

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

BOARD OF REGISTRATION
IN MEDICINE

Adjudicatory Case No: 2024-027
(RM-24-0332)

_____)
In the Matter of)
)
Scott D. Harris, M.D.)
_____)

Order

Procedural History

The Board initiated this proceeding by issuing a Statement of Allegations (SOA) against Scott D. Harris, M.D. (“Respondent”) on May 23, 2024 and referring the matter to the Division of Administrative Law Appeals (DALA). During the pendency of this proceeding, the Respondent failed to appear at the Pre-Hearing Conference, failed to file an Answer and failed to respond to an Order to Show Cause as to why the Respondent should not be found in default. Accordingly, the DALA Administrative Magistrate issued an Order of Default and Recommended Decision which found the Respondent to be in default and recommended that the Board impose any such sanctions as it deems appropriate. On October 24, 2024, after full consideration of the Recommended Decision, which is attached hereto and incorporated by reference, the Board issued a Final Decision and Order that adopted the Recommended Decision finding the Respondent to be in default and the allegations in the SOA to therefore be deemed admitted. *See Danca Corp. v. Raytheon Co.*, 28 Mass. App. Ct. 942, 943, 550 N.E.2d 402, 403 (1990). The Final Decision and Order revoked Dr. Harris’ license to practice medicine in Massachusetts.

Thereafter, on November 1, 2011, the Respondent submitted a request that the Board reconsider its decision to revoke his license for failure to respond to requests for information. On November 5, 2024, Complaint Counsel filed a response to Respondent’s Request. Complaint Counsel opposes the Board changing its prior action, and asserts that even if the Board were to reconsider the sanction of revocation, it should nevertheless impose some sanction for failure to respond.

Discussion

As noted in the October 24, 2024 Final Decision and Order, the Board has a statutory mandate and mission to protect the public health, safety and welfare. This is accomplished in part by investigating complaints against physicians and physician cooperation in such investigations is essential. Accordingly, as a general rule, a physician's failure to cooperate in investigations and to participate in disciplinary proceedings is held to demonstrate utter disregard for the Board's statutory mandate and to warrant license revocation. See In the Matter of Mark M. Kowalski, M.D., Board of Registration in Medicine, Adjudicatory Case No. 97-16-DALA (Final Decision and Order, April 1, 1998) ("A physician who obstructs the Board's investigation of a complaint and blatantly ignores repeated requests for a response threatens the public's health, welfare and safety, not only by denying the Board potentially important information, but also by draining the resources of the Board.")

Nevertheless, there are instances where a physician, after falling into default for repeated failure to respond to complaints, cooperate with investigations and participate in disciplinary proceedings, belatedly appears before the Board and seeks reconsideration. *In the Matter of Jessica Knapp*, Adjudicatory Case No. 2017-031 (November 7, 2019); *In the Matter of Yahwant Chaudhri*, Adjudicatory Case No. 2021-008 (Final Decision and Order dated May 19, 2022 rescinded October 26, 2022). In *Knapp*, the licensee was aware of the proceedings but failed to respond and thus defaulted at DALA. However, she appeared before the board and described "challenging life circumstances" before the Board issued its Final Decision and Order. The Board took her circumstances into account and imposed a \$2500 fine rather than a revocation. In *Chaudhri*, the Board expressed openness in the Final Decision and Order that imposed revocation, to reconsider this sanction provided that the Respondent request reconsideration within 60 days; on reconsideration, the Board authorized rescinding the Final Decision and Order on condition that the Respondent enter into a Consent Order for a reprimand with respect to the underlying complaint.

In his request for reconsideration, the Respondent candidly concedes that he "did indeed get multiple requests for information from the Board to which [he] did not respond." He asserts that the stress of having to balance **G.L. c. 4, § 7(26)(c)** with providing care for patients led him to "stick his head in the sand" regarding the complaints and

outreaches from the Board and DALA. Moreover, Respondent expressed intention to provide responses to the complaint and met the Board's contingency that such response be provided to Complaint Counsel within 10 business days.

Order

Based on the foregoing, the Board hereby amends the October 24, 2024 Final Decision and Order in the following manner:

- (1) The Board strikes Docket No. 22-477 from the Final Decision and Order, thereby allowing the original complaint against Respondent, 22-477, to be resolved separately from the remaining complaint, Docket No. 24-107, which concerns the Respondent's prior failure to respond to complaint 22-477;
- (2) The Board acknowledges that the Respondent provided a response to complaint, Docket No. 22-477 within the 10 business days of the Board's consideration of Respondent's request for reconsideration request;
- (3) The Board rescinds the revocation of Respondent's medical license, nunc pro tunc to October 24, 2024, and in its place imposes a sanction of a reprimand and a \$2500 fine to be paid within 60 days of this Order.

Except as modified herein, the Final Decision and Order issued on October 24, 2024, inclusive of all findings of fact, conclusions of law and discussion, remains in full force and effect.

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 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 22, 2024



Booker T. Bush, M.D.
Board Chair