

COMMONWEALTH OF MASSACHUSETTS  
BOARD OF REGISTRATION IN MEDICINE

Middlesex, ss.

Adjudicatory Case No. 2020-046  
(RM-20-0451)

In the Matter of

Emmanuel N. Rodriguez, M.D.

**FINAL DECISION AND ORDER**

This matter came before the Board for final disposition on the basis of the Administrative Magistrate's Order of Default Recommended Decision (hereinafter "Recommended Decision") dated January 21, 2021, which found Emmanuel N. Rodriguez, M.D. (hereinafter "Respondent") in default. After full consideration of the Recommended Decision, which is attached hereto and incorporated by reference, and Complaint Counsel's Memorandum on Disposition, the Board adopts the Recommended Decision.

The Board also adds the following:

**Findings of Fact**

In light of the Respondent's failure to respond to the Statement of Allegations (hereinafter "SOA") and to appear by phone at a scheduled prehearing conference at the Division of Administrative Law Appeals (hereinafter "DALA"), and failure to respond to the Magistrate's Order to Show Cause, DALA found the Respondent in default. G.L. c. 30A, § 10(2), and 801 CMR 1.01(7)(a)(1). *See Peters & Russell, Inc. v. Dorfman*, 188 F.2d 711 (7<sup>th</sup> Cir. 1951); *Northwest Yeast Co. v. Broutin*, 133 F.2d 628 (6<sup>th</sup> Cir. 1943). Therefore, the allegations contained in the SOA are deemed admitted.

The Board therefore makes the following findings:

### Biographical Information

1. The Respondent was born on December 22, 1973. He graduated from the Faculty of Medicine at the University of Sydney in 1998. He has been licensed to practice medicine in Massachusetts under certificate number 238423 since 2008, but his license was revoked by operation of law when he failed to renew it on December 21, 2019.

### Factual Allegations

2. On March 13, 2017, the Board opened an investigation based on an allegation that the Respondent was an impaired physician.
3. On May 7, 2018, Board Investigator John Landers mailed a notification letter to the Respondent, via United States Postal Service (USPS) first-class mail with delivery confirmation, at the address that the Respondent self-reported to the Board that the Board had docketed a complaint against him for inappropriate behavior at Marlborough Hospital, and requested that he file a response to the complaint within 30 days.
4. Investigator Landers was unable to obtain confirmation that the USPS delivered the letter and sent the letter again by first class mail with delivery confirmation to the same address on May 22, 2018.
5. On May 24, 2018, the USPS confirmed delivery to the Respondent.
6. On June 5, 2018, Investigator Landers sent electronic email message (e-mail) to the Respondent notifying him of the complaint and requesting a response; the Respondent did not file a response.
7. On October 26, 2018, Investigator Landers called the Respondent by telephone, but the Respondent's voice mailbox was full, and he could not leave a message.

8. Also, on that date, Investigator Landers mailed the notification letter to the Respondent at a new address via USPS first-class mail with delivery confirmation.
9. The USPS confirmed delivery to the Respondent's new address on October 31, 2018.
10. On November 1, 2018, Investigator Landers sent another e-mail message to the Respondent at a new e-mail address notifying him of the complaint and requesting a response and received none.
11. On December 20, 2018, the Complaint Committee issued a Ten-Day Order to Respond.
12. On May 13, 2020, Board staff mailed the Ten Day Order to the Respondent via certified mail to the most recent address the Board had for the Respondent.
13. The USPS delivered the Order to the Respondent's new address on May 18, 2020; the Respondent has not filed a response.

#### 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:

- A. The Respondent has violated 243 CMR 2.07(12)(a), which requires a physician to respond to a written communication from the Board within thirty days;
- B. The Respondent had violated 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 issued by the Complaint Committee;

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 his 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).

The Board’s paramount responsibility is the protection of the public health, safety, and welfare. *See Levy v. Board of Registration in Medicine*, 378 Mass 519 (1979). The Respondent’s conduct of practicing while impaired also demonstrates a lack of good moral character and undermines the public confidence in the medical profession for which the Board may impose discipline. In light of the Respondent’s default, which hindered the Board’s efforts in its fulfillment of this responsibility, it is appropriate to impose a sanction in this matter. The Board hereby **REVOKES** the Respondent’s inchoate right to renew his license to practice medicine. This sanction is imposed for each violation of law listed in the Conclusions of Law section 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 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 board 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 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: April 22, 2021

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

George M. Abraham, M.D.  
Chair  
Board of Registration in Medicine