

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No.2017-030

In the Matter of)
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)

JOHN R. SEBASTIANELLI, M.D.)
_____)

STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine (Board) has determined that good cause exists to believe the following acts occurred and constitute a violation for which a licensee may be sanctioned by the Board. The Board therefore alleges that John R. Sebastianelli, M.D. (Respondent) has practiced medicine in violation of law, regulations, or good and accepted medical practice as set forth herein. The investigative docket number associated with this order to show cause is Docket No. 14-013.

Biographical Information

1. The Respondent was born on September 9, 1947. He graduated from Jefferson Medical College of Thomas Jefferson University in 1973. He has been licensed to practice medicine in Massachusetts under certificate number 71571 since June of 1987. The Respondent is certified by the American Board of Medical Specialties in Pediatrics. He lists his practice specialty as Psychiatry.

Factual Allegations

2. The Respondent began working at the Whittier Pavilion ("Pavilion") in Haverhill on January 3, 2011.

3. On December 26, 2013, Pavilion issued a written reprimand to the Respondent. The reprimand stated that the Respondent must self-report to the Board.

4. In January of 2014, the Respondent, through his attorney, self-reported to the Board that on three occasions during his employment at Pavilion, he provided prescription medication to three co-workers. The co-workers were not the Respondent's patients and the prescriptions were written outside the usual course of the Respondent's practice.

5. From 2012 until 2017, the Respondent has been prescribing schedule II through VI medications to Patient A, who is his husband.

6. 243 CMR 2.07(19)(b) prohibits a physician from prescribing Schedule II controlled substances to a member of his immediate family, including a spouse (or equivalent), parent, child, sibling, parent-in-law, son/daughter-in-law, brother/sister-in-law, step-parent, step-child, step-sibling, or other relative permanently residing in the same residence as the licensee, except in an emergency.

7. The Respondent signed his 2015 Physician Renewal Application ("PRA") on July 18, 2015.

8. Question 18(c) on the PRA reads: "Have you been the subject of an investigation by any governmental authority, including the Massachusetts Board of Registration in Medicine or any other state medical board, health care facility, group practice, employer, or professional association?"

9. Question 18(d) on the PRA reads: "Have you been the subject of a disciplinary action taken by any governmental authority, health care facility, group practice, employer, or professional association?"

10. The Respondent answered “no” to questions 18(c) and 18(d) when he should have answered “yes.”

Legal Basis for Proposed Relief

A. Pursuant to G.L. c. 112, §5, eighth par. (b) and 243 CMR 1.03(5)(a)2, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician committed an offense against a provision of the laws of the Commonwealth relating to the practice of medicine, or a rule or regulation adopted thereunder. More specifically:

1. G.L. c. 94C, § 19(a), which requires that physicians issue prescriptions for controlled substances for a legitimate purpose and in the usual course of the physician’s medical practice;

B. Pursuant to G.L. c. 112, §5, eighth par. (h) and 243 CMR 1.03(5)(a)11, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has violated a rule or regulation of the Board. Specifically:

1. 243 CMR 2.07(5), which states that a licensee who violates G.L. c. 94C also violates a rule or regulation of the Board;
2. 243 CMR 2.06(5), which requires physicians to obtain continuing medical education credits biennially;
3. 243 CMR 2.07(19), which prohibits a physician from:
 - b. prescribing Schedule II controlled substances to a member of his immediate family, including a spouse (or equivalent), parent, child, sibling, parent-in-law, son/daughter-in-law, brother/sister-in-law, step-parent, step-child, step-sibling, or other relative permanently residing in the same residence as the licensee, except in an emergency;

C. Pursuant to G.L. c. 112, §5, eighth par. (c) and 243 CMR 1.03(5)(a)3, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that he engaged in conduct that places into question the Respondent's competence to practice medicine, including but not limited to gross misconduct in the practice of medicine, or practicing medicine fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions.

D. Pursuant to G.L. c. 112, § 5, eighth par. (a) and 243 CMR 1.03(5)(a)1, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician fraudulently procured his certificate of registration or its renewal.

E. Pursuant to Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979); and Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982), the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has engaged in conduct that undermines the public confidence in the integrity of the medical profession.

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§ 5, 61 and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01.

Nature of Relief Sought

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure, reprimand, fine, the performance of uncompensated public

service, a course of education or training, or other restrictions upon the Respondent's practice of medicine.

Order

Wherefore, it is hereby **ORDERED** that the Respondent show cause why the Board should not discipline the Respondent for the conduct described herein.

By the Board of Registration in Medicine,



Kathleen Sullivan Meyre
Vice Chair

Date: September 14, 2017