COMMONWEALTH OF MASSACHUSETTS

BOARD OF REGISTRATION IN MEDICINE

MIDDLESEX, SS Adjudicatory Case No. 2015-014

 (RM-15-165)

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In the Matter of )

 ) FINAL DECISION AND ORDER

Julieta Holman, M.D. )

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 This matter came before the Board for disposition on the basis of the Administrative Magistrate’s Recommended Decision, incorporating a Stipulation by the parties, dated April 16, 2015, which is attached hereto and incorporated by reference. There were no objections to the Recommended Decision. Both Respondent and Petitioner submitted Memoranda on Disposition. After full consideration of the Recommended Decision, a Victim Impact Statement, the parties’ Memoranda on Disposition, and the parties’ arguments on sanction, the Board adopts the Recommended Decision and imposes the following sanction:

Sanction

The record demonstrates that the Respondent engaged in conduct that calls into question her competence to practice medicine, that she has committed misconduct in the practice of medicine, that she has violated an ethical principle, and engaged in conduct that undermines public confidence in the integrity of the medical profession. Therefore, it is proper for the Board to impose sanction. *See* Sugarman v. Board of Registration in Medicine, 422 Mass. 338, 343-344 (1996); Aronoff v. Board of Registration in Medicine, 420 Mass. 830, 834 (1995); Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982); Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979).

In the past, the Board has dealt strictly with cases of sexual misconduct, particularly where, as in the Respondent’s case, the physician is a psychiatrist or is acting in such a role. Such cases involve a serious departure from good and accepted medical practice and a complete abuse of patient trust. *See* In the Matter of John A. Scorza, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2005-030 (Final Decision and Order, February 20, 2008); In The Matter of Karen S. Kagey, M.D., Board of Registration in Medicine, Adjudicatory Case No. 05-15 (Final Decision and Order, November 15, 2006); and In the Matter of William Kadish, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2001-XX (Consent Order, August 22, 2001). In this case, the Respondent committed sexual boundary violations with a patient during the course of the psychoanalyst – patient relationship. By doing so, the Respondent crossed the boundary which separates reasonable and appropriate professional conduct from unacceptable personal relations, all in violation of the standards set forth, since 1993, in *The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry* by the American Psychiatric Association (APA), making it unethical for a psychiatrist to have a sexual relationship with a current or former patient.

In the past, the Board has imposed a lesser sanction than revocation after taking into account such factors as the nature and extent of the overall misconduct, the number of patients involved, the duration of the misconduct, and whether the physician self-reported the misconduct and cooperated with the Board. *See* In the Matter of Terrence M. O’Neill, M.D., Board of Registration in Medicine, Adjudicatory Case No. 88-44-TR (Final Decision and Order, August 9, 1994). In *O’Neill*, the Respondent, an Ob-Gyn, did transfer the patient’s care to a psychiatrist, there was no harm according to the patient and the Respondent had no other violations or matters before the Board. There was only one patient involved, that patient was a former patient and there was not likely to be a recurrence of this behavior. The Board suspended his license for 3 years, which suspension was stayed 7 months after the Final Decision; In the Matter of Howard Berens, M.D., Adjudicatory Case No. 02-33-XX, (Consent Order, August 2, 2002), where the psychiatrist started a sexual relationship with a patient two months after the physician-patient relationship had been terminated. The patient declined to file a complaint and the Respondent cooperated with the Board. The Board suspended him for 3 years and stayed the suspension upon entry into a probation agreement; and In the Matter of Harold Williams, M.D., Adjudicatory Case No. 92-15-DALA, (Fina`l Decision and Order, April 14, 1993), where the psychiatrist had a sexual relationship with his patient during the course of treatment. The Board accepted a stipulation by the parties allowing for a suspension of five years, stayed after one year upon entering into a five year probation agreement.

Sanction

In light of the Respondent’s sexual boundary violation with a patient, and taking into consideration mitigating factors, including that there was no physical boundary violation and that the Respondent cooperated with the Board, the Board hereby SUSPENDS the Respondent’s license to practice medicine.

The Respondent has not practiced medicine since April 30, 2014, the date she entered into a Voluntary Agreement Not to Practice with the Board. The Respondent may petition to stay the suspension one year from the date of this Order. Approval of such petition is within the discretion of the Board and is contingent upon a determination that the Respondent is fit to practice medicine, is in compliance with all the terms of her Physician Health Services (PHS) contract, and upon the Respondent’s entry into a five-year Probation Agreement. The five year term shall commence on the date of the Board’s approval of the terms of the Probation Agreement, which shall include, but not be limited to, the following:

1. Participation and compliance with a PHS Substance Use and Behavioral Health monitoring contract throughout the duration of the Probation period;
2. Compliance with all outstanding recommendations of an Acumen Assessment, LLC report from 2014;
3. Entry into a Transitional Practice Plan at such time as the Respondent commences the practice of medicine to include, but not be limited to, the following provisions:
	1. The Respondent shall meet with a Board-certified, Board-approved psychiatrist weekly for clinical supervision to review cases and discuss, among other topics, the maintenance of psychiatrist-patient boundaries and a review of the Respondent’s protocols and practices for managing transference and counter-transference with patients.
	2. The Respondent shall authorize the approved psychiatrist to submit quarterly reports on compliance and progress in correcting any identified deficiencies.

 The Respondent may petition to terminate the Probation Agreement upon her demonstration of five years of successful compliance with its terms.

 The Respondent is also permanently restricted from practicing psychoanalysis. The sanction is imposed for each violation of the law, 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 she practices medicine; any in- or out-of-state health maintenance organization with whom she has privileges or any other kind of association; any state agency, in- or out-of-state, with which she has a provider contract; any in- or out-of-state medical employer, whether or not she practices medicine there; the state licensing boards of all states in which she 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 she becomes associated for the duration of this suspension. The Respondent is further directed to certify to the Board within ten (10) days that she 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.

Date: September 22, 2016 Signed by Kathleen Sullivan Meyer

 Kathleen Sullivan Meyer, J.D.

 Vice Chair

 Board of Registration in Medicine