

COMMONWEALTH OF MASSACHUSETTS  
BOARD OF REGISTRATION IN MEDICINE

Middlesex, ss

Adjudicatory Case  
No 2008-017  
DALA (RM-08-376)

In the Matter of )  
Gary M Brockington, M D )

Partial Final Decision as  
to Findings of Fact and  
Conclusions of Law Only

This matter came before the Board, on the basis of the Administrative Magistrate's Recommended Decision, dated October 5, 2011, for disposition as to Findings of Fact and Conclusions of Law only. The Respondent submitted Objections to the Recommended Decision (hereinafter "Objections") and Complaint Counsel submitted an Opposition to Respondent's Objections (hereinafter "Response"). The Board has determined that the Objections are misplaced, as the Magistrate found that the Respondent was in a physician-patient relationship with Patient A when he engaged in a sexual relationship with her.

After full consideration of the Recommended Decision, which is attached hereto and incorporated by reference, together with the Objections and Response, the Board hereby adopts the Recommended Decision as the Partial Final Decision as to Findings of Fact and Conclusions of Law Only, amending it by striking the Magistrate's references to the physician-patient relationship that incorrectly suggest that there are degrees of termination.

As the Magistrate concluded, the Board is able to rely on codes and guidelines that show a physician's ethical and professional obligation,<sup>1</sup> such as the American Medical Association's Code of Medical Ethics (hereinafter "AMA Code") AMA Code Opinion 81115, "Termination of the Physician-Patient Relationship," includes no language suggesting that there are degrees of termination, and there never has been a case in which the Board has found degrees of termination

Accordingly, the Board strikes

- "fully" (page 13, line 6),
- "fully" (page 13, line 12),
- "fully" (page 14, line 9), and
- "fully" (page 17, line 10)

The Board substitutes "a complete end to the physician-patient relationship has occurred" on page 15, lines 2-3, with "termination of the physician-patient relationship "


The Board determines that, in the absence of a Finding of Fact that the Respondent was prohibited from practicing medicine while on a leave of absence, and in the absence of a Finding of Fact that the Respondent failed to contemporaneously record the prescriptions he issued in Patient A's medical record, the Magistrate appropriately determined that the evidence did not support the allegation that the Respondent violated prescribing laws

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<sup>1</sup>See Recommended Decision, p 13, where the Magistrate cites *Sugarman v Board of Registration in Medicine*, 422 Mass 338, 343-344 (1996) and *Aronoff v Board of Registration in Medicine*, 420 Mass 830, 834 (1995)

After the Board hears from the Parties on the issue of sanction, as well as any individuals who qualify as victims pursuant to Mass Gen Laws c 112, § 5, it will issue a complete Final Decision and Order, including any sanction and notification requirements

Date June 6, 2012

  
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Peter G Paige, M D  
Chairman

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