

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Division of Administrative Law Appeals

**Board of Registration
In Medicine,
Petitioner**

v.

Docket No. RM-13-383

**James David Fenn, M.D.,
Respondent**

Appearance for Petitioner:

James Paikos, Esq.
Board of Registration in Medicine
200 Harvard Mill Square, Suite 330
Wakefield, MA 01880

Appearance for Respondent:

None

Administrative Magistrate:

Maria A. Imparato, Esq.

**ORDER OF DEFAULT
RECOMMENDED DECISION**

On July 17, 2013, the Petitioner, Board of Registration in Medicine (Board) issued a Statement of Allegations ordering the Respondent, James David Fenn, M.D., to show cause why he should not be disciplined for practicing medicine in violation of law, regulations, or good and accepted medical practice. The Respondent has not filed an Answer to the Statement of Allegations.

The Board sought to discipline the Respondent based on discipline imposed by the Medical Board of North Carolina, and based on the Respondent's allegedly false answers on his Massachusetts Physician Renewal Application on February 23, 2012.

I scheduled a pre-hearing conference for September 9, 2013 at the Division of Administrative Law Appeals, One Congress Street, 11th floor, Boston, Massachusetts pursuant to 801 CMR 1.01(10)(a). The Board appeared at the pre-hearing conference. The Respondent failed to appear or send an authorized representative. The Board submitted an email at the pre-hearing conference from the Respondent to the Board dated August 21, 2013, indicating that the 4th Circuit Court of Appeals in Raleigh, North Carolina had reversed the disciplinary action taken against him by the North Carolina Medical Board.

I sent an Order to Show Cause to the Respondent on September 9, 2013, notifying the Respondent that if he did not provide sufficient evidence of good cause for his failure to appear at the pre-hearing conference, we would recommend to the Board that the contemplated action be imposed. The Respondent has not responded to the Order to Show Cause.

As a result of the Respondent's failure to file an Answer to the Statement of Allegations as required under 801 CMR 1.01(6)(d)2, and as a result of the Respondent's failure to respond to the Order to Show Cause issued on September 9, 2013, I conclude that the Respondent does not intend to defend this action. I therefore recommend, in accordance with M.G.L. c. 30A, s. 10, that the Petitioner enter a default against the Respondent and deem allegations 2-10 of the Statement of Allegations relative to alleged license renewal fraud be established for purposes of this proceeding.

I recommend that the Board impose appropriate discipline.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Maria A. Imparato

Maria A. Imparato
Administrative Magistrate

Dated: **OCT - 8 2013**