

**COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS**

June 14, 2021

Middlesex, ss.

Docket No. RM-19-0487

BOARD OF REGISTRATION IN MEDICINE, Petitioner

v.

ABEBE HAREGEWOIN, M.D., Respondent

**ORDER OF DEFAULT –
RECOMMENDED DECISION**

Appearance for Petitioner:

Katelyn M. Giliberti, Esq.
Complaint Counsel
Board of Registration in Medicine
200 Harvard Mill Square, Suite 330
Wakefield, MA 01880

Appearance for Respondent:

(No appearance; mailing to last known valid address)

Dr. Abebe Haregewoin
11030 Amherst Ave.
Silver Spring, MD 20902

Administrative Magistrate:

Mark L. Silverstein, Esq.

Summary of Decision

Physician Discipline - Reciprocal discipline (reprimand and required completion of remedial coursework) in another state (Maryland) - Issuing prescriptions for controlled substances that were not for legitimate purposes or in the usual course of physician's medical practice - Pre-signing blank prescriptions - Recommended default decision.

In a physician discipline-related proceeding following issuance, by the Massachusetts Board of Registration of Medicine, of a Statement of Allegations of Professional Misconduct against a physician with a lapsed Massachusetts medical license based upon reciprocal discipline by another state (Maryland) for issuing prescriptions for controlled substances that were not for legitimate purposes or in the usual course of physician's medical practice, it is recommended that the Board make final its allegations of misconduct against the physician and proceed to determine what discipline is appropriate. This disposition is based upon the physician's failure to (1) answer the Statement of Allegations; (2) appear by telephone for the previously-scheduled prehearing conference; or (3) respond to the subsequent Order to Show Cause why DALA should not issue a default decision against him.

Background

This physician discipline-related adjudicatory proceeding was commenced on November 20, 2020, when the Massachusetts Board of Registration in Medicine ("the Board") issued a Statement of Allegations of professional misconduct against Dr. Abebe Haregewoin, together with an Order of Reference (dated November 19, 2020) referring the matter to the Division of Administrative Law Appeals (DALA) for "recommended findings of fact and necessary conclusions of law."

Dr. Haregewoin is a 1976 graduate of the Addis Ababa University in Ethiopia. He was first licensed to practice medicine in the Commonwealth of Massachusetts on June 29,

1994. That license lapsed for nonrenewal on January 4, 2011. He has not attempted to renew his registration with the Board or renew his license to practice medicine in the Commonwealth since. Dr. Haregewoin was also licensed to practice medicine in Utah, but that license lapsed on January 1, 2020. Dr. Haregewoin was also licensed to practice medicine in Maryland in 2015, and that license remains in effect if it did not expire, as scheduled, on September 30, 2020. He is not board certified in any medical specialty.

On January 2, 2019, Dr. Haregewoin entered into a consent order with the Maryland State Board of Physicians in which he admitted to having pre-signed blank prescriptions for generic and brand name buprenorphine products¹ and given them to a registered nurse for use in "potentially life threatening or dangerous situations," and agreed this was evidence of unprofessional conduct in the practice of medicine in violation of Maryland Code Ann., Health Occ. § 14-405. Per the Consent Order, Dr. Haregewoin was reprimanded and required to take, and successfully complete, an ethics course approved by the Maryland State Board's disciplinary panel.

On November 20, 2020, the Massachusetts Board of Registration in Medicine ("the

¹ Buprenorphine is an opioid medication. The Maryland State Board of Physicians had investigated a complaint it had received that Dr. Haregewoin had, while he was the medical director of an ambulatory clinic operated by a county Department of Behavioral Services in Western Maryland that provided outpatient substance abuse and mental health treatment, pre-signed blank prescription forms for Suboxone, a Schedule II controlled dangerous substance containing the active ingredients buprenorphine and naloxone that was used to treat opioid-dependent adults. (Maryland Consent Order dated Jan. 2, 2019, attached to the Massachusetts Board of Registration in Medicine's Statement of Allegations in this matter at 2-3.)

Board") issued the Statement of Allegations at issue here, together with an Order directing Dr. Haregewoin to show cause why it should not discipline him because he was disciplined in Maryland for reasons substantially the same as those recognized in Massachusetts as grounds for physician discipline, including medical license revocation or suspension, *citing* M.G.L. c. 112, § 5, and 243 C.M.R. § 1.03(5). The Board identified these grounds in its Statement of Allegations as:

- (a) Issuing prescriptions for controlled substances that were not for legitimate purposes or in the usual course of the physician's medical practice, in violation of M.G.L. c. 94C, § 19(a);
- (b) Practicing medicine deceitfully or engaging in conduct that had the capacity to deceive or defraud, a ground for physician discipline under 243 C.M.R. § 1.03(5)(a)(10);
- (c) Engaging in misconduct in the practice of medicine, a ground for physician discipline under 243 C.M.R. § 1.03(5)(a)(18);
- (d) Engaging in dishonesty, fraud or deceit that is reasonably related to the practice of medicine, in violation of M.G.L. c. 112, § 61(5); and
- (e) Engaging in conduct that undermines the public confidence in the integrity of the medical profession, *citing Raymond v. Bd. of Registration in Medicine*, 387 Mass. 708, 443 N.E.2d 391 (1982), and *Levy v. Bd. of Registration*, 378 Mass. 519, 392 N.E.2d 1036 (1979).

Per the Board's regulations, Dr. Haregewoin had 21 days to file an answer to the

Board's Statement of Allegations against him. *See* 801 C.M.R. § 1.01(6)(d). Because the Board's Statement was mailed to Dr. Haregewoin (by certified mail) on November 20, 2020, the last day for him to file a timely answer was Friday, December 11, 2020.

The cover letter accompanying the Board's Statement of Allegations, also dated November 20, 2020, notified Dr. Haregewoin that he was required to file an answer within 21 days of his receipt of the Statement. The cover letter stated that it, and the Statement of Allegations, were sent to Dr. Haregewoin by certified mail to him at 11 Great Valley Parkway, #218, Malvern, PA 19355.

The Board referred its Statement of Allegations and Order to the Division of Administrative Law Appeals (DALA) for recommended findings of fact and conclusions of law. DALA issued a notice of prehearing conference (PHC) to Board Complaint Counsel and to Dr. Haregewoin, which stated that the PHC would be conducted by telephone on January 14, 2021 at 2:00 p.m. The notice also directed each of the parties to call in to the conference using a specified phone number and passcode.

The PHC notice mailed to Dr. Haregewoin was not returned to DALA by the United States Postal Service. Dr. Haregewoin did not file a request for a continuance of the prehearing conference with DALA.

I held the telephone PHC as scheduled at 2:00 p.m. on January 14, 2021. Board Complaint Counsel joined the conference by telephone. Dr. Haregewoin did not call in to the

conference.

Board Complaint Counsel advised during the conference that as of January 14, 2021, Dr. Haregewoin had not filed an answer to the Board's Statement of Allegations or a motion to extend his time to do so.

After waiting nearly 20 minutes for Dr. Haregewoin to join the telephone prehearing conference, I terminated the conference and advised Board Complaint Counsel that I would order Dr. Haregewoin to show cause why I should not issue a default decision against him.

On January 15, 2021, I issued an Order to Show Cause directing Dr. Haregewoin to efile with the Division of Administrative Law Appeals (DALA) by February 5, 2021, with a copy emailed by the same date to Complaint Counsel for the Board of Registration in Medicine), a written response to the Order showing cause why I should not issue a Recommended Decision - Order of Default against him in this proceeding.² The Order stated that a default decision would be based upon Dr. Haregewoin's failure to (1) answer the Board's November 20, 2020 Statement of Allegations against him; or (2) join the scheduled

²/ As the result of a typographic error, the Order to Show Cause was dated on its first page January 15, 2019, rather than the actual date on which it was issued and mailed, January 15, 2021. The first sentence on the same page stated, however, that the Order directed Dr. Haregewoin to efile a response by February 5, 2021, and the 2021 response date was boldfaced. The Order repeated (at 6) the same direction to efile a response, also with a boldfaced deadline of February 5, 2021. The repeated response deadline corrected any apparent misconception as to the year in which the Order was issued. The Order stated correctly the date of consequence to Dr. Haregewoin, which was February 5, 2021, the deadline by which the Order directed him to file a response to the Order to Show Cause.

prehearing conference by telephone in this proceeding on January 14, 2021, despite prior written notice of the conference to him. The Order also stated that a default decision would recommend that the Board make its Statement of Allegations against Dr. Haregewoin final and proceed to determine what discipline was appropriate.³

The Order to Show Cause warned that:

Failure to file a response to this Order to Show Cause by the stated deadline, February 5, 2021, will result in the issuance, without further notice, of a default decision recommending that the Board of Registration in Medicine make final the Statement of Allegations that it issued to Dr. Haregewoin on November 20, 2020, and proceed to determine what discipline is appropriate.

Order to Show Cause (Jan. 15, 2021) at 7.

DALA mailed copies of the Order to Show Cause to Dr. Haregewoin at 11 Great Valley Parkway, #218, Malvern, PA 19355, and at 11030 Amherst Avenue, Silver Spring, MD 20902, the only addresses that DALA and the Board of Registration in Medicine had for him. The mailing to Dr. Haregewoin at the Malvern, Pennsylvania address was returned to DALA by the United States Postal Service on February 1, 2021 with the notation "Return to

³/ The Order to Show Cause explained that e-filing a response with DALA meant emailing a written response to the Order, showing the name of this proceeding and its docket number, to "DALAPleadings@mass.gov." At the time, DALA's Malden, Massachusetts office had closed on account of the ongoing COVID-10-related health emergency declared by the Governor of the Commonwealth, and the "DALAPleadings" email address was set up as a contactless alternative to filing with DALA by regular mail, in-hand delivery, or fax filing. The Order advised (at 6-7) that a followup filing of a paper copy of the response was not required, but if Dr. Haregewoin wished to file a paper copy, he needed to do so by mailing it on or before February 5, 2021 to the Division of Administrative Law Appeals, 14 Summer Street, 4th floor, Malden, MA 02148.

Sender Not Deliverable as Addressed Unable to Forward." The mailing to Dr. Haregewoin at the Silver Spring, Maryland address was not returned to DALA by the United States Postal Service, however, and his receipt of the Order to Show Cause mailed to him at that address is therefore presumed.

Dr. Haregewoin has filed no response to the Order to Show Cause, and the response time set by the Order has expired.

Disposition

In view of Dr. Haregewoin's failure to (1) answer the Board of Registration in Medicine's November 20, 2020 Statement of Allegations against him; (2) call in to the scheduled prehearing conference by telephone on January 14, 2021, despite prior written notice of the conference to him; or (3) file a response to the order to show cause that I issued to him on January 15, 2021, the appropriate outcome here is a default decision in the Board's favor. This disposition is appropriate when, as here, the physician's conduct or inaction shows that he does not intend to contest the Board's Statement of Allegations. It may be implemented pursuant to 801 C.M.R. § 1.01(7)(a)I, which provides that "[a]n Agency or Party may by motion request the Presiding Officer to issue any order or take any action not inconsistent with law or 801 CMR 1.00." See *Bd. of Registration in Medicine v. Owens*, Docket No. RM-17-840, Order of Default - Recommended Decision (Mass. Div. of Admin.


Law App., Jan. 29, 2018).

For the reasons set forth above, I now issue this Order of Default - Recommended Decision, pursuant to 801 C.M.R. § 1.01(7)(a)1. I recommend that the Board make final both this recommended decision and the allegations of misconduct against Dr. Haregewoin set forth in the Statement of Allegations, and proceed to determine what discipline is appropriate.

In accordance with the provisions of 801 C.M.R. § 1.01(11)(c)(1), each of the parties has 30 days to file written objections to this Recommended Decision (if any) with the Board of Registration in Medicine.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS



Mark L. Silverstein
Administrative Magistrate

Dated: June 14, 2021