

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN MEDICINE

MIDDLESEX, ss

Adjudicatory Case No. 2018-023
(RM-18-0384)

)
In the Matter of)
)

Jorge Zamora-Quezada)
_____))

FINAL DECISION AND ORDER

Procedural History

The Board of Registration in Medicine initiated this proceeding by issuing a Statement of Allegations (SOA) on June 15, 2018. The matter was referred to the Division of Administrative Law Appeals (DALA) on that date. A pre-hearing status conference was scheduled for July 25, 2018, but that conference was continued several times until February 9, 2024, when Complaint Counsel filed an Amended Statement of Allegations.

On March 28, 2024, Complaint Counsel filed a Motion for Summary Decision.

Dr. Zamora-Quezada (the Respondent) did not file a response to either the Amended Statement of Allegations or the Motion for Summary Decision.¹

The Magistrate issued a Recommended Decision on May 22, 2024, recommending that Complaint Counsel's Motion for Summary Decision be allowed. Neither party filed objections to the Recommended Decision, nor memoranda on disposition.

After its review of the Recommended Decision, the Board hereby adopts the Recommended Decision, which is attached hereto and incorporated by reference.

Discussion and Sanction

When a Respondent fails to respond to a Statement of Allegations, the allegations in the Statement of Allegations are deemed admitted. See Metropolitan Property and

¹ On May 2, 2024, the Board notified DALA that the motion and exhibits that were mailed to the Respondent at his last prison address were returned as undeliverable with a stamp "not at this address." The Board has emailed the motion and exhibits to Respondent's criminal attorneys of record and mailed a copy to Respondent's last residential address of record. There has been no response. Respondent routinely failed to update DALA with his current address.

Casualty Insurance Company v. Morrison, Supreme Judicial Court, 460 Mass 352 (2011).

Those admitted facts which are not in dispute include:

1. The Respondent graduated from the University of Guadalajara Faculty of Medicine in 1980 and was licensed to practice medicine in Massachusetts under certificate number 57816 in 1987. The Respondent was previously board-certified in Internal Medicine and Rheumatology. He was also licensed to practice medicine in Texas and Arizona.
2. In 2003, the Respondent was sued in Texas for Title VII sexual harassment, hostile work environment, and retaliation.
3. On June 18, 2003, the Respondent filed a license renewal application with BORIM.
4. On June 30, 2005, the Respondent filed another license renewal application with BORIM. He failed to disclose his ongoing Title VII lawsuit.
5. On September 29, 2005, the Respondent was found liable for four claims of Title VII sexual harassment, hostile work environment, and retaliation claims.
6. On June 27, 2007, the Respondent filed another license renewal application in which he failed to disclose the 2005 jury verdict or his pending appeal of the judgment in that case.
7. On December 21, 2009, the US court of Appeals, Fifth Circuit affirmed all but one of the claims in his civil trial.
8. On November 4, 2009, the Respondent entered an Agreed Order with the Texas Medical Board (Texas Board) in which he accepted formal discipline based on allegations that he failed to document his examinations of various patients properly and ordered clinically unnecessary, excessive tests and treatments for patients.
9. The Texas Agreed Order outlines conduct such as ordering tests not justified by patients' presentations and complaints, prescribing medication despite documented allergies to it, and treating patients for conditions that their symptoms do not support. It also outlines a severe lack of documentation for test results and underlying symptoms.
10. As a result of the Texas Agreed Order, the Respondent was fined \$30,000, publicly reprimanded and required to have his practice monitored by an outside physician for two years.

11. On June 10, 2010, the Respondent consented to an Order for Letter of Reprimand from the Arizona Medical board (Arizona Board) based on the Texas Agreed Order.
12. On August 5, 2011, the Respondent filed a Digital License Renewal Application with the Massachusetts Board. He failed to disclose the result of his civil trial, the appeal of that trial's result, and the Texas and Arizona discipline to which he had agreed.
13. On June 18, 2018, the Massachusetts Board suspended the Respondent's license after determining that the public's health, safety, and welfare necessitated the suspension.
14. On August 14, 2018, the Respondent was charged in federal court in Texas with Conspiracy to Commit Health Care Fraud (one count), Health Care Fraud (eight counts), Conspiracy to Commit Money Laundering (one count), and Conspiracy to Obstruct Justice (one count).
15. The indictment alleges that the Respondent purposefully enriched himself by submitting false and fraudulent claims to healthcare benefit programs, falsely diagnosed vulnerable patients, and created false and fictitious medical records to attempt to conceal his fraud.
16. On January 15, 2020, a jury rendered a verdict finding the Respondent guilty of Conspiracy to commit Health Care Fraud (one count), Health Care Fraud (seven counts), and Conspiracy to Obstruct Justice (one count).
17. On October 7, 2020, the Texas Board issued an Order of Suspension by Operation of Law against the Respondent's medical license based on his federal conviction.

Conclusions of Law

The legal basis for discipline arises from the following violations:

A. Pursuant to 243 CMR 1.03(5)(a)12, the Respondent was disciplined in another jurisdiction by the proper licensing authority for reasons substantially the same as those set forth in M.G.L. c. 112, §5 or 243 CMR 1.03(5). More specifically, the Respondent has:

- i. Engaged in conduct which places into question his 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;

- ii. violated 243 CMR 1.03(5)(a)10 by practicing medicine deceitfully, or engaging in conduct which has the capacity to deceive or defraud;
- iii. Engaged in conduct in violation of any Board rule or regulation. 243 CMR 1.03(5)(a)(11);
- iv. Committed misconduct in the practice of medicine in violation of 243 CMR 1.03(5)(a)18; and
 - c) failed to 1) maintain a medical record for each patient, which is adequate to enable the physician to provide proper diagnosis and treatment; and 2) maintain a patient's medical record in a manner which permits the former patient or a successor physician access to them in violation of 243 CMR 2.07(13)(a).

B. The Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician lacks good moral character and has engaged in conduct that undermines the public confidence in the integrity of the medical profession. *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982).

C. Pursuant to 243 CMR 1.03(5)(a)16, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has failed 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. Pursuant to 243 CMR 1.03(5)(a)7, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has been convicted of a crime.

The Board has historically found that a respondent that defaults in a Board action demonstrates an “utter disregard for the Board’s statutory mandate” because “[i]n order for the Board to fulfill its mission to protect the public, a physician’s cooperation is essential.” See, *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 medical license was revoked when he improperly prescribed to family members and then refused to comply with the Board’s subsequent investigation, and defaulted). See also, *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); *In the Matter of John P. Katzenberg, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2017-054 (Final Decision and Order, August 9, 2018); *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); and *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).

Where there has been criminal conduct, the Board will evaluate a number of factors in determining discipline. These include consideration of the nature of the offense, whether the conduct occurred during the course of the practice of medicine or was related to the practice of medicine, the impact of the physician's misconduct and any mitigating or aggravating factors. See, In the Matter of Ronald S. Grusd, M.D., Board of Registration in Medicine, Adjudicatory Case No.: 2018-032 (Final Decision and Order, October 22, 2020) (physician's inchoate right to renew was revoked; physician was convicted of healthcare fraud charges that resulted in a major impact to the CA healthcare system and a 9-year prison sentence).

When the criminal charges have involved Medicare fraud, the Board has determined the appropriate sanction is revocation. See, In the Matter of Anna D. Steiner, M.D., Board of Registration in Medicine, Adjudicatory case No 2019-048 (Final Decision and Order, June 25, 2020) (Physician was indicted in US District Court in New York for participating in an alleged telemedicine scheme to submit fraudulent claims to Medicare and private insurance companies and receive kickbacks for prescribing and ordering durable medical equipment, prescription drugs and diagnostic tests that were neither medically necessary nor resulted from an examination or consultation with a physician. Physician's inchoate right to renew was revoked.), *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) (Physician's license was revoked in New Mexico for fraudulent billing practices and failing to render adequate emergency services to 10 patients. Physician was defaulted at DALA in Massachusetts and subsequently had inchoate right to a license revoked), and *In the Matter of Joseph A. Zadrozny, MD.*, Board of Registration in Medicine, Adjudicatory Case No. 93-5-DALA (Final Decision and Order, June 8, 1994) (Board revoked physician's license where physician filed multiple false Medicaid claims for treatment he never provided).

The Board has responded strictly to cases involving physicians who have engaged in fraudulent billing practices, whether or not the physician was prosecuted criminally. See In the Matter of Richard Ng, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2014026 (Consent Order, June 25, 2014) (revocation, retroactive to VANP, for pleading guilty to 11 counts of illegal prescribing, 9 counts of Medicaid false claims, and 7 counts of Medicaid excess charges), Fisch v. Board of Registration in Medicine, 437 Mass. 128 (June 13, 2002) (indefinite suspension for physician for repeatedly billing insurance company for psychotherapy sessions that were never provided; Board reiterated that the absence of criminal prosecution does not diminish the wrongdoing); *In the Matter of Alan Fisch, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 98-70-DALA (Final Decision and Order, October 25, 2000). See also In the Matter of Richard F. Finkel, M.D., Adjudicatory Case No. 96-42-DALA (Final Decision and

Order, September 11, 1996) (revocation for criminal conviction for Federal Mail fraud in connection with fraudulent billing of insurers for services not rendered, and for lying to Board investigators); and Feldstein v. Board of Registration in Medicine, 387 Mass. 339 (1982)(SJC upheld Board's sanction of revocation, where physician pleaded guilty to 10 counts of making false representations for the purpose of extracting payments under the Medicaid program).


In the present matter, there are no mitigating circumstances identified by the Administrative Magistrate. In addition to submitting false and fraudulent claims to Medicare and other federal health care programs, and fraudulently procuring his certificate of registration or its renewal by not providing the Board with information to which it was entitled, the Respondent failed to respond to notices sent by the Board and by DALA to defend himself against the allegations of impropriety raised by the Board. In situations such as this, the Board has revoked the licenses of such physicians. *See In the Matter of Daniel R. Nevarre, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2019-022 (Final Decision and Order, October 24, 2019) (revocation of inchoate right to renew license for default judgment in Massachusetts and for pleading guilty to Medicare fraud and insurance fraud in Pennsylvania, resulting in voluntary surrender of medical license in that state); *In the Matter of Gerardo Yanayaco, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2008-047 (Final Decision and Order, June 16, 2010) (revocation for default involving criminal conviction for insurance fraud, grand larceny, offering a false instrument for filing, falsifying a business record, and participating in a scheme to defraud involving billing for services not provided, billing for medically unnecessary tests and for tests not performed, and upcoding); and *In the Matter of Paula M. Nelson, M.D.*, Board of Registration in Medicine, Adjudicatory Case No. 2018-041 (Final Decision and Order, June 28, 2019) (revocation for default in case involving revocation of inchoate right to renew in Maryland, where physician was found to have engaged in improper billing for care and improper care provided. DALA found "blatant disregard of DALA hearing process, Order to Show Cause, and the authority of the Board of Registration in Medicine.").

Based on the foregoing, the Board hereby REVOKES the Respondent's inchoate right to renew his license to practice medicine, effective as of the date of this Final Decision and Order.

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 to practice medicine. 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 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: September 26, 2024


Booker Bush, M.D.
Chair
Board of Registration in Medicine