

## COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2012-234

In the Matter of

DAVID H. BRENDDEL, M.D.

STIPULATION

David Brendel, 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 by the Statement of Allegations in the above matter. The Respondent admits to the Stipulated Facts described below and agrees that the Administrative Magistrate and the Board may make the Conclusions of Law as set forth below.

BACKGROUND

1. The Respondent was born on April 10, 1967. He graduated from the Harvard Medical School in 1997. He is certified in psychiatry by the American Board of Psychiatry and Neurology. He has been licensed to practice medicine in Massachusetts under certificate number 160341 since 1999. The Respondent is in private practice in Belmont, Massachusetts.

STIPULATED FACTS

2. The Respondent began treating Patient A, an adult female, in 2005 as a private psychiatric patient.
3. The Respondent treated Patient A for depression until 2007.

4. In 2007, the Respondent referred Patient A to The Pavilion, an intensive residential evaluation and treatment program at McLean Hospital.
5. The Respondent was the associate director at The Pavilion in 2007.
6. The Respondent continued to treat Patient A during her treatment at The Pavilion.
7. Patient A continued to be treated by the Respondent as a private patient, after her discharge from The Pavilion.
8. In 2009, the Respondent attended a birthday party for Patient A at her home.
9. The Respondent continued to see Patient A in treatment twice a week until June 2009.
10. In June 2009, the Respondent transferred Patient A's care to another psychiatrist because his feelings had shifted from warm feelings toward a patient to warm feelings in a friendship.
11. After transfer of care, the Respondent later engaged in a dating relationship with Patient A, which progressed into a sexual relationship in December 2010.
12. It is unethical for a psychiatrist to have a sexual relationship with a current or former patient. See American Psychiatric Association, *The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry* Section 2(1).

#### CONCLUSIONS OF LAW

A. Pursuant to G.L. c. 112, §5, ninth 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 physician'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.

B. Pursuant to 243 CMR 1.03(5)(a)18, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician committed misconduct in the practice of medicine.

C. Pursuant to *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982), and *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338 (1996), the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician lacks good moral character and 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.

#### RECOMMENDED SANCTION

The Parties have agreed upon a Recommended Sanction of a reprimand.

#### 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 his behalf has received any promises or representations regarding the same.

The signature of the Respondent, his 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 resume the hearing pursuant to General Laws c. 30A and 801 CMR 1.00 et seq., after a reasonable time for the parties to renegotiate the provision in light of the Magistrate's rejection.

If the Board rejects any provision in this Stipulation, the entire document shall be null and void and the matter will be recommitted to the Division of Administrative Law Appeals to resume the hearing pursuant to General Laws c. 30A and 801 CMR 1.00 et seq., after a reasonable time for the parties to re-negotiate the provision in light of the Board's rejection.


If the Respondent rejects the Board's proposed Sanction, the Respondent specifically reserves the right to resume the adjudicatory hearing pursuant to G.L. 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 there from.

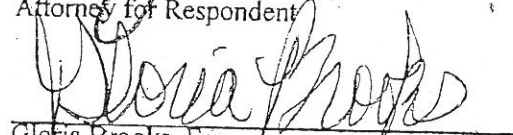


David H. Brendel, M.D.  
Respondent

4/5/17  
Date

  
Jennifer Henrichy, Esq.  
Attorney for Respondent

4/5/17  
Date

  
Gloria Brooks, Esq.  
Complaint Counsel

4/6/17  
Date