

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2013-027

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In the Matter of )  
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JAMES H. AVRUCH, M.D. )  
\_\_\_\_\_)

**CONSENT ORDER**

Pursuant to G.L. c. 30A, § 10, James H. Avruch, M.D., (Respondent) and the Board of Registration in Medicine (Board) (hereinafter referred to jointly as the "Parties") agree that the Board may issue this Consent Order to resolve the above-captioned adjudicatory proceeding. The Parties further agree that this Consent Order will have all the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact specified below and agrees that the Board may make the conclusions of law and impose the sanction set forth below in resolution of investigative Docket No.12-420.

**Findings of Fact**

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.

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.

#### Conclusions of Law

A. The Respondent has violated G.L. c. 112, § 5, ninth par. (d) and 243 CMR 1.03(5)(a)4 by practicing medicine while his ability to do so was impaired by alcohol and drugs.

B. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession. *See Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982).

### Sanction and Order

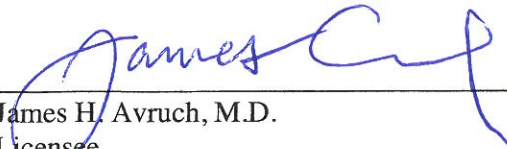
The Respondent's limited license is hereby revoked, retroactive to May 4, 2011, the date that the Board approved the limited licensure renewal for the residency period beginning on July 1, 2011.

### Execution of this Consent Order


The Respondent shall provide a complete copy of this Consent Order with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which the Respondent practices medicine; any in- or out-of-state health maintenance organization with whom the Respondent has privileges or any other kind of association; any state agency, in- or out-of-state, with which the Respondent has a provider contract; any in- or out-of-state medical employer, whether or not the Respondent practices medicine there; the state licensing boards of all states in which the Respondent has any kind of license to practice medicine; the Drug Enforcement Administration Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which the Respondent becomes associated for the duration of this revocation. The Respondent is further directed to certify to the Board within ten (10) days that the Respondent has complied with this directive.

The Board expressly reserves the authority to independently notify, at any time, any of

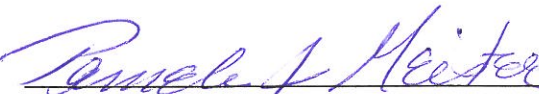
the entities designated above, or any other affected entity, of any action it has taken.

  
James H. Avruch, M.D.  
Licensee

5-21-13  
Date


  
W. Scott Liebert, Esq.  
Attorney for the Licensee

May 24, 2013  
Date

  
Pamela J. Meister, Esq.  
Complaint Counsel

May 29, 2013  
Date

So ORDERED by the Board of Registration in Medicine this 19<sup>th</sup> day of June, 2013.

  
Candace Lapidus Sloane, M.D.  
Board Chair