

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS

Board of Registration in Medicine
Adjudicatory No. 2017-042
(RM-17-988)

In the Matter of
Rolf Pfannl, M.D.

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

This matter came before the Board, on the basis of the Administrative Magistrate's (Magistrate's) Recommended Decision, dated November 25, 2019, the Parties' Objections to the Recommended Decision, and Complaint Counsel's Response to the Respondent's Objections, for disposition as to Findings of Fact and Conclusions of Law only. The Board has heard from the Parties and has fully considered the Objections and Complaint Counsel's Response to the Objections in making its decision.

The Respondent questions the Magistrate's credibility determinations as to credibility determinations as to Resident 1, and the Magistrate's analysis of issues related to the Respondent's completion of his 2016 license renewal application. Complaint Counsel questions the absence of two Findings of Fact with respect to the Respondent's physical contact with Resident 1 and the outcome of a 2013 investigation concerning the Respondent.

With respect to the Magistrate's rejection of portions of Resident 1's testimony and reliance on other portions, the Board determines that the Magistrate's credibility findings are clearly explained, including, but not limited to: i) the Magistrate's reliance on Resident 1's contemporaneous reports to peers and corroboration by hospital staff and supervisors; and ii) the Magistrate's lack of reliance on testimony with respect to conduct during the sign-out and events

at a sports entity, where there were inconsistencies in testimony and documentation that undercut testimony.

Where the Magistrate's findings of fact rest upon a resolution of credibility questions, the Magistrate is entitled to substantial deference. See Vinal v. Contributory Retirement Appeal Board, 13 Mass.App.Ct. 85, 101 (1982). The Magistrate's credibility determinations as to Resident 1 and testimonial witnesses were supported by substantial evidence, "such evidence as a reasonable mind might accept as adequate to support a conclusion." See G.L. c. 30A, § 1(6). In the Recommended Decision, the Magistrate adequately explained the resolution of inconsistencies in testimony.

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 the Respondent:

- committed misconduct in the practice of medicine¹;
- violated an ethical principle²;
- engaged in conduct that undermines the public confidence in the integrity of the medical profession³;
- fraudulently procured the renewal of his certificate of registration⁴; and
- failed to respond to a subpoena or to furnish the Board documents, information or testimony to which the Board is legally entitled⁵.

After the Board hears from the Parties on the issue of sanction and considers any Victim

¹ 243 CMR 1.03(5)(a)(18).

² See Aronoff v. Bd. of Registration in Med., 420 Mass. 830, 834 (1995).

³ See Raymond v. Bd. of Registration in Med., 387 Mass. 708, 713 (1982); Levy v. Bd. of Registration in Med., 378 Mass. 519, 527-28 (1979).

⁴ G.L. c. 112, §5; 243 CMR 1.03(5)(a)(1).

⁵ 243 CMR 1.03(5)(a)(16).

Impact Statement, it will issue a complete Final Decision and Order, including any sanction and notification requirements.

Dated: April 16, 2020

Candace Lapidus Sloane, M.D.

Candace Lapidus Sloane, M.D.
Chair