

COMMONWEALTH OF MASSACHUSETTS

Division of Administrative Law Appeals
1 Congress Street, 11th Floor
Boston, MA 02114
www.mass.gov/dala

Board of Registration in Medicine,
Petitioner

v.

Docket No. RM-15-38

Joseph Piazza, M.D.,
Respondent

Appearance for Petitioner:

Stephen C. Hctor, Esq.
Complaint Counsel
Board of Registration in Medicine
200 Harvard Mills Square, Suite 330
Wakefield, MA 01880

Appearance for Respondent:

Joseph Piazza, M.D.
FPC Pensacola
Federal Prison Camp
P.O. Box 3949
Pensacola, FL 32516

Administrative Magistrate:

Kenneth Bresler

SUMMARY OF RECOMMENDED ORDER OF SUMMARY DECISION

The Board of Registration in Medicine may discipline a doctor who has been convicted of a crime. Dr. Joseph Piazza pleaded guilty to Conspiracy to Commit an Offense Against the United States in federal charge. No genuine issue of fact exists. Therefore, summary decision is granted. The BRM may discipline Dr. Piazza as it sees appropriate.

RECOMMENDED DECISION

On April 7, 2015, I issued an order containing this language:

I understand from the U.S. mail address that I have for Dr. Joseph Piazza that he is in federal prison. I have not heard from him and do not know whether he is receiving documents in this case.

I ask him to write to me to tell me (1) whether he is receiving documents in this case, from the Board of Registration in Medicine and the Division of Administrative Law Appeals; (2) whether he can arrange to attend a prehearing conference by teleconference, such as Skype, or by simple telephone; and (3) if so, when the prehearing conference should be scheduled.

....

If the Board of Registration in Medicine does not hear from Dr. Piazza by May 7, 2015, I request that it contact the federal prison about the possibility of speaking with Dr. Piazza about the three questions that I pose above.

I did not hear from Dr. Piazza and have never heard from him.

On June 19, 2015, Robert M. Bouton, an investigator in the Enforcement Division of the BRM signed an affidavit. It included the following information.

On July 14, 2014, he mailed a letter to Dr. Piazza informing him of the pending complaint against him. He included a stamped envelope for Dr. Piazza to use to reply. The Federal Bureau of Prisons sent Mr. Bouton a notice reporting that the stamped envelope could not be delivered to Mr. Piazza because postage stamps are contraband within prisons, but reporting that Dr. Piazza had received the letter.

On August 19 and December 1, 2014, Mr. Bouton mailed first-class letters to Dr. Piazza about the BRM's actions against him. Neither letter was returned as undeliverable.

On June 23, 2015, I issued an order containing this language:

On June 19, 2015, I received the BRM's response, reporting, in effect, that on May 8, 2015, it had contacted Dr. Piazza's prison counselor and asked her to have Dr. Piazza call its investigator. The investigator has not heard from Dr. Piazza.

....

I ask the BRM to contact the prison again to ask whether it is delivering documents from the BRM and DALA to Dr. Piazza and whether it would facilitate a teleconference. I ask the BRM to report to me by July 28, 2015.

On June 30, 2015, Mr. Bouton signed a second affidavit. It included the following information.

On that date, Mr. Bouton telephoned the federal prison in Pensacola, Florida. He spoke with a correctional officer who works in the Receiving and Discharge Office and is responsible for delivering Dr. Piazza's and other inmates' mail. The correctional officer confirmed that Dr. Piazza is receiving his mail and in fact receives a lot of mail. He recalled reading one letter that Mr. Bouton had sent.

On July 1, 2015, I issued an order containing this language:

By July 31, 2015, the Board of Registration in Medicine will inform me how it wants to proceed in this case. Within five weeks after the Board so informs me (not necessarily five weeks after July 31, 2015), Dr. Piazza will mail to me and the Board his agreement or disagreement with the Board's proposal. If I do not hear from Dr. Piazza, I might proceed without his input.

On July 13, 2015, the BRM filed a motion for summary decision. Dr. Piazza did not respond.

Findings of Fact

1. Dr. Piazza was born on February 2, 1951. He graduated from the University of Palermo Faculty of Medicine in 1980. Since 2005, he has been licensed to practice medicine in Massachusetts under certificate number 226732. (Affidavit of Robert M. Bouton, Jan. 12, 2015.)

2. If not renewed, Dr. Piazza's license to practice medicine was set to expire on February

2, 2015. As of January 12, 2015, Dr. Piazza had not begun the license renewal process.¹

(Affidavit of Robert M. Bouton, Jan. 12, 2015.)

3. In August 2013, Dr. Piazza pleaded guilty to Conspiracy to Commit an Offense Against the United States in U.S. District Court in Florida. (Affidavit of Robert M. Bouton, Jan. 12, 2015.)

4. Dr. Piazza admitted that between October 2009 and August 2010, he illegally prescribed 152,774 oxycodone pills while working for a cash-only pain management clinic. (Affidavit of Robert M. Bouton, Jan. 12, 2015.)

5. Dr. Piazza was sentenced to five years in federal prison and two years of supervised release. (Affidavit of Robert M. Bouton, Jan. 12, 2015.)

6. Dr. Piazza began serving his term in January 2014 and is scheduled for release in May 11, 2018. (Affidavit of Robert M. Bouton, Jan. 12, 2015.)

7. According to the Federation of State Medical Boards, Physician Data Center, Dr. Piazza's license to practice medicine in other states has been affected as follows: Alabama, revoked on July 7, 2014; Arizona, summarily suspended on August 6, 2014; Florida, voluntarily relinquished on October 15, 2013; Indiana, expired on October 31, 2013; Iowa, withdrawn by Dr. Piazza on April 6, 2011; Michigan, suspended on November 23, 2014; New York, suspended on October 27, 2014; Oklahoma, expired on December 1, 2013; South Carolina, temporarily suspended on July 25, 2014; Virginia, suspended on November 1, 2013. (Affidavit of Robert M. Bouton, Jan. 12, 2015.)

8. On January 12, 2015, the Complaint Counsel filed with the BRM a Motion to Consider

¹ This information has not been updated. I assume that Dr. Piazza has not tried to renew his license because (1) the BRM has not so informed me; and (2) Dr. Piazza has not responded to mail about the BRM's actions against him.

Summary Suspension Prior to Hearing.

9. On February 5, 2015, the BRM issued an Order of Temporary Suspension.
10. On February 6, 2015, the BRM issued a Statement of Allegations against Dr. Piazza.
11. Dr. Piazza received adequate notice of the BRM's actions against him.

Discussion

The BRM may discipline a doctor who has been convicted of a crime. G.L. c. 112, § 5(g), 243 CMR 1.03(5)(a)7. Therefore, the BRM may discipline him for this reason. In addition, Dr. Piazza's crime is directly related to his role as a formerly practicing doctor.

The BRM may also discipline a doctor for

[h]aving 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 CMR 1.03(5) .

243 CMR 1.03(5)(a)12. The Statement of Allegations does not allege this as a "Legal Basis for Proposed Relief." The Motion to Consider Summary Suspension Prior to Hearing and the Order of Temporary Suspension do not mention a legal basis, such as other states' discipline against Dr. Piazza. More importantly, however, the BRM has not presented evidence about the reasons that other states have disciplined Dr. Piazza. I cannot tell whether the reasons are "substantially the same as those set forth in M.G.L. c. 112, § 5 or 243 CMR 1.03(5)." 243 CMR 1.03(5)(a)12. The BRM may not reciprocally discipline Dr. Piazza, at least not until it presents evidence about why other states have disciplined Dr. Piazza.

Dr. Piazza has not contested the fact of his conviction. Under 801 CMR 1.01(7)(h), no genuine issue of fact exists and the BRM may discipline Dr. Piazza as a matter of law. I grant summary decision.

Conclusion and Order

The BRM may discipline Dr. Piazza as it sees appropriate.

DIVISION OF ADMINISTRATIVE LAW APPEALS

A handwritten signature in cursive script that reads "Kenneth Bresler". The signature is written in dark ink and is positioned above a horizontal line.

Kenneth Bresler
Administrative Magistrate

Dated: **SEP - 4 2015**