

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN MEDICINE

Middlesex, ss.

Adjudicatory Case No. 2015-003
(RM-15-12)

In the Matter of

Joshua Baron, M.D.

FINAL DECISION AND ORDER

This matter came before the Board for final disposition on the basis of the Administrative Magistrate's Recommended Decision (hereinafter "Recommended Decision") dated June 17, 2019, which found Joshua Baron, M.D. (hereinafter "Respondent") in default. After full consideration of the Recommended Decision, which is attached hereto and incorporated by reference, the Board adopts the Recommended Decision, amending it by adding the following:

Findings of Fact

In light of the Respondent's failure to file an Answer to the Statement of Allegations (hereinafter "SOA"), to appear for a scheduled pre-hearing conference before the Division of Administrative Law Appeals (hereinafter "DALA"), and respond to the Magistrate's April 29, 2019 Order to Show Cause, the Board hereby finds the Respondent in default. G.L. c. 30A, § 10(2), and 801 CMR 1.01(7)(a)(1). Therefore, the allegations contained in the SOA are deemed admitted. *See In the Matter of Christopher D. Owens, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-031 (Final Decision and Order, April 25, 2018); *In the Matter of Paul M. Willette, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-035 (Final Decision and Order, September 13, 2018).

The Board makes the following findings:

Biographical Information

1. The Respondent was born on November 21, 1973. He is board-certified in neurology with special qualification in child neurology. He graduated from the University of Massachusetts Medical School in 2000. He was licensed to practice medicine in Massachusetts under certificate number 225148 in June 2005. His license lapsed on November 21, 2007 when he failed to renew it.

Factual Allegations

2. In or about October 2011, the Respondent was indicted in the United States District Court for the Northern District of Illinois on charges of knowingly and intentionally distributing a quantity of mixtures and substances containing amphetamine, a Schedule II Controlled Substance, outside of the usual course of professional practice and without a legitimate purpose, in violation of Title 21, United States Code, Section 841(a)(1). He was also charged with one count of attempting to violate Title 21, United States Code, Section 841(a)(1).

3. In March 2014, the Respondent pleaded guilty to eight counts of Distribution of Controlled Substance in the United States District Court for the Northern District of Illinois.

4. In August 2014, the Respondent was sentenced to 70 months in prison and 10 years of supervised release thereafter. He was also ordered to perform 1,000 hours of community service.

5. The Respondent began serving his 70-month sentence in September 2014 and was assigned to the U.S. Penitentiary in Marion, Illinois. His scheduled release date was October 8, 2019.

Conclusions of Law

Since the matter was decided on the basis of a default at DALA, the Magistrate made no determinations as to Conclusions of Law. Based upon the facts set forth in the SOA, and now admitted, the Board makes the following Conclusions of Law:

A. Pursuant to G.L. c. 112, § 5, ninth par. (g), the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has been convicted of a criminal offense which reasonably calls into question his ability to practice medicine; and

B. Pursuant to 243 CMR 1.03(5)(a)7, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has been convicted of a crime.

Sanction

The Respondent's failure to file an Answer to the SOA, to appear for a scheduled pre-hearing conference before DALA, to respond to the Magistrate's April 29, 2019 Order to Show Cause, and his default in connection with this action demonstrate his utter disregard for the Board's statutory mandate. The Board has historically imposed revocation as the sanction for default. *See, e.g., In the Matter of Paul M. Willette, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-035 (Final Decision and Order, September 13, 2018); *In the Matter of John P. Katzenberg, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-054 (Final Decision and Order, August 9, 2018); *In the Matter of Christopher D. Owens, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-031 (Final Decision and Order, April 25, 2018); *In the Matter of John E. Strobeck, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-044 (Final Decision and Order, April 25, 2018). In these cases, the Board reasoned that by failing to respond to the Board, a physician prevents the Board from investigating the allegations concerning his or her misconduct. The physician's failure to respond

to these allegations thereby hinders the Board's efforts to fulfill its mission to protect the public health, safety, and welfare.

Revocation has been imposed by the Board "where physicians have repeatedly disregarded the Board's administrative directives." *See In the Matter of Anastasia Kucharski, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2008-048 (Final Decision and Order, April 14, 2010) (Board revoked physician's inchoate right to renew her medical license, finding she had continued to practice after her license had lapsed, practiced without malpractice insurance, and engaged in licensing fraud by misrepresenting her malpractice insurance status and failing to report criminal charges).

The Board has also imposed revocation in matters where a physician has been convicted of crimes relating to the illegal distribution of controlled substances. *See In the Matter of Manuel Yapchai, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2018-17 (Final Decision and Order, November 21, 2018) (inchoate right to renew revoked based on federal conviction on a single count of Illegal Distribution of a Controlled Substance and a prison sentence of one day with two years of supervised release); *In the Matter of Richard Ng, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2014-026 (Consent Order, June 25, 2014) (license revoked based on criminal conviction involving prescribing and fraud); and *In the Matter of Michael L. Mavroidis, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 01-27-DALA (Final Decision and Order, November 19, 2008) (license revoked for misconduct that included finding of guilty of ten counts of unauthorized distribution of Class B, C, and E controlled substances).

The Board's paramount responsibility is the protection of the public health, safety, and welfare. *See Levy v. Board of Registration in Medicine*, 378 Mass 519 (1979). In light of the

Respondent's default, which hindered the Board's efforts in its fulfillment of this responsibility, it is appropriate to impose a sanction in this matter. The Board hereby **REVOKES** the Respondent's inchoate right to renew his license to practice medicine. This sanction is imposed for each violation of law listed in the Conclusions of Law section and not a combination of any or all of them.

The Respondent shall provide a complete copy of this Final Decision and 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 he practices medicine; any in- or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; the state licensing board of all states in which he 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 he becomes associated for the duration of this revocation. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive.

The Respondent has the right to appeal this Final Decision and Order within thirty (30) days, pursuant to G.L. c. 30A, §§ 14 and 15, and G.L. c. 112, § 64.

Date: October 10, 2019

Candace Lapidus Sloane, MD
Candace Lapidus Sloane, M.D.
Chair
Board of Registration in Medicine