

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2013-028

In the Matter of)
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)

JONATHAN HOWARD KROLL, 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 Jonathan Howard Kroll, M.D. (Respondent) has practiced medicine in violation of law, regulation, and/or good and accepted medical practice, as set forth herein. The investigative docket number associated with this order to show cause is Docket No. 11-468.

Biographical Information

1. The Respondent was born on July 30, 1982. He graduated from the Texas Tech University Health Sciences Center in 2010. He was licensed to practice medicine in Massachusetts under limited license number 247921 in 2011.
2. On December 9, 2011, the Board secretary accepted the Respondent's Voluntary Agreement Not to Practice Medicine (VANP). The full Board ratified the VANP on December 21, 2011.
3. On November 7, 2011, Boston Medical Center submitted a Health Care Facility Disciplinary report (HCFD) stating that the Respondent was on administrative leave pending an investigation into allegations that the Respondent was under the influence of drugs during his shift on November 4, 2011.

4. November 4, 2011 was the Respondent's first day covering the surgical intensive care unit (SICU) on-call shift; his shift was from 7 a.m. to approximately 10 a.m. the following day.

5. At approximately 5 p.m., a patient was transferred from the OR to the post-anesthesia care unit (PACU). The Respondent was supposed to see the patient in the PACU. He did not.

6. The attending physician inquired about the Respondent's failure to see the patient. The Respondent told his supervisor that he had been taking a nap.

7. Later in the shift, an attending physician from a different BMC campus tried to page the Respondent regarding a patient who needed to be transferred to the SICU. The Respondent did not answer.

8. The attending reported the Respondent's lack of response to his supervisor.

9. The Respondent's supervisor paged him and told him to respond to the attending immediately and report back to the supervisor.

10. The Respondent and his supervisor rounded on the SICU patients at 10 p.m. without incident.

11. The supervisor received a call from a nurse at 2 a.m.; a patient was having a seizure. The Respondent had not answered the nurses' pages.

12. The supervisor found the Respondent in the resident on-call room with a bottle of Isoflurane, a drug used to sedate surgical patients, on the floor next to him. The smell of the drug was in the air.

13. The Respondent denied that he had used Isoflurane.

14. An administrative physician in the anesthesiology department was called to the hospital to speak with the Respondent about his reported drug use while working.

15. At approximately 5:30 a.m., the Respondent was accompanied by the administrative physician to change from his scrubs to regular clothes.

16. The Respondent ran out the back door when the administrative physician took a moment to speak with a staff member.
17. The Respondent went home and took a large quantity of Ambien.
18. The Respondent lost consciousness and was transported via ambulance to the emergency room at BMC.
19. The Respondent was transferred to McLean Hospital where he remained for two weeks.
20. The Respondent was discharged from McLean and immediately transferred to the Caron Treatment Center in Wernersville, Pennsylvania (Caron).
21. The Respondent was discharged from Caron on March 14, 2012 after successfully completing the program.
22. The Respondent did not get a sponsor as he had been instructed to do upon his discharge from Caron.
23. The Respondent relapsed on May 3, 2012.
24. On May 10, 2012, the Respondent overdosed and was transported to Massachusetts General Hospital where he spent two or three nights.
25. The Respondent was transferred to McLean Hospital where he spent two weeks.
26. The Respondent signed a substance use monitoring contract with a behavioral addendum with Physician Health Services (PHS) on May 25, 2012.
27. The Respondent was transferred from McLean directly to the Menninger Clinic (Menninger), a dual diagnosis inpatient program in Houston, Texas.
28. He remained at Menninger for six weeks.
29. The Respondent was discharged from Menninger on July 9, 2012.
30. The Respondent received treatment recommendations upon his discharge from Menninger.

31. The first treatment recommendation was that the Respondent check into Hopewell sober living residence immediately upon his return to Massachusetts.

32. The Respondent reported to the sober house and left on September 28, 2012.

33. In October 2012, PHS reported that the Respondent had been non-compliant with treatment recommendations while he was residing at the sober living facility. PHS then recommended additional outpatient treatment options at Bournewood Hospital which he successfully completed.

34. The Respondent was terminated from BMC as of June 27, 2012.

Legal Basis for Proposed Relief

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 Respondent'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 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.

C. 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.

D. 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.

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.
Chair

Date: June 19, 2013

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