

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2014-049

In the Matter of)
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)

ZACHARY D. NIGHTINGALE, 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 Zachary D. Nightingale, 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. 13-187.

Biographical Information

1. The Respondent was born on April 13, 1973. He graduated from the University of Massachusetts Medical School in June 2009. He held a limited license from June 2009 through June 2013 under certificate number 241222, first at St. Vincent's Hospital, and then at UMass Memorial Medical Center (UMass Memorial).

2. From July 1, 2009 until June 30, 2010, the Respondent held a limited license to practice medicine at St. Vincent's Hospital, where he was enrolled in an internal medicine program.

3. From July 1, 2010 until June 30, 2013, the Respondent held a limited license to

practice medicine at UMass Memorial, where he was enrolled in an anesthesiology residency program.

Factual Allegations

4. The Respondent began to abuse substances in July 2012, while he was a fourth year anesthesiology resident at UMass Memorial.

5. The Respondent's drug use escalated over time. In January 2013, his drug use averaged 2 to 4 times a week.

6. On multiple occasions between July 2012 and May 2013, the Respondent diverted used vials of Sufentanil (a powerful synthetic opioid) from UMass Memorial.

7. The Respondent added saline solution to the waste Sufentanil vial and injected himself with the solution.

8. The Respondent twice diverted waste morphine and hydromorphone from UMass Memorial in May 2013.

9. The Respondent twice abused drugs while he was on duty at UMass Memorial.

10. During the months that the Respondent misused drugs, his residency program had noticed a deterioration in his clinical performance.

11. From May 4, 2013 at 0700 until May 5, 2013 at 0700, the Respondent was on-call at UMass Memorial.

12. At approximately 0600 on May 5, 2013, the Respondent was found asleep in the on-call room of UMass Memorial with a blood-tinged 3 cc syringe next to him.

13. The Respondent told UMass Memorial staff that he had self-administered Ketorolac, a non-steroidal anti-inflammatory drug, to manage his chronic back pain.

14. On May 5, 2013, the Respondent voluntarily provided UMass Memorial with

urine and blood samples for toxicology screening.

15. Preliminary screening revealed the presence of non-prescribed opioids.

16. The Respondent took medical leave from May 5, 2013 until June 30, 2013.

17. The Respondent did not complete his fourth year of residency.

18. On June 30, 2013, his employment with UMass Memorial ended.

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 and drugs.

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: December 3, 2014

SENT CERTIFIED MAIL 12/4/14 *ms*