

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

BOARD OF REGISTRATION
IN MEDICINE

Adjudicatory Case No: 2017-031

In the Matter of)
)
Jessica Knapp, D.O.)
_____)

Final Decision and Order

This matter came before the Board for final disposition on the basis of the Administrative Magistrate's Recommended Decision, dated April 10, 2019, which found Jessica Knapp, D.O., (Respondent) in default. After full consideration of that Recommended Decision, which is attached hereto and incorporated by reference, and Petitioner's Memorandum on Disposition, the Board adopts the Recommended Decision, amending it by adding the following:

Findings of Fact

In light of the Respondent's failure to respond to the Board's inquiries prior to issuing a Statement of Allegations (SOA), failure to file an Answer to the SOA, failure to appear for a scheduled pre-hearing at the Division of Administrative Law Appeals (DALA), and failure to file a response to the Board's Motion for Entry of Default and Summary Decision, the Board hereby finds the Respondent in default. M.G.L. c. 30A, § 10(2). Therefore, the allegations contained in the SOA are deemed admitted. See *Peters & Russel, Inc. v. Dorfman*, 188 F.2d 711 (7th Cir. 1951); and *Northwest Yeast Co. v. Broutin*, 133 F.2d 638 (6th Cir. 1943).

The Board makes the following findings:

Biographical Information

1. The Respondent was born on October 17, 1981. She graduated from Lake Erie College of Osteopathic Medicine in 2010. The American Board of Medical Specialties has certified her in Family Medicine, with a subspecialty in Sports Medicine. She has been licensed to practice medicine in Massachusetts under certificate number 260631 since 2014.

Factual Allegations

1. On September 6, 2017, the Respondent renewed her full license. On the renewal application, the Respondent answered affirmatively to Question #22, inquiring as to whether the Respondent had completed all of the CPD requirements for the renewal cycle.
2. On November 17, 2017, the Licensing Division notified the Respondent via electronic mail ("e-mail") and United States Postal Service (USPS) certified mail, of a CPD audit and requested that she produce appropriate documentation that she earned 40 Category 1 credits during the renewal cycle, which was October 17, 2015 to October 16, 2017. E-mail delivery failed and the post office returned the USPS certified mail with a new forwarding address. The Licensing Division sent the audit notification letter to the new address and received confirmation that it was delivered.
3. On February 13, 2018, the Enforcement Division sent a letter to the Respondent at the new address via USPS first-class mail with delivery confirmation. The letter informed the Respondent that the Board docketed a complaint against her for

failing to respond to the Board, and requested that she file a response to the complaint within 30 days pursuant to 243 C.M.R. 2.07(12). Enforcement received confirmation of delivery. Also, Enforcement contacted the Respondent via telephone and left a voicemail for the Respondent to contact the Board as soon as possible.

4. On March 14, 2018, a copy of the February 13, 2018 notification letter was mailed to the Respondent. Enforcement received delivery confirmation.
5. On April 9, 2018, Enforcement called the Respondent and left another voicemail for the Respondent to contact the Board as soon as possible. Message confirms the Respondent as the owner of the number called.
6. On October 1, 2018, the Board's Complaint Committee issued a Ten Day Order to Respond. This was mailed to the Respondent by USPS certified mail to the Respondent's address used most recently with the previous delivery confirmations. The Order was returned with a new forwarding address.
7. On October 9, 2018 the 10-day Order was sent to the new forwarding address via USPS certified mail with delivery confirmation. The Order was delivered to the Respondent on October 20, 2018.
8. As of the date of the Statement of Allegations, the Respondent has not responded to the Board.

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 out in the SOA, and now admitted, the Board can make the following Conclusions of Law:

1. The Respondent violated a rule or regulation of the Board, specifically:
 - a. 243 CMR 2.07(12)(a), which requires a physician to respond to a written communication from the Board within thirty days; and
 - b. 243 CMR 1.03(7) and 243 CMR 2.07(12)(b), which require a physician to respond within ten days to an Order for Answering by the Complaint Committee; and
2. The Respondent violated 243 CMR 1.03(5)(a)16, by failing to respond to a subpoena or to furnish the Board, its investigators or representatives, documents, information or testimony to which the Board is legally entitled.

Sanction

The Respondent's failure to respond to the Board's inquiries prior to issuing a Statement of Allegations (SOA), failure to file an Answer to the SOA, failure to appear for a scheduled pre-hearing at the Division of Administrative Law Appeals (DALA), and failure to file a response to the Board's Motion for Entry of Default and Summary Decision, demonstrate her utter disregard for the Board's statutory mandate. In order for the Board to fulfill its mission to protect the public, a physician's cooperation is essential. By failing to respond to the serious allegations against her, the Respondent hindered the Board's efforts to fulfill its mission. 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.").

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). Revocation has also been the ordered sanction where the physician displays a “disregard for both the integrity of [her] profession and the authority of the Commonwealth.” See *In the Matter of R. T. Moody, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2008-49 (Final Decision and Order, February 24, 2010).

On November 7, 2019, the Respondent appeared before the Board, described challenging life circumstances during the pertinent time period and demonstrated both insight and remorse as to the repeated occasions on which her failures to respond hindered the Board in fulfilling its paramount responsibility; namely 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, it is appropriate to impose a sanction in this matter. In consideration mitigating factors, including the Respondent’s challenging life circumstances, as well as her demonstrated insight and remorse, the Board imposes a \$2500 fine and requires the Respondent to direct a written statement to Chief Magistrate Edward McGrath reiterating her understanding the serious administrative burden posed by her failures to respond her licensing authority and to the Division of Administrative Law Appeals. The Respondent must pay the fine within six months of the issuance of this Final Decision and Order. The Board will not renew the license of any physician who fails to pay a fine in a timely manner; this step will be taken automatically and no further notice or process will apply.

This sanction is imposed for each violation of law listed in the Conclusions of Law section above 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 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 7, 2019

Candace Lapidus Sloane, MD

Candace Lapidus Sloane, M.D.
Board Chair