted when there is no genuine issue of fact regarding the claims presented and a party is entitled to prevail as a matter of law because, under such circumstances, a hearing would serve no useful purpose. *Massachusetts Outdoor*

*Advertising Council v. Outdoor Advertising Bd.*, 9 Mass. App. Ct. 775, 785-86 (1980)

("[A]dministrative summary judgment procedures do not transgress statutory or constitutional rights to a hearing where those procedures are such that they allow the agency to dispense with a hearing only when the papers or pleadings filed conclusively show on their face that the hearing can serve no useful purpose, because a hearing could not affect the decision.") The language of 801 C.M.R. § 1.01(7)(h) borrows heavily from the standard for summary judgment set forth in Mass. R. Civ. P. 56. It is well established that summary judgment shall be granted if the pleadings, depositions, answers to interrogatories, and admissions on file show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of

law. Mass. R. Civ. P. 56(c); *Community Nat'l Bank v. Dawes*, 369 Mass. 550 (1976). A party opposing summary judgment must respond with specific facts showing that there is a genuine, triable issue. *Id.*; Mass. R. Civ. P. 56(e).

When considering a motion for summary judgment, a court does not pass on the credibility of witnesses or weigh the evidence or make its own decision of the facts. *Attorney Gen'l v. Bailey*, 386 Mass. 367, 370 (1982). It only determines whether a genuine issue of material fact exists. *Id.*

*B. Petitioner's Motion for Summary Decision*

Criminal conduct is "antithetical to a commitment to preserve life, alleviate suffering, and restore health." See *Raymond v. Board of Registration in Medic.*, 387 Mass. 708, 712 (1982). See also *Levy v. Board of Registration in Medic.*, 378 Mass. 519 (1979).

In the past, an undisputed criminal conviction has served as the basis for summary decision. See *In the Matter of Paul Weinstein, M.D.*, Board of Registration of Medicine, Adjudicatory Case No. 2012-008 (RM-12-69) (Final Decision and Order, Jun. 19, 2013) (summary decision granted in a case in which the physician pled guilty to four (4) counts of distribution of oxycodone); *In the Matter of David Tamaren, M.D.*, Board of Registration of Medicine, Adjudicatory Case No. 2008-101 (RM-08-220) (summary decision granted when physician pled guilty to fraud for writing prescription used to collect insurance payments for tests that never occurred.)

In its Motion for Summary Decision, the Board argues that it may "discipline a physician for conduct which undermines public confidence in the integrity of the medical profession or for conduct which shows a lack of good moral character, including conviction of a crime." *Id.*

The Board further argues that it has disciplined physicians convicted of a variety of unlawful acts, spanning behavior from sexual misconduct to improper prescribing and various kinds of fraud. *See e.g. Hyman I. Lilien, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 88-71-ST (Final Decision, Jul. 19, 1989) (physician convicted for indecent assault and battery and dispensing controlled substance – after criminal conviction and scheduled administrative hearing, revealed that physician tried to exchange drugs for sexual favors, sold Vicodin to undercover officer, grabbed her breast and discussed his sexual arousal); *In the Matter of Richard Ng, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2014-026 (Consent Order, Jun. 25, 2014) (physician discipline based on conviction involving prescribing and fraud); *In the Matter of Salah Abass, M.D.*, Adjudicatory Case Nos. 2009-034 (RM-09-945) and 2011-021 (RM-11-341) (Final Decision and Order, November Dec. 19, 2012) (physician disciplined for a variety of conduct including his criminal convictions for two (2) counts of indecent assault and battery and one (1) count of assault and battery on a patient who was also an employee.)

#### *Analysis*

In its Statement of Allegations, the Petitioner alleged that the Respondent lacked moral character and engaged in conduct which undermines the public confidence in the integrity of the medical profession; committed an offense against the provisions of the laws of the Commonwealth relating to the practice of medicine by violating 18 U.S.C. § 1591(d); was convicted of a criminal offense which reasonably calls into question his ability to practice medicine; engaged in conduct which calls into question his competence to practice medicine; practiced medicine deceitfully, or engaged in conduct that has the capacity to deceive or defraud; engaged in conduct in violation of a rule or regulation of the Board, to wit, 243 C.M.R. §

2.07(5); and committed misconduct in the practice of medicine, which is prohibited by 243

C.M.R. § 1.03(5)(a)(7).

The Respondent's alleged misconduct is governed by the provisions of 18 U.S.C. § 1591

"Sex trafficking of children or by force, fraud, or coercion"

(a) Whoever knowingly—

(1)

in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person; or

(2)

benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing, or, except where the act constituting the violation of paragraph (1) is advertising, in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b). ...

and more specifically, subsection (d):

Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be fined under this title, imprisoned for a term not to exceed 25 years, or both.

His alleged misconduct is further governed by 18 U.S.C. § 1594(a):

Whoever attempts to violate section 1581, 1583, 1584, 1589, 1590, or 1591 shall be punishable in the same manner as a completed violation of that section.

I find that on February 8, 2017, the Respondent agreed to meet an individual for commercial sexual activity after viewing an advertisement for commercial sexual activity on the website Backpage.com. I find that the Respondent negotiated to have sex with an individual who told him that she was fifteen (15) years old. The Respondent then agreed to meet the individual at a hotel in Albuquerque, NM, where he was arrested by law enforcement officials.



On August 22, 2017, the Respondent was indicted in the United States District Court District of New Mexico. He entered into a plea agreement on or about May 1, 2018, pleading guilty to a violation of 18 U.S.C. § 1591(d). On May 30, 2019, the Respondent was sentenced to twenty-four months of incarceration to be followed by ten (10) years of supervised release.

When the Respondent agreed to meet an individual, whom he believed to be fifteen (15) years old, for commercial sexual activity, he engaged in conduct lacking moral character and undermining the public confidence in the integrity of the medical profession within the meaning of G.L. c. 112, § 61. Pursuant to G.L. c. 112, § 59(b) and 243 CMR 1.03(5)(a)(7), the Board may discipline a physician upon proof satisfactory that he has violated the law of the Commonwealth in regard to the practice of medicine. The Respondent's criminal act was an obstruction or an attempt to obstruct enforcement of the Child Sex Trafficking Statute. Sexual contact with minor children is within the usual course of professional medical practice.

Pursuant to G.L. c. 112, § 5, ninth ¶(g), the Board may discipline a physician upon proof satisfactory to a majority of the Board that the physician has been convicted of a criminal offense which reasonably calls into question his ability to practice medicine. This proof was supplied when the Respondent pleaded guilty to a violation of 18 U.S.C. § 1591(d) (obstructing or attempting to obstruct enforcement of the child trafficking statute) in the United States District Court, District of New Mexico. This criminal conduct also calls into question the Respondent's competence to practice medicine.

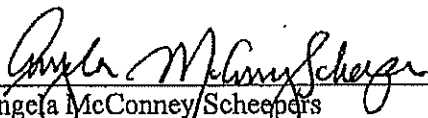
Pursuant to 243 C.M.R. § 1.03(5)(a)7, the Board may discipline a physician upon proof satisfactory to a majority of the Board that the physician has been convicted of a crime. This proof was supplied by the Respondent's conviction.

The Respondent has not denied any of the allegations contained within the Statement of Allegations nor has he challenged the Legal Basis for Proposed Relief found within the Statement of Allegations.

CONCLUSION

From the Statement of Allegations and documents submitted with the Petitioner's Motion for Summary Decision, I find that no genuine issue of facts exist in this matter. Based on the foregoing, I hereby allow the Board of Registration in Medicine's Motion for Summary Decision, and I recommend that the Board impose such discipline on Glenroy Heywood, M.D. as it deems appropriate.

DIVISION OF ADMINISTRATIVE LAW APPEALS

  
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Angela McConney-Scheepers  
Administrative Magistrate

DATED: OCT - 5 2022