

COMMONWEALTH OF MASSACHUSETTS

Division of Administrative Law Appeals
1 Congress Street, 11th Floor
Boston, MA 02114
www.mass.gov/dala

Board of Registration in Medicine,
Petitioner

v.

Docket No. RM-15-192

Mara K. Linscott, M.D.,
Respondent

Appearance for Petitioner:

Karen Robinson, Esq.
Board of Registration in Medicine
200 Harvard Mill Square, Suite 330
Wakefield, MA 01880

Appearance for Respondent:

Claudia A. Hunter, Esq.
Hunter & Faggiano, P.C.
83 Atlantic Avenue
Boston MA 02110

Administrative Magistrate:

Kenneth Bresler

SUMMARY OF RECOMMENDED DECISION

The parties stipulated to facts and conclusions of law; they agreed on a proposed sanction of reprimand. I recommend that the Board of Registration in Medicine adopt the stipulated facts and conclusions of law, and impose a reprimand.

RECOMMENDED DECISION

On August 24, 2015, the parties filed a stipulation. An introductory paragraph
read:

Mara Linscott, M.D. (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 in the Statement of Allegations in the above captioned matter. The Respondent admits to the Findings of Fact described below and agrees that the Administrative Magistrate and the Board of Registration in Medicine (Board) may make the Conclusions of Law as set forth below.

Findings of Fact

All of the following facts are from the stipulation.

Background

1. The Respondent was born on March 2, 1975. She graduated from the School of Medicine State University of New York at Buffalo in 2003. She is certified by the American Board of Internal Medicine. She has been licensed to practice medicine in Massachusetts under registration number 242263 since January 2010. She currently practices medicine at Harbor Medical Associates in Pembroke, Massachusetts and she is affiliated with South Shore Hospital and Medical Center in Weymouth, Massachusetts.

Facts

2. On May 22, 2014, the Board docketed a complaint filed against the Respondent by one of her patients.
3. On May 22, 2014, the Board sent a letter to the Respondent by certified mail, return receipt requested to the Respondent's mailing address of record, which was her home address. That letter notified her of the complaint and provided her with a copy, and asked her to respond to the allegations contained in the complaint.
4. The letter was delivered, and signed for, on May 27, 2014.
5. A member of Board staff called the Respondent on August 28, 2014 and inquired as to the whereabouts of her response to the complaint.

6. On that same day, the staff member emailed the letter and another copy of the complaint to the Respondent.

7. On December 4, 2014, the staff member emailed the Respondent to inform her that her response to the complaint had not yet been received.

8. After receiving no reply, on December 12, 2014, the staff member called and spoke with the Respondent again. The Respondent promised to send a response by Monday, December 15, 2014.

9. On or about January 22, 2015, the Board's Complaint Committee issued an Order to Respond, which was mailed to the Respondent by certified mail, return receipt requested, to the Respondent's business address.

10. The Order was delivered to the Respondent on February 23, 2015.

11. On May 8, 2015, the Board issued a Statement of Allegations and an Order of Reference to DALA.¹

12. On August 12, 2015, DALA held a pre-hearing conference.

13. The Respondent provided an answer to the complaint on August 12, 2015, at the DALA pre-hearing conference.

Recommended Conclusions of Law

The Respondent violated G.L. c. 112, §5, eighth par. (h) and 243 C.M.R. §1.03(5)(a)11 by failing to respond to a written communication from the Board within thirty days, pursuant to 243 C.M.R. §2.07(12)(a), and by failing to respond to a Board Complaint Committee Order for Answering within ten days, pursuant to 243 C.M.R. §1.03(7) and 243 C.M.R. §2.07(12)(b).

¹ This document concerned, not the underlying complaint against Dr. Linscott, but her failure to respond to the complaint.

The Respondent violated 243 C.M.R. §1.03(5)(a)16 by failing to respond to a subpoena or to furnish the Board, its investigators, or representatives documents, information, or testimony to which the Board is legally entitled.

Recommended Sanction

The stipulation includes this language under "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 parties jointly agree to recommend to the Board that the Respondent be reprimanded.

I pass on this language to the Board of Registration in Medicine. I ask the Board to consider the middle paragraph, but do not order it to do so. I recommend that the Board reprimand Ms. Linscott. This jointly recommended sanction sounds reasonable.

Execution of the Stipulation

The stipulation includes this language under "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 her behalf has received any promises or representations regarding the same.

The signature of the Respondent, her attorney, 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.

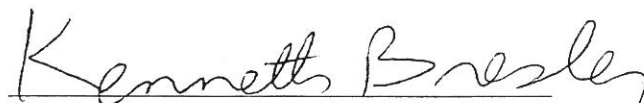
Neither of the parties nor anyone else may rely on the Stipulation in these proceedings or in any appeal therefrom.

I pass on this language to the BRM without ruling or commenting on it.

Conclusion and Order

Dr. Linscott failed to answer a complaint against her and can be reprimanded for her failure.

DIVISION OF ADMINISTRATIVE LAW APPEALS



Kenneth Bresler
Administrative Magistrate

Dated: **SEP - 4 2015**