

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN MEDICINE

MIDDLESEX, ss

Adjudicatory Case No. 2016-012
(RM-18-0551)

In the Matter of)
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)

Carmen A. Puliafito, M.D.)
_____))

FINAL DECISION AND ORDER

This matter came before the Board for disposition on the basis of the Administrative Magistrate's June 21, 2019 Recommended Decision, the Respondent's Objection to the Administrative Magistrate's Recommended Decision (Respondent's Objection), and the Parties' Memoranda on Disposition. After full consideration of the Recommended Decision, which is attached hereto and incorporated by reference, and all additional submissions, the Board adopts the Recommended Decision. The Board hereby rejects the Respondent's Objection, finding that it lacks validity. The Board also hereby attaches to this decision, and incorporates within, the July 20, 2018 Decision of the Medical Board of California.

Sanction

As a function of this Board's obligation to protect the public health, safety, and welfare, it is proper for the Board to discipline the Respondent. *See Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979). Pursuant to 243 CMR 1.03(5)(a)12, the Board has the authority to discipline a physician who has been "disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in G.L. c. 112, §5 or 243 CMR 1.03(5)." The Board may impose discipline based on another state's disciplinary action, without re-litigating the underlying facts. *See In the Matter of Randolph Ramirez*, M.D., 441 Mass. 479 (2004). When the Board imposes reciprocal discipline, the Board may impose any sanction consistent with its policies and precedent and based on out-of-state facts, not the out-of-state sanction. *See In the Matter of Robert Schlossman, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 85-12-RO (Final Decision and Order, November 5, 1986) (Board noted that the fact that another state stayed its sanction did not require same outcome in Massachusetts).

The record reflects that the Respondent was disciplined by the Medical Board of California ("California Board") for prescribing violations, consumption of illicit drugs, misleading emergency personnel responding to an overdose, purchasing alcohol for a minor and practicing medicine while impaired.

The Board's regulations include, as a basis for discipline, "[m]isconduct in the practice." 243 CMR 1.03(5)(a)(18). The Respondent's conduct in California, as reflected in the California Board decision constitutes misconduct in the practice of medicine and therefore the Board can impose discipline. The Board's regulations also allow for sanction for "[c]onduct which places into question the physician's competence to practice medicine including but not limited to gross misconduct in the practice of medicine, or practicing medicine fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions." 243 CMR 1.03(5)(a)(3). The Respondent's conduct in California if it occurred in Massachusetts would constitute a violation of this regulation. The record also reflects that the Respondent practiced medicine while impaired, which is a basis for sanction, pursuant to 243 CMR 1.03(5)(a)(4). Moreover, the Board's regulations regarding grounds for discipline also include practicing medicine while impaired and being a habitual user of narcotics, amphetamines and other drugs. 243 CMR 1.03(5)(a)4 and 243 CMR 1.03(5)(a) 5.

In addition, the Board may impose sanction if a physician engages in conduct that undermines the public confidence in the medical profession. Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979). The Respondent's conduct in California, if it occurred in Massachusetts, would be sanctionable under Levy.

In determining sanction, the Board notes that the multiple forms of misconduct engaged in by the Respondent also establish that he lacks good moral character and therefore a revocation of the Respondent's license is warranted pursuant to Raymond v. Board of Registration in Medicine, 387 Mass. 709 (1982). Board precedent supports revocation in cases where a physician flagrantly disregards the regulations regarding prescribing controlled substances. In the Matter of Christopher D. Owens, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2017-031 (Final Decision and Order, April 25, 2018) (physician's inchoate right to renew

his license retroactively revoked when he prescribed controlled substances to his girlfriend and friends, and abused illicit drugs); In the Matter of Jeffrey J. Davis, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2014-008 (Final Decision and Order, October 8, 2015) (physician's inchoate right to renew his license revoked after he prescribed controlled substances multiple times to family members and failed to respond to a subpoena and failed to appear at the adjudicatory proceeding); and In the Matter of James L. Ross, M.D., Board of Registration in Medicine, Adjudicatory Case No. 97-03-DALA (Final Decision and Order, February 11, 1998) (physician's license revoked where he prescribed medications to a patient with whom he had a sexual relationship, lied on job applications and his renewal application, was arrested for multiple driving offenses and prescribed medications to individuals who were not his patients for non-medical purposes).

Taking into consideration all of the Respondent's transgressions, the Board hereby REVOKES the Respondent's inchoate right to renew his medical license. This sanction is imposed for each violation separately.

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; and the state licensing boards of all states in which he has any kind of license. The Respondent shall also provide this notification to any such designated entities with which he becomes associated during 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 (30) days, pursuant to G.L. c. 30A, §§14 and 15, and G.L. c.112, §64.

Date: December 5, 2019

Candace Lapidus Sloane, MD

Candace Lapidus Sloane, M.D.

Board Chair

Board of Registration in Medicine