

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS

Board of Registration in Medicine
Adjudicatory No. 2017-043
(RM-17-988)

In the Matter of
Rolf Pfannl, M.D.

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Final Decision and Order
Rolf Pfannl, M.D.

This matter came before the Board for final disposition on the basis of the Board of Registration in Medicine's (Board's) Partial Final Decision as to the Findings of Fact and Conclusions of Law Only (Partial Final Decision), dated April 16, 2020. After full consideration of the Partial Final Decision, including the November 25, 2019 Recommended Decision, which is attached hereto and included by reference, and the Parties' Memoranda on Disposition, the Board imposes the following sanction:

Sanction

The record demonstrates that the Respondent: a) sexually harassed a resident, when he was a co-residency director; b) failed to report investigations by the Board and by his employer on his 2016 license renewal application (LRA); and c) failed to respond to notices of a Board complaint and to furnish information to which the Board is entitled in a timely manner. In so doing, the Respondent: a) committed misconduct in the practice of medicine¹; b) violated an ethical principle²; c) engaged in conduct that undermines the public confidence in the integrity of the medical profession³; d) fraudulently procured the renewal of his certificate of registration⁴;

¹ 243 CMR 1.03(5)(a)18.

² See *Aronoff v. Bd. of Registration in Med.*, 420 Mass. 830, 834 (1995).

³ See *Raymond v. Bd. of Registration in Med.*, 387 708, 713 (1982); *Levy v. Bd. of Registration in Med.*, 378 Mass. 519, 527-28 (1979).

⁴ G.L. c. 112, §5; 243 CMR 1.03(5)(a)(1).

and e) failed to respond to a subpoena or to furnish the Board documents, information, or testimony to which the Board is legally entitled.⁵

In cases involving inappropriate conduct of a sexual nature occurring in isolated instances, the Board often has imposed a reprimand and, in some instances, has ordered the physician to complete training regarding sexual harassment. *See In the Matter of Ricardo Dancel, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2006-005 (Consent Order, February 1, 2006)(Board imposed a reprimand and a required training in sexual harassment where physician made inappropriate comments and hugged, kissed, and touched a nurse in an inappropriate manner); and *In the Matter of Bruce Biller, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2008 (Consent Order, March 5, 2008)(Board imposed a reprimand and required training in sexual harassment where physician inappropriately touched one employee and kissed another on the forehead.)

The Board recognizes multi-faceted issues raised by a residency director's sexual harassment of a trainee. As stated by the Federation of State Medical Boards (FSMB) in *Physician Sexual Misconduct: Report and Recommendations of the FSMB Workshop* (May 2020):

[T]rainees who are subjected to environments in which harassment is accepted suffer not only as victims, but may also be undermined in their educational and professional attainment, resulting in loss of talent for the profession.

In two cases involving physician harassment of trainees, the physicians had taken remedial measures prior to the Board's consideration of a sanction. In one, the physician has completed Vanderbilt's three-day "Maintaining Proper Boundaries" course before the Board

⁵ 243 CMR 1.03(5)(a)(16).

imposed an indefinite suspension.⁶ In the second, the physician had completed an assessment at Vanderbilt and was in psychotherapy prior to the Board's imposing a reprimand and requiring that the physician enter a Board Probation Agreement.⁷

In cases where a physician has fraudulently procured the renewal of his license, the Board has often imposed a fine and reprimand as the sanction.⁸ The Board has imposed an indefinite suspension of a physician's license, where the physician provided false answers on four renewal applications, by representing that he was board-certified when he was not, and where the physician misrepresented his credentials to the hospital where he held privileges.⁹

The Board has stated its posture towards physicians who fail to respond to multiple inquiries from the Board as follows:

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.¹⁰

In the pendant matter, no mitigating factors have been identified for the Board's consideration. The Board lacks information as to the cause(s) of the Respondent's sexual

⁶ See *In the Matter of Daniel Powers, D.O.*, Board of Registration in Medicine, Adjudicatory Case No. 2013-025 (Consent Order, December 18, 2013)(Physician made inappropriate comments to two patients and made comments to two employees that made them feel uncomfortable.)

⁷ See *In the Matter of Kenneth Santiago, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2006-027 (Consent Order, May 17, 2006)(Physician engaged in sexual banter with an attending, and made comments to and engaged in behavior with two fellow that made them uncomfortable.)

⁸ See, e.g., *In the Matter of Peter Gherardi, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2008-030 (Consent Order, August 20, 2008)(Board imposed reprimand and \$5,000 fine where physician failed to report criminal charges on his initial application and failed to report a subsequent criminal charge on a renewal application).

⁹ See *In the Matter of Michael G. Ciborski, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 99-18-XX (Consent Order, August 25, 1999).

¹⁰ 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)(Board revoked the license of physician who failed to respond to multiple Board inquiries, research fraud, and failed to disclose disciplinary action on two renewal applications committed.)

harassment, and there are no stated remedial measures that the Respondent has taken to assure the Board that such conduct will not recur.

Reflecting the gravity with which the Board considers a residency director's sexual harassment of a trainee, the gravity with which the Board considers repeated non-responsiveness to the Board, and in light of the absence of any mitigating factors, the Board imposes as a sanction:

- the indefinite suspension of the Respondent's inchoate right to renew his license to practice medicine, with the Board's consideration of a petition to stay the suspension upon the Respondent's:
 - submitting the results of a forensic psychiatric evaluation by a Board-approved evaluator;
 - documenting his completion of a Board-approved program in boundaries (such as Vanderbilt's) that includes a component on physician harassment of trainees; and
 - entering into a Board Probation Agreement that incorporates recommendations, if any, by the forensic evaluator, allows practice only pursuant to a Board-approved practice plan, and includes such other terms as the Board may require.

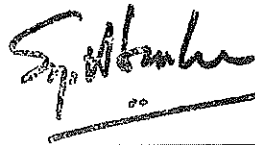
This sanction is imposed for Conclusions of Law "a" through "e" and not for a combination of any or all of them.

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 he practices medicine; any in- or out-of-state health maintenance organization with which 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 Drug Enforcement Administration Boston Diversion Group; and the state licensing boards of all states in which he has a license to practice medicine. The Respondent shall also provide this notification to any such designated entities with which he becomes associated for the duration of the suspension. The Respondent is further directed to certified to the Board within ten (10) days that he has complied with this directive. The Board expressly reserves the authority to notify independently, at any time, any of the entities designated above, or any other affected entity, of any action 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.

Dated: November 19, 2020

A handwritten signature in black ink, appearing to read "George Abraham", written over a horizontal line.

George Abraham, M.D.
Board Chair