

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2014-049

In the Matter of)
)
)
ZACHARY D. NIGHTINGALE, M.D.)
_____)

CONSENT ORDER

Pursuant to G.L. c. 30A, § 10, Zachary D. Nightingale, 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. 13-187.

Findings of Fact

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.
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.

Conclusion 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

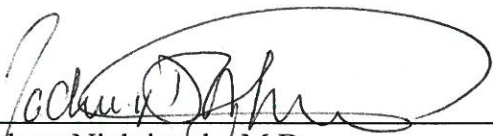
The Respondent's limited license is hereby revoked, retroactive to July 1, 2012.

Execution of this Consent Order

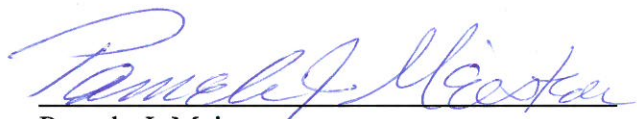
The Respondent shall provide a complete copy of this Consent Order with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, 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.


Zachary Nightingale, M.D.
Licensee

7/30/14
Date


Pamela J. Meister
Complaint Counsel

7/30/14
Date

So ORDERED by the Board of Registration in Medicine this 3rd day of December, 2014.

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

SENT CERTIFIED MAIL 12/4/14 (ms)