

**NATHANIEL D. PITNOF****Public Reprimand No. 2011-19****Order (public reprimand) entered by the Board on July 25, 2011.****SUMMARY**¹

In April 2004, a client engaged the respondent to evaluate potential malpractice claims arising from surgery in March 2004. The surgery had resulted in serious complications for which the client sought treatment until at least the spring of 2009.

Between 2004 and the spring of 2009, the client obtained her medical records and gave the records to the respondent. The respondent instructed the client to try to obtain an opinion from her doctors as to whether there had been a medical error in her surgery. He did not consult any of the client's doctors himself, obtain an expert opinion, or take other action of his own to evaluate and preserve the claims. The respondent failed to commence an action for the client or inform her that he would not file suit within the limitations period, which expired in March or April 2007. The respondent failed to inform the client that the limitations period had expired.

In the spring of 2009, the client asked the respondent whether he had started a lawsuit for her. The respondent told the client that he had not filed suit, that he could do nothing for her, and that was terminating his representation. The respondent did not disclose to the client that her claims were time barred. For about the next year, the respondent failed to respond to the client's repeated requests for her records. He returned the records in the summer of 2010.

The respondent's reliance on the client to obtain an expert opinion and his failure to take action to evaluate and preserve the client's claims violated Mass. R. Prof. C. 1.1, 1.2(a), and 1.3. The respondent's failure to inform the client that he would not file suit for her prior to the expiration of the statute of limitation, disclose to the client that the limitations period had expired, and reply to her requests for the return of her records violated Mass. R. Prof. C. 1.4(a) and (b). His failure to return the records within a reasonable time after her request violated Mass. R. Prof. C. 1.16(d) and (e)(1).

In aggravation, the respondent had substantial experience in practice, and the client lost the opportunity to pursue her claims. The respondent has malpractice insurance.

The matter came before the Board of Bar Overseers on the parties' stipulation of facts and rule violations and an agreed recommendation for discipline by public reprimand with conditions. On July 11, 2011, the board voted to accept the stipulation and impose a public reprimand, conditioned on the respondent's attendance at a CLE course designated by bar counsel and his submission to a LOMAP audit.

¹ Compiled by the Board of Bar Overseers based on the record of proceedings before the Board.