

**COMMONWEALTH OF MASSACHUSETTS**

**Middlesex, ss.**

**Division of Administrative Law Appeals**

**Board of Registration in Medicine,**  
Petitioner

Docket No.: RM-21-0129

v.

**Ata-Ollah Mehrtash, M.D.,**  
Respondent

**Appearance for the Petitioner:**

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

**Appearance for the Respondent:**

*Pro Se*  
9520 Natick Ave.  
North Hills, CA 91343

**Administrative Magistrate:**

Kristin M. Palace, Esq.

**Summary of Recommended Decision**

The Board of Registration in Medicine issued a Statement of Allegations on March 26, 2021 seeking to discipline Ata-Ollah Mehrtash, M.D. because he was disciplined in another jurisdiction for conduct that would be grounds for discipline in Massachusetts. The Board's motion for summary decision is granted. Discipline against Dr. Mehrtash is recommended.

**Recommended Decision**

On March 26, 2021, the Massachusetts Board of Registration in Medicine (Board) issued a Statement of Allegations ordering Respondent Ata-Ollah Mehrtash, M.D. to show cause why he should not be disciplined because he had been disciplined in California by the Medical Board of California (California Board) and in New York by the New York State Board for Professional Medical Conduct (New York Board). Dr. Mehrtash previously held a full license to practice medicine in Massachusetts. That license lapsed in 1979.

The Massachusetts Board referred this matter to the Division of Administrative Law Appeals (DALA) for an adjudicatory hearing on the Statement of Allegations on March 31, 2021. Dr. Mehrtash filed an answer on April 12, 2021. At the telephonic prehearing conference on March 18, 2021, the Board stated its intention to file a motion for summary decision pursuant to 801 CMR 1.01(7)(h). The Board filed that motion on August 4, 2021. Dr. Mehrtash filed his opposition on August 31, 2021.

For the reasons set out below, I conclude that the Board has proven its Statement of Allegations and recommend that the Board take appropriate action against Dr. Mehrtash.

The Standard Adjudicatory Rules of Practice and Procedure provide that any party may move for summary decision. 801 CMR 1.01(7)(h). A motion for summary decision in an administrative proceeding is the functional equivalent of a motion for summary judgment in a civil proceeding. *Zoning Bd. of Appeals of Amesbury v. Housing Appeals Committee*, 457 Mass. 748, 763, 933 N.E.2d 74, 86 (2010). As in summary judgment, a motion for summary decision may be granted when no genuine issue of material fact exists, and the moving party is entitled to prevail as a matter of law. In such a circumstance, a hearing serves no useful purpose. *Mass. Outdoor Advertising Council v. Outdoor Advertising Bd.*, 9 Mass. App. Ct. 775, 785-786, 405 N.E. 2d 151, 156-157 (1980). Thus, to be successful, a moving party must show, with competent evidence, an absence of a genuine issue of material fact as well as an entitlement to a decision in its favor under the applicable law.

When a motion for summary decision is properly made and supported, the opposing party may not rest on simple denials or bare allegations but must instead respond with specific facts that show that there is a genuine, triable issue of fact. If the opposing party fails to so respond, summary decision will be granted for the moving party if appropriate as a matter of law. *See*

Mass. R. Civ. P. 5(e), *Community National Bank v. Dawes*, 369 Mass. 550, 554, 340 N.E.2d 877, 879-880 (1976). The burdens placed on the parties are designed to discourage both baseless motions and specious denials. *Community National Bank v. Dawes, supra*.

In its motion, the Board argues that it is entitled to summary decision because 243 CMR § 1.03(5)(a)(12) empowers the Board to discipline medical licensees who have “been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in M.G.L. c. 112, § 5 or 243 C.M.R. § 1.03(5)”<sup>1</sup> and the undisputed facts establish that Dr. Mehrtash was disciplined by the California Board and the New York Board for conduct that would subject him to discipline in Massachusetts. The Board’s motion references and attaches a July 16, 2015 Stipulated Settlement and Disciplinary Order from the California Board, a June 6, 2016 Consent Order issued by the New York Board adopting a Consent Agreement between Dr. Mehrtash and that board, and a March 14, 2018 Decision from the California Board adopting a February 16, 2018 Proposed Decision of California Administrative Law Judge Matthew Goldsby.

Dr. Mehrtash replied to the motion by e-mail. In his response, Dr. Mehrtash does not dispute that out-of-state discipline was imposed. Instead, he asks to come to Boston with the medical records of the patient whose case resulted in his discipline so he can demonstrate to a panel of Board-Certified physicians that the statements and conclusions of the California and New York Boards are untrue.<sup>2</sup>

As an initial matter, I note that the Board has jurisdiction over Dr. Mehrtash even though Dr. Mehrtash does not hold a current license to practice medicine in Massachusetts. There is no

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<sup>1</sup>G.L. c. 112, § 5 authorizes the Board to discipline physicians and lists specific grounds for discipline. The Board’s regulations also set out those specific grounds for complaints at 243 CMR 1.03(5).

<sup>2</sup> Dr. Mehrtash called DALA multiple times to ensure his response was received. DALA staff tried unsuccessfully to reach him by return phone calls. I carefully considered Dr. Mehrtash’s e-mail response in making this decision.

dispute that Dr. Mehrtash previously held a full license to practice medicine in Massachusetts, but that license lapsed in 1979. Under the statutory scheme applicable to physician licensing in Massachusetts, any doctor who possesses a full license that has lapsed may not practice medicine in Massachusetts until such time as he files a renewal application, but the expiration of his license does not act as a bar to renewal. The statute provides that the "registration of any physician who does not file a completed renewal application together with the fee shall be automatically revoked, but shall be revived upon completion of the renewal process." G.L. c. 112, § 2. The Massachusetts Supreme Judicial Court concluded that the Massachusetts statutory scheme provides a previously licensed physician with an inchoate right to renew his license, and, importantly here, that the Board retains jurisdiction over a physician whose license has lapsed. *Wang v. Board of Registration in Medicine*, 405 Mass. 15, 18-19, 537 N.E.2d 1216, 1218-1219 (1989). The lapse of Dr. Mehrtash's license thus presents no jurisdictional bar to the Board's proposal to discipline Dr. Mehrtash.

It is undisputed that Dr. Mehrtash consented to discipline by the California Board. On July 15, 2015, Dr. Mehrtash signed a stipulation agreeing to a revocation of his license for three years that was stayed while he was placed on probation for an identical time period. The parties agreed that Dr. Mehrtash's license could be restored if he followed the conditions of probation which included enrolling in and successfully completing (i.e., passing) a clinical training program and a course in medical record-keeping, and submitting to peer monitoring in his practice. The California Board had accused Dr. Mehrtash of gross negligence in the care and treatment of a patient and of failure to keep proper medical records documenting the treatment of that patient. In the stipulation, Dr. Mehrtash agreed that he did not contest that the California

Board would be able to establish a prima facie case at a hearing with respect to the facts it alleged, and he waived his rights to contest the charges.

It is also undisputed that Dr. Mehrtash consented to discipline by the New York Board in a consent agreement signed on or about May 27, 2016. The discipline in New York was based on the California Board's 2015 action. The New York Board suspended Dr. Mehrtash's license for 36 months but stayed the suspension for an equal time and ordered Dr. Mehrtash to pay a fine and to comply with the conditions set for him by the California Board.

Dr. Mehrtash has contended during prehearing conferences in this current appeal that he subsequently travelled to Albany, New York and presented the California patient's medical record to the New York Board which, after hearing his explanations, absolved him of all charges. In support of his argument, he filed a copy of a medical license issued to him by the New York Board with an expiration date of March 31, 2023. Dr. Mehrtash did not provide any other documentation from the New York Board supporting his unsworn statements. He has argued that the issuance of a current license from New York is evidence of his vindication.

Finally, it is undisputed that the California Board revoked Dr. Mehrtash's license to practice medicine effective April 13, 2018. That decision followed an adjudicatory hearing in which the administrative law judge heard evidence concerning Dr. Mehrtash's compliance with the conditions of his probation. The administrative law judge found that Dr. Mehrtash tried in good faith to comply with the coursework requirements but was unable to pass the courses.

It is well settled that the Board may discipline a Massachusetts physician who has been disciplined in another jurisdiction if the out-of-state discipline was based on acts that would form the basis for discipline here. 243 CMR § 1.03(5)(a)12. The Board may impose discipline without retrying the facts underlying the out-of-state action. When there is no significant difference

between the reasons for discipline imposed by the sister state and the cognizable grounds for discipline in Massachusetts, a physician has no right to a “second bite of the adjudicative apple.” *Haran v. Board of Registration in Medicine*, 395 Mass. 571, 575, 500 N.E.2d 268, 271 (1986). In such a case, collateral estoppel is proper, and discipline is permissible. *Id.*

Dr. Mehrtash seeks to re-adjudicate the underlying facts that led to his 2015 discipline in California. He wants to travel to Boston to present evidence and to argue that the California Board was wrong to discipline him. He alleges that he successfully did this in New York and that his efforts led to reinstatement of his New York State medical license. That approach is unavailing here. I cannot determine, based on the evidence presented, whether Dr. Mehrtash did indeed convince the New York Board that he was right and that the California Board’s 2015 allegations against him were baseless. But it does not matter. Dr. Mehrtash was disciplined in California in 2015 and again in 2018. Under Massachusetts law, he is not entitled to re-try the facts of the California case. *Haran, supra*. The only question is whether the acts for which he was disciplined in California would be grounds for his discipline in Massachusetts.

The California Board initially disciplined Dr. Mehrtash for gross negligence in the care of a patient after he failed to perform an initial examination under anesthesia that would have permitted him to discern the extent of the patient’s medical problem, perforated the patient’s uterus during a procedure, failed to properly follow up on his suspicions that perforation had occurred, and failed to initiate prophylactic antibiotics after the procedure. The Board also imposed discipline because Dr. Mehrtash sloppily dictated the patient’s pre-operative history two months after her admission and prepared a post-operative note and a discharge summary that were inaccurate. The patient died three days after the procedure. Dr. Mehrtash agreed in the 2015 stipulation that the California Board could establish these facts at a hearing.

Dr. Mehrtash was subsequently disciplined by the California Board in 2018. The Board filed a petition to revoke Dr. Mehrtash's 2015 probation based on his failure to comply with its conditions. An evidentiary hearing was held. In his proposed decision, Administrative Law Judge Matthew Goldsby noted that Dr. Mehrtash had tried in good faith to comply with the educational requirements but that his performance in the courses was unsatisfactory and thus he was unable to "successfully complete" the coursework required by his probation agreement. The administrative law judge found that the faculty committee overseeing the educational program concluded that despite the coursework, Dr. Mehrtash demonstrated significant deficiencies in his medical knowledge, clinical judgment, and his ability to adequately chart patients' medical care. Dr. Mehrtash performed poorly on multiple measures and the faculty committee unanimously agreed that Dr. Mehrtash had failed the overall clinical training program by demonstrating a performance that was poor and "not compatible with overall physician competency and safe practices." The administrative law judge recommended license revocation based on his conclusion that clear and convincing evidence demonstrated that Dr. Mehrtash posed a genuine risk to the community. The California Board adopted the proposed decision on March 14, 2018 with an effective date of April 13, 2018 and revoked Dr. Mehrtash's license.

Massachusetts physicians may be disciplined for engaging in conduct that places into question a physician's competence to practice medicine, including practicing with gross incompetence or negligence. G.L. c. 112, § 5; 243 CMR § 1.03(5)(a)3. Physicians may also be disciplined for failing to keep proper records, 243 CMR § 2.07(13)(a), or for committing misconduct in the practice of medicine. 243 CMR § 1.03(5)(a)18. The conduct for which Dr. Mehrtash was disciplined in California falls within the scope of these provisions.<sup>3</sup> Consequently,

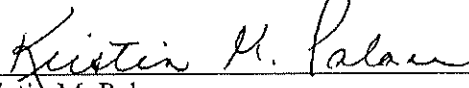
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<sup>3</sup> The Board also charged that Dr. Mehrtash had committed malpractice and that he lacked good moral character and engaged in conduct that undermines public confidence in the integrity of the medical profession. The Board has not

Dr. Mehrtash may be disciplined in Massachusetts because the discipline in California was based acts that would subject him to discipline here. 243 CMR § 1.03(5)(a)12.

Based on the foregoing, I conclude that there is no genuine issue of fact relating to the Board's Statement of Allegations and that the Board is entitled to prevail as a matter of law. I recommend that the Board's motion for summary decision be allowed and that the Board impose appropriate discipline upon Respondent Ata-Ollah Mehrtash, M.D.

DIVISION OF ADMINISTRATIVE LAW APPEALS

  
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Kristin M. Palace  
Administrative Magistrate

Dated: 'SEP - 7 2021

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presented evidence that Dr. Mehrtash was disciplined for committing malpractice in California. Further, the Board has not demonstrated that Dr. Mehrtash lacks good moral character and, by his conduct, impugned the integrity of the medical profession in the public's eyes. At most, it has demonstrated that Dr. Mehrtash committed grievous errors and lacks the skills to practice as a medical doctor. These two things are not one and the same.