

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

BOARD OF REGISTRATION  
IN MEDICINE

Adjudicatory Case No: 2022-024

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In the Matter of )  
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Thomas W. Stinson, M.D. )  
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Final Decision and Order

Procedural History

The Board initiated this matter by issuing a Temporary Order of Summary Suspension, and a Statement of Allegations (“SOA”) against Thomas W. Stinson, M.D. (“Respondent”) on August 4, 2022 and referring the matter to the Division of Administrative Law Appeals (“DALA”). A copy of the SOA is attached hereto and incorporated by reference. After issuing three separate notices of hearing on the summary suspension, the DALA Administrative Magistrate issued, on October 11, 2022, an Order to Show Cause why the appeal of the Summary Suspension should not be dismissed due to Respondent’s lack of participation in the proceeding. On November 1, 2022, having received no response from Respondent the DALA Administrative Magistrate issued an Order of Default and Recommended Decision, which found the Respondent to be in default and recommended that the Board enter judgment pursuant to M.G.L. c. 30A, § 10(2).

After full consideration of the Recommended Decision, which is attached hereto and incorporated by reference, the Board adopts the Recommended Decision, amending it to incorporate as findings of fact the allegations in the SOA which have been deemed to be proven

on the basis of the default. See Danca Corp. v. Raytheon Co., 28 Mass. App. Ct. 942, 943, 550 N.E.2d 402, 403 (1990).

### Conclusions of Law

In the Order of Default and Recommended Decision, the Magistrate made no determinations as to Conclusions of Law. Based upon the facts set out in the SOA, see Lawless v. Bd. of Registration in Pharmacy, 466 Mass. 1010, 1011–12, 996 N.E.2d 878, 880 (2013), the Board makes the following Conclusions of Law:

- A. The Respondent has violated G.L. c. 112, § 5, eighth par. (c) and 243 CMR 1.03(5)(a)3 by engaging in conduct that places into question the Respondent’s competence to practice medicine, including but not limited to gross misconduct in the practice of medicine or practicing medicine fraudulently, or beyond its scope or with gross incompetence, or with gross negligence or with negligence on repeated occasions;
- B. The Respondent has violated G.L. c. 112, § 5, eighth par. (b) and 243 CMR 1.03(5)(a)11 by committing an offense against any provision of the laws of the Commonwealth relating to the practice of medicine, or any rule or regulation adopted thereunder, to wit:
  - a. 105 CMR 700.012 (G)<sup>1</sup> as it pertains to mandatory review of the MassPAT system for issuance of certain prescriptions.
  - b. Board Policy Number 01-01 on “Disruptive Physician Behavior.”

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<sup>1</sup> The Board notes that the Department of Public Health was authorized pursuant to M.G.L. c. 94C, § 24A to promulgate the requirement at 105 CMR 700.012(G) that registered practitioners utilize the prescription monitoring program (MassPAT) prior to issuing certain prescriptions. While Respondent’s alleged conduct, deemed as true would constitute a violation of both M.G.L. c. 94C, § 24A and 105 CMR 700.012(G), the Board’s conclusion of law is limited to 105 CMR 700.012(G), as this was the only basis for discipline asserted in the SOA. Moreover, the Board notes that the additional conclusion of law that the conduct violated M.G.L. c. 94C, § 24A would not, in this instance, have resulted in any change in the sanction imposed by the Board.

- C. The Respondent has violated 243 CMR 1.03(5)(a)16 by failing to respond to a subpoena or to furnish the Board, its investigators or representatives, documents, information or testimony to which the Board is legally entitled.
- D. The Respondent has violated 243 CMR 1.03(5)(a)18 by committing misconduct in the practice of medicine; and
- E. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession, pursuant to Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979) and Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982).

#### Discussion and Sanction

The Respondent's failure to respond to the SOA, to appear for a scheduled prehearing at DALA, and to respond to the Order to Show Cause in connection with this action demonstrate his utter disregard for the Board's statutory mandate. In order for the Board to fulfill its mission to protect the public, a physician's cooperation is essential. By failing to respond to the serious allegations against him, the Respondent hindered the Board's efforts to fulfill its mission. 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) ("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.")

The Board has historically imposed license revocation when there is a determination of default. See In the Matter of Paul M. Willette, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2017-035 (Final Decision and Order, September 13, 2018)(revocation for

physician whose license was revoked in New Mexico for failure to provide emergency care, for fraudulent medical records and billing for services never rendered, being disruptive with staff, and failure to access prescription monitoring reports for 8-10 patients); 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)(revocation for physician whose license was revoked in California for prescribing controlled substances to non-patients who the physician knew suffered from substance abuse disorders and for fraudulent prescribing); In the Matter of John E. Strobeck, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2017-044 (Final Decision and Order, April 25, 2018)(revocation for physician who surrendered his license in New Jersey for improper and inappropriate sexual contact with six female patients). In these types of cases, the Board has highlighted a physician's "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., 2008-049 (Final Decision and Order, February 24, 2010).

As to the acts of misconduct leading to the issuance of the SOA, the Respondent's admissions include his failure to check MassPAT before prescribing controlled substances to his patients, beginning in July 2021. When the Board finds negligence on repeated occasions, sanctions have tended towards a suspension, with leave to petition for a stay following completion of additional training or a period of supervised practice. See In the Matter of Barry J. Lobovits, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2013-026 (Final Decision and Order, May 14, 2014) (indefinite suspension for negligence involving 24 patients); In the Matter N. Raj Birudavol, M.D., Board of Registration in Medicine, Adjudicatory Case No. 02-16-DALA (Final Decision & Order, January 18, 2006)(indefinite suspension for pattern of

substantial deviations in medical care and treatment involving four patients). With respect to the specific admissions concerning the Respondent's failure to check MassPAT, the Board recently imposed a reprimand, \$2,500 fine and additional CME requirements for a physician who failed to check MassPAT before prescribing large quantities of benzodiazepines to his patients between May 2019 and June 2022. See In the Matter of Christopher R. Keroack, M.D., Board of Registration in Medicine, Adjudicatory Case No. 20-0179 (Consent Order, January 5, 2023). That case also involved allegations that the physician was receiving kickbacks for the sale of compounded medications through a specialty pharmacy from which he received gratuities.

In the present matter, it does not appear that a reprimand, fine and required training in prescribing and the proper use of MassPAT would necessarily change the Respondent's approach to treating his patients. Nor does it appear that a suspension with required training would allow the Respondent's patients to be assured they were being treated in a safe manner. The Respondent shared with Board staff that he does not find it useful to check MassPAT, despite his knowing that this is required by regulation, and that he does not use many other conventions with addicted patients, such as controlled substances contracts and random urine screens/pill counts. This is not a situation where the physician in question is simply unaware of the reporting requirements. He blatantly avoids taking the steps necessary to meet the standard of care in his area of specialty. Furthermore, negligence and prescribing issues are not the sole concern here. The Respondent acted in an unprofessional manner on more than one occasion, in violation of the Board's Disruptive Physician Policy, made misrepresentations on his 2020 License Renewal Application, and failed to wear a mask in his office, the one exception being when he was examining a patient's throat.

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). 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. As noted above, the Board could impose a revocation based on the default alone, before considering the myriad of other issues presented by the Magistrate's Recommended Decision. Given the foregoing, 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 Conclusion 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 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 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: February 2, 2023

A handwritten signature in dark ink, appearing to read 'Julian', followed by a long horizontal stroke.

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Julian Robinson, M.D.  
Board Chair