**Board of Registration in Medicine,**

 Petitioner

 v.

**Carmen A. Puliafito, M.D.,**

 Respondent

Docket No. RM-18-0551

Date: June 21, 2019

**Appearance for the Petitioner:**

Lisa Fuccione, Esq.

 Board of Registration in Medicine

 200 Harvard Mill Square, Ste 330

 Wakefield, MA 01880

**Appearance for the Respondent:**

 Andrew Hyams, Esq.

 Kerstein, Coren, & Lichtenstein LLP

 60 Walnut Street

 Wellesley, MA 02481

**Administrative Magistrate:**

Kristin M. Palace, Esq.

**Summary of Recommended Decision**

The Board of Registration of Medicine issued a Statement of Allegations seeking to discipline the Respondent Carmen A. Puliafito, M.D. in Massachusetts because he was disciplined in another jurisdiction and because he engaged in conduct that undermines public confidence in the integrity of the medical profession. The Board’s motion for summary decision is granted. Discipline against Dr. Puliafito is recommended.

**Recommended Decision**

On September 27, 2018, the Massachusetts Board of Registration in Medicine (“Board”) issued a Statement of Allegations ordering Respondent Carmen A. Puliafito, M.D. to show cause why he should not be disciplined by the Board because he had been disciplined by the Medical Board of California and because he had engaged in conduct undermining public confidence in the integrity of the medical profession.

The underlying circumstances are as follows: On July 3, 2018, California Administrative Law Judge Jill Schlictmann issued a hearing decision in which she found, among other things, that Dr. Puliafito had regularly consumed illicit drugs, including methamphetamine, heroin, and Ecstasy (MDMA); failed to fulfill a scheduled speaking engagement at a professional conference because he opted instead to smoke methamphetamine with a friend; attempted unsuccessfully to dissuade staff at a hotel from calling 911 for his companion who became unresponsive after consuming multiple drugs including opiates and methamphetamine; provided misleading information to emergency personnel who responded to the hotel staff’s 911 call; prescribed numerous medications without conducting any physical examinations for an individual who was not his patient but with whom he had an intimate relationship; prescribed medication without a physical examination for a minor who was not his patient; and purchased alcohol for and provided marijuana and nitrous oxide to a minor. ALJ Schlictmann also found that Dr. Puliafito’s ability to practice medicine safely was impaired by mental illness which includes a Substance Use Disorder. She recommended revocation of Dr. Puliafito’s physician’s and surgeon’s license. The Medical Board of California adopted ALJ Schlictmann’s decision and revoked Dr. Puliafito’s license effective August 17, 2018. (Attachment A to Exhibit C of Board’s Motion for Summary Decision.)

Following the issuance of its Statement of Allegations, the Massachusetts Board referred the matter to the Division of Administrative Law Appeals for an adjudicatory hearing.

Administrative Magistrate Bonney Cashin conducted a prehearing conference and on November 6, 2018 the parties filed a Stipulation of Facts. The Stipulation recites, *inter alia*, that Dr. Puliafito’s license to practice medicine was revoked by the Medical Board of California following an adjudicatory hearing which established that Dr. Puliafito was impaired by a Substance Abuse Disorder that affected his ability to practice medicine, that he had repeatedly used illicit substances, that he had prescribed controlled substances for a young woman who was not his patient, that he had prescribed a dangerous drug for a minor who was not his patient, that he had provided alcohol and marijuana to a minor, that he had self-administered controlled substances, that he had written prescriptions without conducting physical examinations and without maintaining proper medical records, and that he had engaged in acts of dishonesty by providing inaccurate information to emergency responders who were attempting to treat his companion for a drug overdose. The facts agreed to in the Stipulation are identical to those contained in the Board’s September 27, 2018 Statement of Allegations.

The Board moved for Summary Decision on January 17, 2019 pursuant to 801 CMR 1.01(7)(h). The Motion references the Stipulation of Facts and argues that, as a matter of law, the Board is entitled to a decision in its favor because the agreed-upon facts establish that discipline was appropriate based on the out-of-state license revocation and on Dr. Puliafito’s misconduct which undermines public confidence in the integrity of the medical profession. Dr. Puliafito responded to the Motion. He noted that he does not dispute the factual statements in the Motion, demurring only to point out that the Board chose to recite some, but not all, of the findings of the California decision and stating that the California decision speaks for itself. He further agreed that the out-of-state discipline imposed by the California Medical Board is grounds for discipline in Massachusetts pursuant to 243 CMR 1.03(5)(a)(12). Finally, Dr. Puliafito stipulated that the Board was entitled to come to the legal conclusion that he had behaved in ways that undermined public confidence in the integrity of the medical profession.

Following the filings, this case was transferred to me.

The Board’s Motion for Summary Decision is granted. As noted above, the factual allegations are not only uncontested, they are stipulated. Additionally, Dr. Puliafito agrees that the facts form the basis for discipline under Massachusetts law. In this, he does no more than recognize the inevitable.

The law in this area is well-settled. The Board may impose discipline upon a doctor if the doctor has been disciplined by another jurisdiction, provided that the reasons for that discipline are equivalent to conduct that is prohibited under M.G.L. c. 112, § 5 or 243 CMR 1.03(5). 243 CMR 1.03(5)(a)12; *Haran v. Board of Registration in Medicine,* 395 Mass. 571, 500 N.E. 2d 268 (1986) (There is no right to “a second bite at the adjudicative apple;” in situations where there is “no significant difference between a sister State’s ‘reasons’ for discipline and the grounds that are cognizable in the Commonwealth,” collateral estoppel is “clearly proper” and discipline permissible. 395 Mass. at 575.) Here, M.G.L. c. 112, §5 provides that the Board may discipline a physician for conduct that calls into question his competence to practice medicine and for being a habitual user of narcotics, amphetamines, or similar drugs. The Board’s regulations similarly so provide at 243 CMR 1.03(5)(a)3 (competence to practice medicine), 1.03(5)(a)4 (practicing medicine when impaired by alcohol, drugs, physical disability or mental instability), and 1.03(5)(a)5 (habitually using narcotics, barbiturates, amphetamines hallucinogens or other similar drugs). Having been disciplined in California for offenses that are cognizable in Massachusetts, Dr. Puliafito is subject to discipline by the Board based on that out-of-state action. 243 CMR 1.03(5)(a)12.

The Board may also impose discipline if a physician engages in conduct that undermines public confidence in the integrity of the medical profession. In *Levy v. Board of Registration and Discipline in Medicine,* 378 Mass. 519 (1979), the Board revoked a physician’s license to practice medicine following multiple convictions for grand larceny. The Supreme Judicial Court held that the Board’s action was proper and concluded that the Board’s responsibility extends not only to the public but also to other physicians whose reputations could be tarnished by the bad acts of members of their profession. *Levy* at 528. The Court observed that the practice of medicine requires that physicians be possessed of good moral character, and those doctors who act with integrity “ought not to have public esteem for their honorable and learned profession eroded by a few who do not live up to the solemn nature of their public trust.” *Id.* Likewise, in *Raymond v. Board of Registration in Medicine,* 382 Mass. 708 (1982), the Board revoked a physician’s license after he was convicted of possessing unregistered automatic submachine guns. The SJC affirmed the Board’s decision: “Disciplining physicians for lack of good moral character, and for conduct that undermines public confidence in the integrity of the profession, is reasonably related to promotion of the public health, welfare, and safety.” *Raymond* at 713. *See also Sugarman v. Board of Registration in Medicine,* 422 Mass. 338 (1996) (intentional public disclosure of confidential information )*; Aronoff v. Board of Registration in Medicine,* 420 Mass. 830 (1995) (deceitful practice of medicine, commercial transactions with a patient contrary to the interests of the patient);  *In the Matter of Michael Mavroidis, M.D.,* Docket No. 01-27-DALA (November 19, 2008) (unauthorized distribution of a controlled substance); *In the Matter of Donald W. Marion, M.D.,* Docket No. 2005-045 (Board of Registration in Medicine, October 19, 2005) (inappropriate relationship with a patient); *In the Matter of Elizabeth Hingston, M.D.,* Docket No. 01-12-xx (Board of Registration of Medicine, June 13, 2001) (issuing prescriptions of controlled substances for no legitimate purpose, self-prescribing controlled substances).

Dr. Puliafito’s conduct is sadly in line with this litany of bad acts by physicians. Dr. Puliafito does not contest that he repeatedly used illegal substances (including methamphetamine, heroin, and MDMA), self-administered controlled substances, prescribed controlled substances for a young woman who was not his patient, prescribed a dangerous drug for a minor who was not his patient, provided alcohol and marijuana to a minor, wrote prescriptions without conducting physical examinations and without maintaining proper medical records, and misled emergency responders who were trying to revive a companion suffering from an overdose of opiates and methamphetamine. Any one of these acts would be sufficient for the Board to conclude that Dr. Puliafito acted in a manner that undermined public confidence in the integrity of the medical profession. Dr. Puliafito’s smorgasbord of bad behavior presents an overabundance of grounds for discipline.

The Board’s Motion for Summary Decision is granted.

I recommend that the Board impose sanctions against Carmen Puliafito, M.D.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Signed by Kristin M. Palace

Kristin M. Palace

Administrative Magistrate

Notice sent to:

Lisa L. Fuccione, Esq.

Andrew Hyams, Esq.

Debra Stoller, Esq.

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.