COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN MEDICINE

MIDDLESEX, SS

Adjudicatory Case No. 2018-054
(RM-18-622)

In the Matter of

Richard J. Pedro, D.O.

FINAL DECISION AND ORDER

Procedural History

The Board initiated this matter by issuing a Statement of Allegations against Respondent on November 8, 2018 and referring the matter to the Division of Administrative Law Appeals (DALA). The DALA Magistrate conducted a hearing on October 21, 2019 and issued a Recommended Decision on June 28, 2021 to the Board and to the parties.

Respondent filed objections to the Magistrate's Recommended Decisions on July 13, 2021. Complaint Counsel did not file objections or respond to Respondent's objections, but filed a memorandum on disposition on July 28, 2021.

The Board has reviewed the recommended decision, the Respondent's objections and the memorandum on disposition. On the basis of its review, the Board determines that there is no basis to amend the recommended decision[1]. The Board hereby adopts the recommended decision and incorporates it into its Final Decision and Order.

Discussion

The Recommended Decision adopted by the Board concludes that Respondent's criminal behavior of paying another person to engage in sexual conduct establishes lack of good moral character and conduct that undermines public confidence in the integrity of the medical profession.

[1] The Board is not required to address each of Respondent's objections or provide a specific response for rejecting objections. *See Arthurs v. Board of Registration in Medicine*, 383 Mass. 229, 315-316 (2005).

As noted in the Recommended Decision:

> It is a criminal offense to "pay ... another person to engage in sexual conduct," or to "agree" to do so. G.L. c. 272, § 53A(b). This offense is punishable by up to 2.5 years in the house of corrections. *Id.*; *Commonwealth v. Brown*, 481 Mass. 77, 83, n.8 (2018). Dr. Pedro admits the board's fundamental allegation, namely that he has committed this crime: by his own confession, he paid a woman in exchange for sexual conduct in 2013.

Paying another person for sexual conduct is criminal conduct that warrants discipline[2]. The Board has previously imposed discipline against a physician for such conduct. *In the Matter of Emad S. Aljahdli*, M.D., Adjudicatory Case No. 2017—23, Board of Registration in Medicine (Final Decision and Order, August 11, 2017). In *Aljahdli*, the Board imposed a reprimand and a fine against a physician who solicited sex and who was arrested and charged with one count of sexual conduct for a fee. Notably, the physician in *Aljahdli* was not ultimately convicted of the crime, because the criminal matter was dismissed upon completion of community service.

The Board does not find the fact that the physician in *Aljahdli* was arrested and charged, while Respondent was not, to be a meaningful distinction warranting a different sanction. In considering a sanction in matters where a physician admits to having engaged in criminal conduct, the Board does not focus on whether the conduct resulted in an arrest or a criminal conviction[3]. It is the conduct which indicates lack of good moral character and which undermines public confidence in the medical profession. If the Board were to ignore admissions of criminal conduct where there is no arrest or conviction, the result would imply that criminal conduct by physicians is acceptable so long as they steer clear of the criminal justice system. To the contrary, criminal conduct reflects poor moral character and injures the profession's image even when the conduct does not result in a criminal conviction. *In the Matter of Barrocas*, Adjudicatory No.

---

[2] The Board finds it notable that the statute enacting the current version of the law that makes the Respondent's conduct criminal bears the title, "*An Act Relative to the Commercial Exploitation of People.*" St.2011, c. 178 amending G.L. c. 272, § 53A.

[3] In matters where the issue of whether a physician engaged in criminal conduct is at issue, a conviction establishes as a matter of law that the criminal conduct occurred. In this instance, however, the Respondent's admission by itself establishes that the conduct occurred.

2020-27, Board of Registration in Medicine (Final Decision and Order, December 17, 2020).

The Board is cognizant of the fact that Respondent's criminal conduct occurred eight years ago and that he is esteemed by colleagues, but the Board does not find these factors mitigating. The Board tailors its sanction to deter other physicians from engaging in similar misconduct and thereby protect public confidence in the profession. *See Matter of Concemi*, 422 Mass. 326, 329 (1996)[4] The Board's responsibility extends to the protection of the vast majority of physicians in the community, "who do possess the highest degree of integrity, and who ought not to have public esteem for their honorable and learned profession eroded by a few who do not live up to the solemn nature of their public trust." *Levy vs. Board of Registration in Medicine*, 378 Mass. 519, 528 (1979).

On the basis of the foregoing, the Board hereby REPRIMANDS the Respondent's license to practice medicine.

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 in the year following the date of imposition of this reprimand. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this

[4] In determining an appropriate disciplinary sanction for misconduct by an attorney, the Supreme Judicial Court noted that its primary factor is "the effect upon, and perception of, the public and the bar. ...We must consider what measure of discipline is necessary to protect the public and deter other attorneys from the same behavior." *Concemi*, 422 Mass. at 329.

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: December 16, 2021

Julian Robinson, M.D.
Chair
Board of Registration in Medicine