

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN MEDICINE

MIDDLESEX, SS

Adjudicatory Case
No. 2014-016
RM-14-196

In the Matter of)
)
David Farrar, M.D.)
_____)

FINAL DECISION AND ORDER

This matter came before the Board for disposition on the basis of the Administrative Magistrate's Recommended Decision (Recommended Decision), dated August 27, 2014, which is attached hereto and incorporated by reference. The Recommended Decision, incorporating a Stipulation signed by the Respondent and Petitioner, and Petitioner's Memorandum on Disposition were considered by the Board on November 5, 2014. After full consideration of the Recommended Decision and the Petitioner's Memorandum on Disposition, the Board adopts the Recommended Ruling and imposes the following sanction:

Sanction

The record demonstrates that the Respondent was convicted of a crime, conduct that calls into question his competence to practice medicine and conduct that undermines public confidence in the integrity of the medical profession. Therefore, it is proper for the Board to impose sanction for violation of 243 CMR 1.03(5)(a)7. *See also* Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982); Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979).

The Board has chosen revocation of the inchoate right to renew a license as the sanction for physicians who have been convicted of serious criminal matters. *See* In the Matter of Mark S. Metzger, M.D., Board of Medicine, Adjudicatory Case No. 2013-016 (Final Decision and Order, October 23, 2013)(Board revoked inchoate right to renew

license of physician convicted for Attempted Sexual Abuse in the First Degree against a 12 year old child, and self-prescribing controlled substances); In the Matter of Gerald Morris, M.D., Board of Medicine, Adjudicatory Case No. 2009-020, (Final Decision and Order, December 16, 2009)(Board revoked inchoate right to renew license of physician convicted for unlawful distribution of controlled substances, issuing internet prescriptions for other than legitimate medical purposes and not maintaining a medical record for each patient); In the Matter of Mukunda Mukherjee, M.D., Board of Medicine, Adjudicatory Case No. 2007-016, (Final Decision and Order, October 17, 2007)(Board revoked inchoate right to renew license of physician convicted for illegal distribution of controlled substances); and In the Matter of Devork Vorperian, M.D., Board of Medicine, Adjudicatory Case No. 2007-070, (Final Decision and Order, July 9, 2008)(Board revoked inchoate right to renew license of physician convicted of fraudulent billing practices where Respondent received kickbacks from a laboratory where he sent his Medicare and Medi-Cal patients).

The Respondent entered a Voluntary Agreement Not to Practice (VANP) as of August 31, 2012. The Respondent's license to practice medicine lapsed as of October 11, 2012. In consideration of the Findings of Fact and Conclusions of Law in the Stipulation in the Recommended Decision, the Board hereby TERMINATES the Voluntary Agreement Not to Practice, and REVOKES the Respondent's inchoate right to renew his license to practice medicine, retroactive to August 31, 2012, the date on which the Respondent entered into the VANP.

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 boards 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 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. 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: November 5, 2014

Candace Lapidus Sloane, MD

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

SENT CERTIFIED MAIL 11/6/14 (ms)

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Division of Administrative Law Appeals

08/29/14 S33

Board of Registration in Medicine,
Petitioner

Docket No. RM-14-196

v.

David J. Farrar, M.D.,
Respondent

Appearance for Petitioner:

John Costello, Esq.
Board of Registration in Medicine
200 Harvard Mill Square, Suite 330
Wakefield, Massachusetts 01880

Appearance for Respondent:

Sheara F. Friend, Esq.
Wilchins Cosentino & Friend LLP
20 William Street, Suite 130
Wellesley, Massachusetts 02481

Administrative Magistrate:

Bonney Cashin

RECOMMENDED DECISION

On April 17, 2014, the Petitioner, Board of Registration in Medicine (Board), issued Statements of Allegations ordering the Respondent, David J. Farrar, M.D. to show cause why he should not be disciplined for his conviction for a criminal offense which calls into question his ability to practice medicine, for engaging in misconduct in the practice of medicine, for engaging in conduct that undermines public confidence in the integrity of the medical profession, for fraudulently procuring his certificate of registration or renewal, for committing an offense against any provision of the laws of the Commonwealth relating to the practice of medicine, or

any rule or regulation adopted thereunder, and for violating various rules and regulations of the Board.

On April 17, 2014, the matter was referred by the Board to the Division of Administrative Law Appeals (DALA). On June 5, 2014, I conducted a prehearing conference.

On August 11, 2014, the parties filed a fully executed Stipulation. In it the parties agreed to certain findings of fact and conclusions of law.

The attached Stipulation is incorporated here by reference. Other than the Stipulation and the admissions of fact contained in it, I have not taken evidence with respect to the facts of this matter. Based on the facts as stipulated, I conclude that the Conclusions of Law set forth in the Stipulation are warranted, and I therefore adopt them.

Based on the foregoing, I recommend that the Board impose such discipline on Dr. Farrar as it deems appropriate in light of the facts and conclusions of law as stipulated by the parties.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Bonney Cashin
Bonney Cashin
Administrative Magistrate

DATED: **AUG 27 2014**

COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

Division of Administrative Law Appeals

Docket No. RM-14-196

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Board of Registration in Medicine,
Petitioner

v.

David J. Farrar, M.D.,
Respondent

STIPULATION

David J. Farrar, M.D. (Respondent), the Respondent's attorney, and Complaint Counsel agree that this Stipulation shall be filed with the Administrative Magistrate for the Division of Administrative Law Appeals (DALA) as a resolution of questions of material fact and law as set forth by the Statement of Allegations in the above matter. The Respondent admits to the Findings of Fact described below and agrees that the Administrative Magistrate and the Board may make the Conclusions of Law as set forth below.

FINDINGS OF FACT

1. The Respondent was born on October 11, 1954. He graduated from the Faculty of Medicine, University of Sydney in 1978. He had been licensed to practice medicine in Massachusetts under certificate number 154218 since 1997. He previously held privileges at Mount Auburn Hospital in Cambridge ("Mount Auburn"). The Respondent is not licensed to practice medicine in any other state; his license to practice medicine in Rhode Island expired on June 30, 1999, and his license to practice medicine in New York expired on January 31, 2001.

2. On August 31, 2012, the Respondent entered into a Voluntary Agreement Not to Practice Medicine ("VANP"); the Board ratified the VANP on September 19, 2012.

3. The Respondent did not renew his license on or before October 11, 2012, when it was due for renewal.

4. A Cambridge Police report dated July 11, 2012 states that on July 11, 2012, a female companion of the Respondent's ("Female A") reported to the Cambridge Police Department that Respondent had threatened her approximately five (5) weeks earlier, she reported to the Cambridge Police Department that Respondent conveyed to her threats to certain Mount Auburn Hospital physicians and employees ("Mount Auburn Staff") approximately five (5) weeks earlier, she reported that the Respondent had enrolled in a firearms skills training course; she reported that she was afraid of him, and that the Respondent was due to return from a trip to London on July 15, 2012.

5. On July 12, 2012, Female A obtained an Abuse Prevention Order ("Restraining Order") against the Respondent, pursuant to M.G.L. c. 209A, directing the Respondent to stay away from Female A and to have no contact with her.

6. On July 13, 2012, the Middlesex County Superior Court issued a Temporary Civil Restraining Order against the Respondent, at the request of an attorney acting on behalf of the Mount Auburn Staff. On July 16, 2012, a Middlesex County Superior Court judge issued an order ("Order"), which ordered the Respondent not to contact any of the Mount Auburn employees or staff in any way, and to stay away from any and all Mount Auburn properties. That Order remains in effect.

7. A Cambridge Police report dated July 13, 2012 states that Female A reported to the Cambridge Police several incidences of past abusive behavior against Female A by the Respondent.

8. On July 13, 2012, a criminal complaint issued against the Respondent, alleging two counts of Domestic Assault and Battery, and alleging one count of Intimidation of a Witness ("Original Complaint"); on July 15, 2012, Cambridge Police arrested the Respondent at Logan Airport, when he reentered the country from London; he was served with a copy of the Restraining Order when he was arrested.

9. On July 16, 2012, the Respondent was arraigned on the Original Complaint in the Cambridge District Court ("Court").

10. According to a Cambridge Police report dated July 16, 2012, Cambridge Police received information from a Middlesex County District Attorney's Office ("D.A.") employee that while the Respondent was in Court for his arraignment on the Original Complaint, the Respondent contacted Female A by telephone, in violation of the Restraining Order.

11. On July 18, 2012, a criminal complaint ("Second Complaint") issued against the Respondent, alleging one count of Violation of a Restraining Order as to Female A, and alleging two counts of Threats to Commit a Crime as to certain Mount Auburn Staff, as did a third criminal complaint ("Third Complaint") alleging Threats to Commit a Crime as to an additional Mount Auburn physician.

12. A Cambridge Police report dated July 18, 2012 states that at midnight on July 16, 2012, Female A returned to her apartment building, in which the Respondent also resided but in a separate apartment, and encountered the Respondent when Female A, uninvited, opened the

Respondent's unlocked apartment door; Female A reported the encounter to the Cambridge Police on July 18, 2012.

13. On July 18, 2012, a criminal complaint ("Fourth Complaint") issued against the Respondent, alleging one count of Violation of a Restraining Order as to Female A.

14. On July 19, 2012, the D.A. filed a motion in Court to hold the Respondent in custody, without bail, for up to ninety (90) days, based on the Respondent's alleged dangerousness to the public, pursuant to M.G.L. c. 276, § 58A ("Dangerousness").

15. On July 19, 2012, after a Dangerousness hearing, the Court ordered the Respondent held without bail until October 14, 2012.

16. On October 16, 2012, the Respondent was released on bail, but was ordered to wear a GPS electronic monitoring bracelet ("GPS device").

17. On December 3, 2012, the Newbury Police arrested the Respondent, based upon a signal from the Respondent's GPS device to the Respondent's probation officer indicating that the GPS device had been compromised; the Respondent was brought before the Court on December 4, 2012. The Respondent's attorneys filed a motion with the Court, asserting that the GPS device had malfunctioned, and that the Respondent had called the GPS device service provider prior to his arrest. The Respondent's motion included copies of the Respondent's cell phone records, indicating that the Respondent had called the GPS device service provider prior to his arrest.

18. On December 4, 2012, the Respondent's bail was revoked, and he was ordered to be held without bail until March 4, 2013, and subsequently until March 15, 2013.

19. On March 15, 2013, the Respondent was brought into Court and pleaded guilty to:

- a. Two counts of Assault and Battery in the Original Complaint;

- b. One count of Violation of an Abuse Prevention Order as to Female A in the Second Complaint, and;
- c. One count of Violation of an Abuse Prevention Order as to Female A in the Fourth Complaint.

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20. The D.A. then dismissed the remaining counts and complaints against the Respondent.

21. After tendering his guilty pleas, the Court sentenced the Respondent to 2 ½ years of incarceration in the house of correction, with one year to serve. The Respondent was placed on probation until March 15, 2018. Conditions of his term of probation include: the wearing of a GPS device; completion of a state-certified Batterer's Intervention Program; completion of the Emerge Domestic Violence Program; the prohibition of any communication or contact with Female A; and, restrictions upon his movements within the Commonwealth, including exclusions from Female A's work and residential addresses and the perimeters of Mount Auburn.

22. The Respondent was released from the house of corrections on July 23, 2013, and was ordered to abide by the March 15, 2013 conditions of probation.

CONCLUSIONS OF LAW

A. The Respondent has violated 243 CMR 1.03(5)(a)7 in that he has been convicted of a crime.

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

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The Respondent, the Respondent's attorney and Complaint Counsel expressly acknowledge that the Board may impose sanctions against the Respondent based upon the above Findings of Fact and Conclusions of Law. The Respondent, the Respondent's attorney and Complaint Counsel jointly agree to recommend to the Board that it impose the sanction set forth below. The parties hereto understand that the recommended sanction is not binding on the Board, and that the Board may wish to impose a different sanction on the Respondent.

At the time the Board considers this Stipulation, it will inform the parties of its inclination as to sanction. If the Board's sanction is different from the one recommended by the parties, the Respondent will be given an opportunity to either accept or reject the proposed sanction. If the Respondent rejects the proposed sanction, then the matter will continue through the adjudicatory process pursuant to General Laws chapter 30A and 801 CMR 1.00 et seq.

The Respondent, the Respondent's attorney and Complaint Counsel agree to recommend to the Board that it impose the following: the Respondent's inchoate right to renew his license is revoked, retroactive to August 31, 2012, the date on which the Respondent entered into a VANP.

EXECUTION OF THIS STIPULATION

The parties agree that the approval of this Stipulation is left to the discretion of the Administrative Magistrate and the Board. As to any matter this Stipulation leaves to the discretion of the Administrative Magistrate or the Board, neither the Respondent, nor anyone else acting on his behalf has received any promises or representations regarding the same.

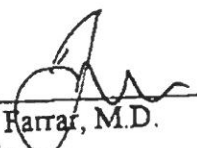
The signature of the Respondent, his attorney, and Complaint Counsel are expressly conditioned on the Administrative Magistrate and the Board accepting this Stipulation.

If the Administrative Magistrate rejects any provision contained in this Stipulation, the entire document shall be null and void and the matter will be scheduled for a hearing pursuant to General Laws c. 30A and 801 CMR 1.00 et seq.

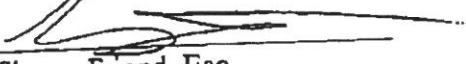
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If the Board rejects any provision in this Stipulation or modifies the Sanction and said modification is rejected by the Respondent, the entire document shall be null and void and the matter will be recommitted to the Division of Administrative Law Appeals for a hearing pursuant to General Laws c. 30A and 801 CMR 1.00 et seq.

Neither of the parties nor anyone else may rely on the Stipulation in these proceedings or in any appeal there from.


David J. Farrar, M.D.
Respondent

JULY 9, 2014
Date


Sheara Friend, Esq.
Attorney for Respondent

JULY 16, 2014
Date


John Costello
Complaint Counsel

AUG 11, 2014
Date