

² Having been convicted of a crime is a basis for discipline pursuant to 243 CMR 1.03(5)(a)7. Having engaged in conduct that undermines public confidence in the integrity of the medical profession is a basis for discipline pursuant to *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979) and *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982).

On March 5, 2024, the Respondent filed Objections to the Recommended Decision. On March 6, 2024, Complaint Counsel filed Response to Objections to the Recommended Decision.³ The Board has noted the Respondent’s Objections to the Recommended Decision and has provided an adequate statement of reasons for its decision; the Board is not required to answer each specific objection in its decision.

The Board strikes the finding that the patient was a “person with a disability” since that was neither adjudicated in the underlying criminal proceeding nor admitted by the Respondent. The Board does not see reason to strike the finding that the Respondent sought the patient out as he was convicted for the crime of solicitation of a sexual act.

On May 8, 2024, the Respondent timely filed a Memorandum on Disposition,⁴ in which he concedes that the Board may impose discipline based on his criminal conviction and admits that he engaged in a sexual relationship with a current patient.

After full consideration of the Recommended Decision and Objections, the Board amends the Recommended Decision to strike the finding that the patient was a person with a disability. The Board ADOPTS the February 8, 2024 Recommended Decision, as amended, and incorporates it into this Final Decision and Order.

Discussion

The relevant facts in this matter, as set forth in the Recommended Decision, are that, in August of 2019, the Respondent began to provide treatment to a female patient. On G.L. c. 4, § 7(26)(c) 2019, the Respondent engaged in sexual conduct with the patient.

On January 22, 2020, the Respondent was indicted by a grand jury in McLean County, Illinois for four counts: one count of Aggravated Criminal Sexual Assault; one count of Criminal Sexual Assault; one count of Aggravated Criminal Sexual Abuse; and one count of Criminal Sexual Abuse. Based on the indictments, the Division of Professional Regulation of the State of Illinois issued a February 25, 2020 Order temporarily suspending the Respondent’s license based on a determination that “the public interest, safety, and welfare

³ The Board has noted the Respondent’s Objections to the Recommended Decision and has provided an adequate statement of reasons for its decision; the Board is not required to answer each specific objection in its decision. *Arthurs v. Board of Registration in Medicine*, 383 Mass. 299, 418 N.E. 2d 1236 (1981).

⁴ On May 20, 2024, Complaint Counsel filed a Memorandum on Disposition beyond the time limit set in Board Policy 2023-02. The Board does not rely on this memorandum in reaching its result.

imperatively require emergency action to prevent the continued practice of...Respondent, in that the Respondent's actions constitute an immediate danger to the public.”

On October 29, 2022, the Respondent was charged by way of information with a fifth count: one count of Solicitation of a Sexual Act in violation of 720 ILCS 5/11-14.1(a). The underlying conduct related to the fifth count also occurred on G.L. c. 4, § 7(26)(c) 2019 and involved the same patient.

On December 27, 2022, the Respondent entered a plea agreement whereby he pled guilty and was convicted of one count of Solicitation of a Sexual Act and the remaining four counts were dismissed. The Respondent was sentenced, *inter alia*, to 120 days in jail, with credit for one day served, to 18 months' probation, and as an additional condition, the Respondent was prohibited from engaging in the practice of medicine in any form. He has completed his term of incarceration and was released.

Sanction

The Board bases its sanction both on the Respondent's criminal conviction and his admission that he engaged in a sexual relationship with a current patient. The Board has stated, “[A]ny criminal behavior is antithetical to a commitment to preserve life, alleviate suffering, and restore health.”⁵ The Board deals harshly with criminal convictions for sexual crimes.”⁶

The Board has also imposed discipline in cases with like fact patterns, even in the absence of a criminal conviction in one case, and in the absence of criminal charges in another, where the physician admitted committing a crime.⁷ The Board has stated that it “does not focus on whether the conduct resulted in an arrest or a criminal conviction. It is the conduct which indicates lack of good moral character and which undermines public confidence in the medical

⁵ See *In the Matter of John J. Diggins, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2021-021 (RM-21-175)(DALA Recommended Decision at p. 10, January 21, 2022).

⁶ See *In the Matter of Moutaz Almawaldi, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2020-019 (Final Decision and Order, January 14, 2021)(Board revoked physician's inchoate right to renew his license based on his conviction for sexual battery involving a worker in his office).

⁷ See *In the Matter of Emad S. Aljahdli, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-23 (Final Decision and Order, August 11, 2017)(Board disciplined physician charged with one count of sexual conduct for a fee even though the charge was dismissed upon the physician's completing community service.) See also *In the Matter of Richard J. Pedro, D.O.*, Board of Registration in Medicine, Adjudicatory Case No. 2018-622 (Final Decision and Order, December 16, 2021)(Board disciplined physician based on his admission that he committed a crime, paying another person to engage in sexual conduct, even in the absence of criminal charges.)

profession.”⁸ The Board “tailors its sanction to deter other physicians from engaging in similar misconduct and thereby protect public confidence in the profession.”⁹

The Board has imposed revocation of a physician’s inchoate right to renew his license in two cases where physicians breached the physician-patient boundary in sexual communications.¹⁰ In *Perrone*, the Board described such conduct as “a serious departure from good and accepted behavior and a complete abuse of patient trust.”

When determining the appropriate sanction in this matter, the Board also considers the Respondent’s admission that he engaged in a sexual relationship with a current patient. “In matters where boundary crossings have involved sexual intercourse, the Board has generally imposed license revocation as the sanction.”¹¹ License revocation is the most severe sanction the Board can impose and is effective for a minimum of five years, unless the Board specifies otherwise. 243 CMR 1.05(3).

In light of the Respondent’s criminal conviction for solicitation of a sex act, his admitted sexual relationship with the patient in the context of the physician-patient relationship, and the Board’s precedent in similar matters, the Board REVOKES the Respondent’s inchoate right to renew his license.

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

⁸ See *Pedro* (Final Decision and Order, December 16, 2021).

⁹ See *Pedro* quoting *Matter of Concemi*, 422 Mass. 326, 329 (1996).

¹⁰ See *In the Matter of Julian A. Mitton, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2019-052 (Final Decision and Order, September 8, 2022)(physician used a patient’s private information to send unsolicited and unwelcome sexually suggestive text messages and images). See also *In the Matter of Anthony Perrone, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2014-020 (Second Amended Final Decision and Order, November 19, 2020)(physician engaged in sexually explicit text message communications with a patient and requested sexually explicit images of the patient after the patient sent one initially.)

¹¹ *In the Matter of Romuald Sluyters, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2007-012 (Final Decision and Order, December 5, 2007).

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: July 18, 2024

A handwritten signature in black ink, appearing to read 'Booker T. Bush', written over a horizontal line.

Booker T. Bush, M.D., Chair
Board of Registration in Medicine