COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine
Adjudicatory Case No. 2015-014

In the Matter of

JULIETA HOLMAN, M.D.

STIPULATION

Julieta Holman, 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 October 24, 1972. She is a 2004 graduate of the Boston University School of Medicine. She has been licensed to practice medicine in Massachusetts since July 25, 2007 under certificate number 231245. The Respondent is certified by the American Board of Psychiatry and Neurology.

STIPULATED FACTS

2. In 2007, the Respondent began her training at the Boston Psychoanalytical Institute (BPI). Her training was to include, but not be limited, to: weekly seminars, her own psychoanalysis, and the treatment of three patients – one from each gender. Each patient required prior approval by the BPI Student Committee.

3. The Respondent began treating her first psychoanalytical patient in September 2009.

4. In October 2010, Patient A became the Respondent's second psychoanalytical patient (first male).

5. In October 2010, Patient A had a history of depression and anxiety and was engaged in psychopharmacology treatment with Dr. F.

6. Dr. F referred Patient A to the Respondent.

7. In October 2010, the Respondent's BPI supervisor was Supervisor 1.

8. From October to December 2010, the Respondent met two or three times a week with Patient A.

9. In January 2011, the Respondent began meeting four times a week with Patient A.

10. During April, May and June 2012, the Respondent, via email to Patient A, revealed personal information about herself that were of a romantic, sexual and personal nature.

11. During this time period of spring 2012, the Respondent was overusing prescribed amphetamine medication.

12. On June 7, 2012, Patient A discussed the Respondent's emails with Dr. F.

13. On the same day, the Respondent spoke to Patient A's Dr. F and the Respondent agreed that she should get a consult regarding her treatment of Patient A.

14. On June 7, 2012, the Respondent also called Supervisor 1. The Respondent told Supervisor 1 that she had sexual fantasies about Patient A and that she had told Patient A in an email that she was attracted to him.

15. After speaking with the Respondent about her feelings towards Patient A, Supervisor 1 contacted the Chair of the Student Committee at BPI. It was determined that the situation would be brought up at the Respondent's next evaluation.

16. In September 2012, the Respondent began supervision with Supervisor 2. The Respondent discussed her complex feelings towards Patient A with Supervisor 2.

17. On December 19, 2012, the Respondent had an annual review at BPI. Both Supervisors 1 and 2 gave extremely positive reviews of the Respondent.

18. In June 2013, the Respondent told Supervisor 2 about personal emails that she sent to Patient A after the Supervisor requested same.

19. On July 3, 2013, Supervisor 2 asked Dr. H, another supervising and training analyst at BPI, to perform a consult with the Respondent.

a. Dr. H spoke with the Respondent.

b. Dr. H met with Patient A.

20. On October 31, 2013, Patient A stopped having sessions with the Respondent.

21. On December 11, 2013, Patient A was admitted to an inpatient psychiatric unit Tufts Medical Center.

22. On December 23, 2013, Dr. H filed a peer report with the Board based on the Respondent's "inappropriate email exchange" with a patient concurrent with the doctor-patient relationship. The report did not identify Patient A nor did it include copies of the email exchange.

23. In January 2014, Patient A went to the Respondent's office in Belmont. The Respondent told Patient A that she could not speak to him.

24. In the spring of 2014, when the Respondent would not respond to Patient A's attempts at contact, Patient A left a voicemail for the Respondent in which he threatened to file a complaint with the Board.

25. On April 1, 2014, Patient A spoke with Dr. Holman. Dr. Holman told Patient A that a complaint had already been filed at the Board by another professional.

26. On April 1, 2014, Patient A filed a complaint about the Respondent with the Board.

27. On April 30, 2014, during the investigation of Patient A's complaint, the Respondent entered a Voluntary Agreement Not to Practice (VANP).

MITIGATING CIRCUMSTANCES

28. Since the Respondent entered into a VANP on April 30, 2014, she has taken a number of steps:

a. She attended a three-day course on Maintaining Appropriate Boundaries in June 2014.

b. She underwent evaluation at Acumen Assessments in August 2014. The Acumen report concluded that the Respondent's risk to reoffend is low, and that the Respondent is fit to practice subject to the following limitations:

i. PHS Contract

ii. Substance testing

iii. Refrain from mind-altering and/or stimulating drugs

iv. Return to Acumen for a 2.5 day quarterly follow-up professional boundary coaching and polygraph boundary monitoring;

v. Limit practice to 30 clinical hours per week with monitoring/oversight;

vi. Refrain from practicing psychoanalysis until it is determined by BPI, PHS and Acumen that it is safe for her to practice;

vii. Continue treatment with a therapist including but not limited to treatment/coaching to facilitate the internalization of solid self-regulation skills, a reality-based orientation toward adaptively getting her emotional needs met outside the professional and psychotherapeutic spheres.

c. The Respondent entered into a monitoring contract with Physician Health Services on September 19, 2014. The Respondent has been compliant with her contract with Physician Health Services since she entered into it.

ADDITIONAL INFORMATION

29. The Petitioner consulted with a psychiatrist certified by The American Board of Psychiatry and Neurology with a subspecialty in Forensic Psychiatry (Petitioner's Expert).

a. The Petitioner's Expert determined that Dr. Holman violated the standard of care concerning Patient A including but not limited to the following:

i. the Respondent crossed and violated boundaries while continuing to "psychoanalyze" Patient A and while offering diagnostic and medication-related opinions.

ii. the Respondent "failed to appropriately manage [Patient A's] feelings towards her."

iii. the Respondent "misused the power differential of the psychoanalytic relationship to the detriment of a psychologically vulnerable patient."

iv. the Respondent failed to treat Patient A's psychiatric symptoms.

b. According to the Petitioner's Expert, there is no substantive difference between the standard of care for a general psychiatrist and a psychiatrist practicing analysis.

30. The Respondent consulted with a psychiatrist Bernard Levy, M.D., who is certified by The American Board of Psychiatry and Neurology since 1969 with a specialty in ethics including appointments through the Massachusetts Psychiatry Society and the Massachusetts Medical Society and affiliation with Physician Health Services ("PHS") ("Dr. Levy").

31. Dr. Levy personally evaluated the Respondent, and reviewed the pertinent materials in this case.

a. He concluded that the Respondent is ethically fit to practice medicine.

b. In Dr. Levy's opinion, the Respondent did not engage in professional misconduct or unethical behavior in this case.

i. Dr. Levy opines that the Respondent's reciprocation of Patient A's free association and transference process through emails exchanged with sexual-fantasy content was a known complication of the psychoanalytic transference/countertransference process.

ii. Dr. Levy avers that the Respondent appropriately recognized, sought guidance, and addressed her difficulties with countertransference with Patient A.

iii. At no time did she engage in inappropriate physical contact, sexual relations, unduly exploitive acts, or other unethical behavior toward Patient A.

f. It is Dr. Levy's opinion that there is a substantive difference between the standard of care for a general psychiatrist and a psychiatrist practicing psychoanalysis.

g. Dr. Levy's opinion is that the nature of the psychoanalytic process is to encourage the patient's free association process wherever it leads; the analyst does not manage the patient's feelings or thoughts.

h. Dr. Levy further opines the process notes were available and periodically reviewed by the Respondent's supervisor(s), whose comments were contemporaneously entered into the progress notes. The notes make clear that the content of the Respondent's emails was purely fantasy, an extension of the transference/countertransference process, rather than secretive acting-out of unethical relations or exploitation.

32. It is expected that in the Respondent's case there will be testimony that the overuse of prescribed amphetamine medication may have clouded her clinical judgment.

CONCLUSIONS OF LAW

A. Pursuant to G.L. c. 112, §5(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 said physician has committed conduct which places into question his 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 has committed misconduct in the practice of medicine.

C. Pursuant to Sugarman v. Board of Registration in Medicine, 422 Mass. 338 (1996); 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.

D. Pursuant to Aronoff v. Board of Registration in Medicine, 420 Mass. 830, 834 (1995), the Board may discipline a physician upon proof satisfactory to a majority of the Board that the physician has violated an ethical principle.

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., after a reasonable time for the parties to re-negotiate 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 for a

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.

The Parties did not agree upon a Recommended Sanction, and have agreed to defer to the discretion of the Board in matters related to Sanction. If the Respondent rejects the Board's proposed Sanction, the Respondent specifically reserves the right to pursue an 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.

Julieta Holman, M.D.
Respondent

15 March 2016
Date

Jennifer Herlihy, Esq.
Attorney for Respondent

3/15/16
Date

Tracy Morong, Esq.
Complaint Counsel

3/15/2016
Date