

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2013-027

In the Matter of)
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)

JAMES H. AVRUCH, 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 James H. Avruch, 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. 12-420

Biographical Information

1. The Respondent was born on October 2, 1982. He graduated from Tufts University School of Medicine in 2010.
2. The Respondent held a limited license to practice medicine from July 1, 2010 until August 2012 under certificate number 245314, first at UMass Memorial Medical Center (UMass Memorial) and later at Baystate Medical Center.
3. The Respondent's limited license to practice medicine expired in August 2012 when he was terminated by Baystate Medical Center.

Factual Allegations

4. From July 1, 2010 until June 30, 2011, the Respondent held a limited license to practice medicine at UMass Memorial, where he was enrolled in a family medicine residency program.

5. On May 4, 2011, the Board approved the renewal of the Respondent's limited license to practice medicine at UMass Memorial. This limited license was for the period that began on July 1, 2011.

6. From July 1, 2011 until June 30, 2012, the Respondent was enrolled in a one-year preliminary surgical internship program at UMass Memorial.

7. During the course of the program referenced in paragraph 6 above, the Respondent began using marijuana, heroin and cocaine. His use after work and during the days he was not working escalated over the course of the year.

8. On June 6, 2012, the Board approved the renewal of the Respondent's limited license to practice medicine. This limited license was for the period that began on July 1, 2012 at Baystate Medical Center.

9. On July 1, 2012, the Respondent began a general surgery residency program at Baystate Medical Center.

10. The Respondent was assigned to work the night shift, from 6:00 p.m. to 6:00 a.m. As a surgical resident assigned to the night shift, the Respondent was responsible for keeping track of the paperwork of the trauma patients, among his other duties.

11. The Respondent was not able to sleep during the day and was using marijuana, cocaine and heroin approximately every other day.

12. The Respondent fell asleep on multiple occasions while at work.

13. As part of the Respondent's duties, he was required to wear five different pagers. He missed pages because he was asleep.

14. The Respondent had problems keeping up with his work, and the quality of his patient documentation suffered as a result.

15. The Respondent was counseled on several occasions about his demeanor and problems sleeping on the job. Attending physicians also expressed concerns to him about his scant documentation in patients' charts.

16. On July 26, 2012, the Respondent met with the surgery residency program director and assistant director, as well as another surgeon. The meeting occurred while the Respondent was on duty and during his scheduled work hours.

17. They told him to immediately report to the employee health center for a fitness for duty examination.

18. The Respondent met with a nurse practitioner, who administered a fitness for duty examination. As part of the examination, the Respondent gave a urine sample.

19. The Respondent disclosed to the nurse practitioner that his urine sample would come back positive for heroin, cocaine and marijuana.

20. The Respondent was placed on paid disability leave on July 26, 2012 pending the results of the fitness for duty examination.

21. On or about August 2, 2012, Baystate Medical Center received notice that the Respondent's urine sample given on July 26, 2012 had tested positive for cocaine, marijuana and morphine.

22. Effective August 3, 2012, Baystate Medical Center placed the Respondent on unpaid leave pending further investigation.

23. During its investigation, Baystate Medical Center determined that prior to beginning the Baystate Medical Center's general surgery residency program, the Respondent completed documentation in connection with a pre-placement physical examination. The Respondent misrepresented his history concerning problems with drug and alcohol abuse. This conduct violated Baystate Medical Center's policies as well as the terms and conditions of the Respondent's Graduate Medical Education Contract with Baystate Medical Center.

24. Baystate Medical Center terminated the Respondent effective August 31, 2012.

25. The Respondent did not report to work at Baystate Medical Center between July 26, 2012 and August 31, 2012.

26. On August 1, 2012, the Respondent entered a residential drug treatment program in Pennsylvania. He remained at the program for two months.

27. On October 4, 2012, the Respondent transferred to the treatment program's Florida location, which had a behavioral therapy component. The Respondent did not successfully complete that program.

28. The Respondent entered into a PHS Substance Use Monitoring Contract effective March 20, 2013.

Legal Basis for Proposed Relief

A. Pursuant to G.L. c. 112, §5, ninth par. (d) and 243 CMR 1.03(5)(a)4, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician practiced medicine while his ability to do so was impaired by alcohol, drugs, physical disability or mental instability.

B. Pursuant to *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *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,

Candace Lapidus Sloane, MD
Candace Lapidus Sloane, M.D.
Board Chair

Date: June 19, 2013

SENT CERTIFIED MAIL 6/21/13 mg