

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2022-038

In the Matter of

Richard T. Birkett, M.D.

CONSENT ORDER

Pursuant to G.L. c. 30A, § 10, Richard T. Birkett, 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 C.M.R 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 number 19-528.

Findings of Fact

1. The Respondent graduated from the Drexel University College of Medicine on May 18, 2012 and completed fellowship at the University of Pennsylvania in July 2018. The Respondent has been licensed to practice medicine in Massachusetts under certificate number 271766 since September 14, 2017 and is board certified in surgery.

2013 Arrest and Prosecution

2. At approximately 4:20 a.m., on November 16, 2013, the Respondent operated a motor vehicle at a high rate of speed on Rte. 95 in Burlington, Massachusetts and crashed while taking the Middlesex Turnpike/Rte. 3 exit.

3. Respondent admitted to Massachusetts State Police ("MSP") that he was driving from a friend's house and took the Rte. 3/Middlesex Turnpike exit too fast.

4. Respondent performed poorly on field sobriety tests administered by MSP. Respondent was placed under arrest.

5. The Respondent's post-arrest chemical breath test results were both .12%, which exceeded the .08% legal limit.

6. The Respondent was charged with operating under the influence ("OUI") of liquor or .08% or greater in violation of G.L. c. 90, § 24(1)(a)(1) and other offenses.

7. On April 9, 2014, the Respondent tendered a plea, admitting to sufficient facts to find him guilty of OUI-Liquor or .08% or greater, in violation of G.L. c. 90, § 24(1)(a)(1), and the charge was continued without a finding of guilt ("CWO") for one year with probation until April 8, 2015. All other criminal charges were dismissed at the Commonwealth's request.

2019 Arrest and Prosecution

8. On October 31, 2019, at approximately 8:20 p.m., a Lieutenant with the Wakefield Police Department ("Lt.") noticed the Respondent driving a motor vehicle at a high rate of speed on Salem Street. The Lt. estimated the Respondent was travelling 45 mph in a 30 mph thickly settled area. The Lt. also saw the Respondent swerve over the center line to avoid a mattress that was barely jutting out from the sidewalk.

9. After he was stopped, the Respondent admitted to having a couple of beers at a friend's house.

10. The Respondent performed poorly on Field Sobriety Tests.
11. The Respondent was placed under arrest and charged with OUI, a second offense, in violation of G.L. c. 90, § 24(1)(a)(1) and two civil motor vehicle infractions.
12. On June 22, 2022 the Respondent admitted to sufficient facts to find him guilty of the reduced charge of OUI-liquor, first offense, a violation of G.L. c. 90 §24(1)(a)(1), and the charge was continued without a finding of guilt for two years with probation until June 21, 2024.

Conclusions of Law

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

Order

The Respondent's medical license is hereby REPRIMANDED. The Respondent is also ordered to entering into a 2-year Probation Agreement with standard substance abuse terms and conditions.

Execution of this Consent Order

Complaint Counsel and the Respondent agree that the approval of this Consent Order is left to the discretion of the Board. The signature of Complaint Counsel and the Respondent are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order, in whole or in part, then the entire document shall be null and void; thereafter, neither of the parties nor anyone else may rely on these stipulations in this proceeding.

As to any matter in this Consent Order left to the discretion of the Board, neither the Respondent, nor anyone acting on his behalf, has received any promises or representations regarding the same.

The Respondent waives any right of appeal that he may have resulting from the Board's acceptance of this Consent Order.

The Respondent shall provide a complete copy of this Consent Order 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 during the duration of his Probation Agreement. 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.

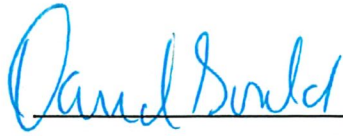


Richard T. Birkett, M.D.

Licensee

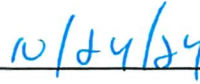
10/7/2024

Date



David Gould, Esq.

Attorney for the Licensee



Date



Erik R. Bennett, Esq.

Complaint Counsel



Date

So ORDERED by the Board of Registration in Medicine this 19th__ day of December____ .



Booker T. Bush, M.D.

Board Chair