

Middlesex, SS

(RM-20-258)

Keshaudas Pahuja, M.D.

Procedural History

After a multi-day hearing and testimony by six witnesses, Magistrate Edward McGrath issued a September 4, 2020 Recommended Decision (Decision on Summary Suspension), making 51 numbered Findings of Fact and determining that the Board had proved, by a preponderance of the evidence, that the Respondent posed a serious threat to public health and safety.¹ The Findings of Fact included determinations that the Respondent was negligent in the surgical care he rendered to two patients, Patients A and E, and was grossly negligent in the care he rendered to a third, Patient F. The Findings of Fact also included a determination that the Respondent maintained an inadequate surgical record for a fourth patient, Patient D.

¹ See *Sheldon Randall v. Board of Registration in Medicine*, Slip. Op. SJ-2014-0475 (Cordy, J. June 9, 2015).

On November 19, 2020, the Board issued a Final Decision and Order adopting the Decision on Summary Suspension. The Respondent did not exercise his right to appeal the Final Decision and Order, pursuant to G.L. c. 30A, §§ 14 and 15, and G.L. c. 112, § 64.

On December 21, 2022, Magistrate McGrath allowed Complaint Counsel's Motion for Summary Decision (Motion), determining that there were not genuine disputed issues with respect to the Board's charges that the Respondent's treatment of Patients A, E, and F placed into question his competence to practice medicine² and his operative note for Patient D violated the Board's regulation requiring that physicians maintain legible, adequate medical records.³

Thereafter, Complaint Counsel withdrew the remaining charges in the SOA and moved for a Recommended Decision. On January 19, 2023, Administrative Magistrate's Yakov Malkiel's (Magistrate's) January 19, 2023 issued a Recommended Decision. Thereafter, the Respondent filed Objections to the Recommended Decision, and Complaint Counsel's followed with a Response to the Respondent's Objections.

Discussion

At this time, the Board limits its consideration of the matter to the Decision portion, addressing Findings of Fact and Conclusions of Law only. The Board has heard from the Parties and has fully considered the Respondent's Objections and Complaint Counsel's Response to the Objections in making its decision. The specific matter currently before the Board is the 2023 Recommended Decision on the Statement of Allegations, now pared down to bases for misconduct as to which the Magistrate found no genuine issue of material fact in light of the findings made the

²See G.L. c. 112, § 5, eighth para. (c) and 243 CMR 1.03(5)(a)(3).

³See 243 CMR §§ 1.03(5)(a)(11), 2.07(13)(a).

2020 Final Decision and Order on Summary Suspension. Respondent, who is acting pro se and understandably less attuned to the procedural posture of this matter, focuses his objections not on the 2023 decision, but rather on the 2020 hearing and decision. Specifically, Respondent does not assert the existence of any new evidence that was not introduced in the earlier hearing, or otherwise contend that there remains any genuine issue of material fact as to the grounds for discipline established by Summary Decision. Rather, his objections contend simply that the previous findings were wrong decided. While the Board notes that these are objections to the prior, now settled, 2020 decision, the Board addresses them herein as a courtesy in consideration of Respondent's pro se status.

In particular, Respondent objects that the Board's initial summary suspension was issued in a manner he characterizes as "hasty" and without consideration of all the facts. The Board does not concur but notes that even if this characterization were true, the Board subsequently afforded the Respondent a six day hearing at which it took testimony of six witnesses, including the Respondent and two witnesses called by Respondent. The Respondent contends that the 2020 Recommended Decision on Summary Suspension was erroneous due to cognitive bias that led him to believe "only the testimony of the petitioner's expert." The Magistrate's Recommended Decision on Summary Suspension sets forth the Magistrate's reasons for not finding Respondent's witnesses persuasive and the Board finds no error or bias in those reasons. The Board does not find merit in any of the remaining objections.⁴

⁴ The Board has noted the Respondent's Objections and has provided an adequate statement of reasons for its decision; the Board is not required to answer each specific objection in its decision. *Arthurs v. Board of Registration in Medicine*, 383 Mass. 289, 418 N.E.2d 1236 (1981).

Decision

After full consideration of the Parties' submissions, and the Magistrate's Recommended Decision, which is attached hereto and incorporated by reference, the Board adopts the Findings of Fact and Conclusions of Law, including the determinations that:

1. the Respondent's treatment of Patients A, E, and F places into question his competence to practice medicine. See G.L. c. 112, sec. 5, eighth para. (c); 243 CMR 1.03(5)(a)(3).
2. the Respondent's treatment of Patient F was malpractice. See 243 CMR 1.03(5)(a)(17);
and
3. the Respondent's violated a regulation of the Board by preparing an illegible, inadequate operative note of another patient's, Patient D's, surgery. See 243 CMR secs. 1.03(5)(a)(11), 2.07(13)(a).

After the Board hears from the Parties on the issue of sanction and considers any Victim Impact Statement, it will issue a complete Final Decision and Order, including any sanction and notification requirements.



Dated: June 15, 2023

Julian N. Robinson, M.D.
Board Chair