

COMMONWEALTH OF MASSACHUSETTS BOARD OF
REGISTRATION IN MEDICINE

MIDDLESEX, ss

Adjudicatory Case No. 2024-049

(RM-24-0595)

In the Matter of)
)
Mohamad Och, M.D.)
)

FINAL DECISION AND ORDER

Procedural History

The Board initiated this matter by issuing a September 12, 2024 Statement of Allegations (“SOA”) against Mohamad Och, M.D. (“Respondent”). The Board alleged that: i) the Respondent had been indicted on eight counts of unlawful distribution of a controlled substance and two counts of healthcare fraud; ii) at trial, there was evidence that he prescribed Adderall and Xanax without doing proper examinations, obtaining proper medical records, or performing drug testing despite evidence that the patients, who were undercover officers, appeared to have been participating in drug diversion; and iii) following an 11-day jury trial, the Respondent was convicted, on November 17, 2023, of three counts of unlawful distribution of a controlled substance.¹ The Board charged the Respondent with i) having been criminally convicted; ii) having been convicted of a criminal offense which reasonably calls into question his ability to practice medicine; and iii) for having engaged in conduct that undermines public confidence in the integrity of the medical profession. On the same day, the Board referred the SOA to the Division of Administrative Law Appeals (DALA) for further proceedings.

On October 9, 2024, the Respondent filed his Answer to Statement of Allegations (“Answer”), in which he admitted the charges as to the indictment and conviction.

¹ The Respondent has not yet been sentenced. The Board is not required to wait until the physician has exhausted his appellate options before it can take action against his license to practice medicine. *In the Matter of Russel Aubin, D.O.*, Adjudicatory Case No. 2006-007 (Partial Final Decision January 10, 2007).

On December 26, 2024, Complaint Counsel filed a Motion for Summary Decision (“Motion”), arguing that, given the Respondent’s admissions, there were no genuine issues of fact in dispute with respect to the criminal charges, jury trial and conviction.

On January 29, 2025, the Respondent submitted his opposition to the Motion, arguing that the regulation allowing summary decision² conflicts with the Board’s enabling statute,³ which predicates any Board disciplinary action on a “hearing.” The Respondent cited to a case where a licensee wanted an opportunity to present evidence “to explain her actions,” hoping to secure a sanction that accounted for her individual circumstances. The Supreme Judicial Court agreed that that entering summary decision in that instance was inconsistent with the applicable statute’s demand for a “hearing.”⁴ *Veksler v. Board of Registration in Dentistry*, 429 Mass. 650, 651 (1999).

On February 13, 2025, DALA Magistrate Yakov Malkiel (“Magistrate”) issued an Order Granting Summary Decision, based on a more recent decision,⁵ in which the Supreme Judicial Court clarified that *Veksler*, “safeguard[ed] ‘a right of allocution’, the right to present mitigating factors prior” to the imposition of discipline, but did not entitle the practitioner to a hearing to take evidence concerning the undisputed facts. The Court, in *Kobrin*, found that the right of allocution was not denied when the Board accepted and considered his disposition-specific affidavits. Accordingly, the Board is “entitled to rely on the conviction as...conclusive ‘proof,’ when the Board provides a “right of allocution,” prior to imposing a discipline.

On February 19, 2025, this Board notified the Parties that they must submit any objections, a memorandum on disposition and/or a motion to remand to DALA within fourteen business days. Neither Party submitted objections. In their respective April 2025 memoranda on disposition, Complaint Counsel recommends that the Board impose revocation of the Respondent’s license as the sanction, while the Respondent recommends that the Board impose suspension of the Respondent’s license as the sanction.

After full consideration of the Order Granting Summary Decision and in the absence of objections to the Order, the Board adopts the Order. The Board draws attention to the final

² 801 CMR §1.01(7)(h).

³ G.L. c. 112, § 5.

⁴ See *Veksler v. Board of Registration in Dentistry*, 429 Mass. 650, 651 (1999).

⁵ *Kobrin v. Board of Registration in Med.*, 444 Mass. 837 (2005).

sentence of the Order, stating, “A recommended decision is hereby entered in complaint counsel’s favor to the effect that the board may impose discipline on Dr. Och on the basis of the allegations and theories appearing in the statement of allegations.” Accordingly, the Board imposes discipline based on the Respondent’s i) having been criminally convicted;⁶ ii) having been convicted of a criminal offense which reasonably calls into question his ability to practice medicine;⁷ and iii) for having engaged in conduct that undermines public confidence in the integrity of the medical profession.⁸

Sanction

The record indicates that the Respondent, a board-certified psychiatrist,⁹ unlawfully distributed controlled substances and that, at trial there was evidence he did so without doing proper examinations, obtaining proper medical records, or performing drug testing despite evidence that the patients, who were undercover officers, appeared to have been participating in drug diversion.

“When determining the appropriate sanction where there has been criminal conduct, the Board takes into consideration the nature of the offense, whether the criminal conduct occurred during the course of the practice of medicine or was related to the practice of medicine...and any mitigating or aggravating circumstances.”¹⁰

The Board has stated, “[A]ny criminal behavior is antithetical to a commitment to preserve life, alleviate suffering, and restore health.”¹¹ So, too, the Board has stated, “Commission of a felony is conclusive evidence of lack of good moral character at the time of the offense.”¹²

Three decades ago, the Board considered a case where a psychiatrist prescribed controlled substances to patients with histories of substance abuse and without proper evaluation of patients’ current conditions. The Board stated, “We are particularly troubled by the Respondent’s cavalier

⁶ 243 CMR 1.03(5)(a)7.

⁷ 243 CMR 1.03(5)(a)3.

⁸ *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982).

⁹ The Respondent’s license lapsed on April 1, 2025.

¹⁰ *See In the Matter of Ronald S. Grusd, M.D.*, Board of Registration in Medicine, Adjudicatory Case. No. 2018-032) (Final Decision and Order, October 22, 2020).

¹¹ *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).

¹² *See In the Matter of Harvey Prager*, 422 Mass. 86, 91-91 (1966).

attitude in prescribing medications...to individuals displaying indicators of substance abuse and chemical dependency. The Respondent's failure to properly examine his patients...[and] to document patients' symptoms... is inexcusable."¹³ The Board "has long viewed with the utmost seriousness any physician's inability or failure to faithfully discharge" his "grave responsibility" for issuing prescriptions for controlled substances.¹⁴

"It is well settled that the Board must consider mitigating factors when deciding on an appropriate sanction."¹⁵ In the pending matter, the Respondent has submitted numerous letters of support from family, employees, and colleagues who extol his virtuous service both locally and internationally. The Board acknowledges the Respondent's contributions but finds that they pale in comparison to the Respondent's cavalier prescribing.

Consistent with the Board's public protection mission, in light of the Respondent's engaging in conduct "antithetical to a commitment to preserve life [and] alleviate suffering," and consistent with the Board's reiterating, over three decades, the seriousness with which the Board considers a physician's failure to faithfully discharge his grave responsibility for issuing prescriptions, 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 Massachusetts

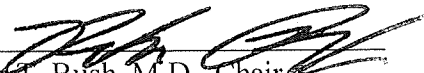
¹³ *In the Matter of Willy Falk, M.D., Board of Registration in Medicine*, Adjudicatory Case 92-6-DALA (Final Decision and Order, March 10, 1993). In Falk, as in the pending matter, the physician dispensed controlled substances to undercover officers who displayed indicia of substance abuse. The Board revoked the physician's license while criminal charges were pending.

¹⁴ See Falk at 2 citing *In the Matter of Earl Hoffman, M.D., Board of Registration in Medicine*, Adjudicatory Case No. 85-7-GR (Final Decision and Order, November 20, 1985), *In the Matter of John V. Temte, M.D., Board of Registration in Medicine*, Adjudicatory Case No. 863 (Final Decision and Order, March 18, 1983).

¹⁵ See *Veksler* 429 Mass. 650, 651 (1999).

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: May 29, 2025


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