



THE COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS
BUREAU OF SPECIAL EDUCATION APPEALS
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CHIEF ADMINISTRATIVE MAGISTRATE

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October 17, 2025

Booker T. Bush, M.D.
Chairperson of the Board
Board of Registration in Medicine
178 Albion St., Suite 330
Wakefield, MA 01880

Re: Board of Registration in Medicine v. *Brian Poore, M.D.*,
DALA Docket No. RM-23-0475

Dear Dr. Bush:

Enclosed is the Administrative Magistrate's Recommended Decision in the above-captioned matter.

By copy of this letter, parties are advised that in accordance with the provisions of 801 CMR 1.01 (11)(c)(1), they have thirty (30) days to file with the Board of Registration in Medicine written objections to the Recommended Decision.

Sincerely,

Natalie S. Monroe
Chief Administrative Magistrate

NSM/mbf

Enclosure

cc: Sheryl Bourbeau, Esq.
Debra Stoller, Esq.
CJ Gideon, Jr., Esq.

COMMONWEALTH OF MASSACHUSETTS

Division of Administrative Law Appeals

Board of Registration in Medicine,

Petitioner

v.

Docket No. RM-23-0475

Brian J. Poore,

Respondent

Appearance for Petitioner:

Sheryl M. Bourbeau, Esq.

Appearance for Respondent:

C.J. Gideon, Jr., Esq.

Administrative Magistrate:

Timothy M. Pomarole, Esq.

SUMMARY OF RECOMMENDED DECISION

The Board of Registration in Medicine (“the Board”) seeks to reciprocally discipline Respondent, a Tennessee resident, whose license to practice medicine in the Commonwealth had lapsed in 1999, because of discipline imposed by the Tennessee Board of Medical Examiners (“TN Board”).

The Respondent’s objections to the exercise of personal jurisdiction are unavailing. He forged the necessary minimum contacts with Massachusetts when he first became licensed to practice medicine in Massachusetts, the present matter clearly relates to and arises from those minimum contacts, and jurisdiction does not offend traditional notions of fair play or substantial justice.

Also unavailing is the Respondent’s argument that the Board lacks statutory authority to proceed against a physician whose sanctionable conduct occurred after his license had lapsed. The Board’s authority extends to formerly licensed physicians who, like the Respondent, have a right to renew their registration – regardless of where or when the allegedly sanctionable conduct occurred.

Turning to the substantive merits, reciprocal discipline is appropriate because the grounds for Dr. Poore’s discipline by the TN Board are substantially similar to grounds on which the Board itself could discipline him.

RECOMMENDED DECISION

Procedural History

On September 21, 2023, the Division of Administrative Law Appeals (“DALA”) received this case on referral from the Petitioner, the Massachusetts Board of Registration in Medicine (“the Board”), for recommended findings of fact and necessary conclusions of law.

Also on September 21, 2023, the Board issued a Statement of Allegations (“SOA”) ordering the Respondent, Brian J. Poore, M.D. (“Dr. Poore”), to show cause why he should not be disciplined in the Commonwealth of Massachusetts because he was disciplined in another jurisdiction, Tennessee, for reasons substantially the same as those set forth at M.G.L. c. 112, § 5, and 243 CMR 1.03(5).

On October 11, 2023, Dr. Poore filed a Special Appearance-Response (“Special Appearance”),¹ requesting that this matter be dismissed on the ground that (1) the Board lacks personal jurisdiction over Dr. Poore, a resident of Tennessee, whose license to practice medicine in Massachusetts had lapsed long before the Board initiated these proceedings; and (2) the Board lacks statutory authority to proceed because he is not a licensee within the meaning of M.G.L. c.112, § 5.² On October 17, 2023, the Board filed an opposition to Dr. Poore’s request. A prehearing conference was held on November 9, 2023.

¹ I infer that this submission was styled as a special appearance because Dr. Poore contests personal jurisdiction and does not want his response to the order to show cause to be construed as a waiver of his objection to personal jurisdiction.

² Because the issue of personal jurisdiction has been fully briefed in the parties’ summary decision papers and I address it in this recommended decision, I do not treat the jurisdictional arguments

On January 10, 2024, the Board filed a motion for summary decision pursuant to 801 CMR 1.01(7)(h) and 801 CMR 1.01(10)(c). On January 30, 2024, Dr. Poore filed his opposition and a statement of additional undisputed facts. On February 6, 2024, the Board filed a motion to strike the statement.³ Also on February 6, 2024, the Board filed a reply to Dr. Poore's opposition to the motion for summary decision.

I admit, without objection, the Board's proposed Exhibits 1-3. Those exhibits are:

Exhibit 1: Physician Data Report for Dr. Poole

Exhibit 2: Practitioner Profile Data for Dr. Poole

Exhibit 3: Consent Order, Matter of Brian J. Poore, M.D., Tennessee Board of Medical Examiners ("the TN Board"), Case No. 2019060881 ("the Order")

In a post-briefing e-mail on February 15, 2024, the Board proposed an additional exhibit: a letter the Board sent Dr. Poore informing him that it was investigating a complaint against him and inviting him to complete an attached resignation form. Dr. Poore objects to this exhibit on the ground that it is an inadmissible offer of settlement. Even assuming that this letter is an offer of settlement, settlement offers are inadmissible to "prove or disprove the validity or amount of a disputed claim." *Slive v. Hanna, Inc. v. Mass. Comm'n Against Discrimination*, 100 Mass. App. Ct. 432, 442 (2021) (citation and internal quotation marks omitted). The Board does not propose this exhibit for the purpose of proving or disproving the validity of any "claim" against Dr. Poore.

asserted in Dr. Poore's special appearance-response as a freestanding motion to dismiss for "other good cause" under 801 CMR 1.01(7)(g)(3).

³ I deny the Board's motion to strike.

More problematic is the fact that this exhibit was proposed after the parties had briefed the motion for summary decision. That said, the exhibit was proposed amid an exchange of post-briefing e-mails by the parties, in which both the Petitioner and Respondent volunteered additional legal arguments beyond their briefs. I do not believe the timing would unfairly prejudice Dr. Poore. I exclude the Board's proposed Exhibit 4 on a different ground: it is irrelevant.

Undisputed Facts

The following facts are undisputed:

1. Dr. Poore is a cardiovascular anesthesiologist and critical care specialist. He is certified in both Critical Care Medicine and Anesthesiology by the American Board of Anesthesiology. (Exhibit 3, p. 3; Exhibit 1, p. 1; Exhibit 2, p. 2).
2. Dr. Poore graduated from the University of Miami School of Medicine in 1992. (Exhibit 1, p. 1).
3. Dr. Poore was licensed to practice medicine in Massachusetts under license number 152697. This license was issued on December 11, 1996. (Exhibit 1, p. 1).
4. Dr. Poore's license to practice medicine in Massachusetts lapsed on April 30, 1999. (Exhibit 1, p. 1; Special Appearance, p. 1).
5. While licensed in Massachusetts, Dr. Poore was affiliated with Massachusetts General Hospital. (Exhibit 1, p. 1).
6. As of May 17, 2022, Dr. Poore was licensed to practice medicine in Tennessee under license number 24891. This license was issued on September 1, 1993. (Exhibit 3, p. 2).
7. In 2023, the TN Board commenced disciplinary proceedings regarding Dr. Poore. Those proceedings resulted in the Order. (Exhibit 3, p. 3).

8. The Order states that, beginning in 2018, Dr. Poore was “habitually intoxicated.” (Exhibit 3, pp. 3-4).
9. The Order recites various stipulated facts in support of the determination that Dr. Poore was “habitually intoxicated.” (Exhibit 3, p. 3).
10. The TN Board concluded that Dr. Poore had violated Tenn. Code Ann. § 63-6-214(b), which authorizes discipline against Tennessee doctors for:
 - (5) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, controlled substance analogues or other drugs or stimulants in such manner as to adversely affect the person’s ability to practice medicine.(Exhibit 3, p. 4).
11. The TN Board concluded that the Stipulations of Fact were sufficient grounds to discipline Dr. Poore. (Exhibit 3, p. 4).
12. Dr. Poore signed the Order on March 30, 2023. (Exhibit 3, p. 8).
13. The Board approved the Order on May 16, 2023. (Exhibit 3, p. 8).
14. The TN Board disciplined Dr. Poore, requiring him to enter into a monitoring agreement with the Tennessee Medical Foundation and pay a civil penalty, as well as certain costs associated with the proceedings. (Exhibit 3, pp. 5-6).⁴

⁴ The Tennessee Medical Foundation is a 509(a)2 public charity that operates a program that, among other services, assists physicians with monitoring post treatment for Drug Dependency. The TMF “offers support with any licensing, insurance or disciplinary issues during that time.” Tennessee Medical Foundation, Frequently Asked Questions <<<https://e-tmf.org/faqs/>>> (last visited June 6, 2025).

Analysis

The Board seeks to discipline Dr. Poore on the basis of discipline issued against him by the TN Board. Dr. Poore asserts that the Board cannot exercise personal jurisdiction over him and lacks the statutory authority to proceed against him.

I recommend that the Board's motion for summary decision be granted. For the reasons stated below, I conclude that (a) the Board has personal jurisdiction over Dr. Poore; (b) it has statutory basis to proceed; and (c) there are no genuine disputes of material fact and the Board has established that it is entitled to prevail as a matter of law. I recommend that the Board take appropriate action.

A. Personal Jurisdiction

Dr. Poore argues that the Board lacks personal jurisdiction over him because he is not a resident of Massachusetts and the basis for his discipline occurred outside the Commonwealth long after his license to practice medicine in Massachusetts had lapsed. The Board bears the burden of establishing personal jurisdiction over Dr. Poore. *Bulldog Invs. Gen. P'ship v. Sec'y of the Commonwealth*, 457 Mass. 210, 219 (2010).

A nonresident may be subject to personal jurisdiction in Massachusetts when jurisdiction is authorized by statute and it is consistent with basic requirements of due process. *Bulldog Invs. Gen. P'ship*, 457 Mass. at 215. I discuss first the statutory authority to exercise personal jurisdiction over Dr. Poore.

The Massachusetts long-arm statute, M.G.L. c. 223A, § 3, governs the exercise of personal jurisdiction over nonresidents in court proceedings, but does not apply to administrative proceedings. *Bulldog Invs. Gen. P'ship*, 457 Mass. at 215-216. The exercise of personal jurisdiction in administrative proceedings requires a different statutory basis. *Id.* Personal jurisdiction in administrative proceedings may be authorized by the governing statute, which may authorize the exercise of personal jurisdiction over nonresidents expressly or by implication. *Bd. of Reg. in Med. v. Ronald S. Grusd, M.D.*, RM-1-0445, at *30 (Div. Admin. Law. App. May 19, 2020), *aff'd Bd. of Reg. in Med.*, Adjudicatory Case No. RM-18-0445 (Final Decision and Order Oct. 22, 2020).

The relevant statute, G.L. c. 112, § 5, charges the Board with the duty to “investigate all complaints relating to the proper practice of medicine by any person holding a certificate of registration” to practice medicine in the Commonwealth and authorizes the Board to “adopt rules and regulations governing the practice of medicine in order to promote the public health, welfare, and safety,” specifically noting that “nothing in this section shall be construed to limit this general power of the board.”⁵ Against this broad regulatory backdrop, it would make little sense to conclude that the Board can license out-of-state physicians to practice medicine in Massachusetts, but not investigate or discipline them for misconduct.

In addition to statutory authorization, the exercise of personal jurisdiction over a nonresident must meet the requirements of due process. *Good Hope Indus., Inc. v. Ryder Scott Co.*, 378 Mass. 1, 5-6 (1979). To meet the requirements of due process, the exercise of personal

⁵ Dr. Poore argues that he does not, in fact, hold a “certificate of registration” in Massachusetts for purposes of the statute. That contention is addressed (and rejected) in the following section, but even if the argument was sound, that would have no bearing on the question of whether the statute implicitly authorizes the disciplinary proceedings against nonresidents.

jurisdiction must satisfy three criteria. First, the nonresident must have “purposefully established ‘minimum contacts’” in Massachusetts. *Tatro v. Manor Care, Inc.*, 416 Mass. 763, 772 (1994) (citation and internal quotation marks omitted). Second, the claim must “arise out of, or relate to,” those “minimum contacts” of the nonresident. *Id.* (citation and internal quotation marks omitted). Third, subjecting a nonresident to personal jurisdiction should not offend “traditional notions of fair play and substantial justice.” *Id.* (citation and internal quotation marks omitted).

The first due process requirement, “minimum contacts,” requires “some act by which the defendant purposefully avails [himself] of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws.” *Burger King Corp v. Rudzewicz.*, 471 U.S. 462, 475 (1985). In *Wang v. Board of Registration in Medicine*, the Supreme Judicial Court held that a nonresident physician whose Massachusetts registration had lapsed had sufficient minimum contacts with Massachusetts because he maintained a right to renew his registration. 405 Mass. 15, 20-21 (1989). As Dr. Poore correctly observes, the Court also remarked that Dr. Wang had other contacts with Massachusetts as well: the misconduct occurred in Massachusetts, and Dr. Wang invoked the authority of Massachusetts courts over an eight-year period to enjoin a hospital from disclosing information concerning his status. *Id.* at 21. Dr. Poore argues that although he may have a right to renew his lapsed registration, his contacts with Massachusetts otherwise fall far short of the contacts present in *Wang*. While the Court found that Dr. Wang had sufficient contacts with the state, it did not hold – as Dr. Poore argues – that Dr. Wang’s additional points of contact with Massachusetts were necessary to establish the requisite minimum contacts.⁶

⁶ *Wang’s* discussion of the personal jurisdiction consists of the following paragraph:

I agree with Magistrate Silverstein's apt observation in the *Grusd* decision that "[a]rguably, the act of obtaining a license to practice medicine in the first place satisfies the standard of sufficient minimum contacts." *Grusd, supra*, at *30. In fact, I believe the point is more than "arguable." In seeking and receiving licensure, physicians avail themselves of the privilege of conducting an important and highly regulated activity (the practice of medicine) within Massachusetts and thereby subject themselves to the oversight of its medical board and legal system.

Dr. Poore's observation that his alleged misconduct occurred outside the Commonwealth and that he had no relevant contacts with Massachusetts after his license had lapsed is beside the point. He forged the requisite minimum contacts with Massachusetts when he first obtained (or perhaps even applied to obtain) a license to practice medicine in the Commonwealth. What he did or did not do thereafter is not relevant to whether he had established minimum contacts with Massachusetts in the first place.

Finally, the plaintiff objects to the board's jurisdiction on Federal and State constitutional due process principles. The plaintiff does, however, have sufficient "minimum contacts" with Massachusetts to satisfy constitutional due process: *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945); *Droukas v. Divers Training Academy, Inc.*, 375 Mass. 149, 152 (1978). Although the plaintiff now is a nonresident physician who challenges the revocation of his registration in this Commonwealth, he retained, until the board issued its decision, a right to renew his certificate of registration. Also, the alleged acts of misconduct occurred in Massachusetts during the more than eleven years he was licensed to practice in Massachusetts. He invoked the power of the Massachusetts courts between 1974 and 1982 to enjoin the hospital from disclosing information concerning his reduced status. We conclude that there was no violation of the plaintiff's due process rights.

Wang, 405 Mass. at 20-21.

The second requirement is that the exercise of personal jurisdiction “arise out of, or relate to,” the “minimum contacts” of the nonresident. *Tatro*, 416 Mass. at 772 (citation and internal quotation marks omitted). The administrative proceedings in this case plainly “arise out of, or relate to” Dr. Poore’s minimum contacts with Massachusetts.

The third due process requirement is that subjecting a nonresident to personal jurisdiction does not offend “traditional notions of fair play and substantial justice.” *Id.* (citation and internal quotation marks omitted). The determination requires a weighing of “the Commonwealth’s interest in adjudicating the dispute, the burden on the out-of-state party of litigating in Massachusetts, and the Commonwealth’s interest in obtaining convenient and effective relief.” *Bulldog Invs. Gen. P’ship*, 457 Mass. at 218.

Here, the Commonwealth has an interest in adjudicating whether or not an individual should retain his or her right to renew their license to practice medicine in Massachusetts. Indeed, it is not apparent to me that such a dispute could be litigated anywhere other than Massachusetts. And Dr. Poore’s claimed burden of litigating the matter in the Commonwealth is largely conclusory.⁷

⁷ Dr. Poore appears more focused on the timing of these proceedings, rather than their location, arguing that the appropriate time to adjudicate this matter would be if he “ever attempts to revive his lapsed license.” (Response to Motion for Summary Decision, p. 9). Perhaps the relative interests and burdens associated with proceeding in one jurisdiction as opposed to another can shift over time, but Dr. Poore does not appear to be arguing that “fair play” and “substantial justice” call for another forum (presumably Tennessee) rather than Massachusetts. Instead, he is essentially asserting that he should not be required to litigate this dispute in any forum unless and until he elects to renew his Massachusetts license. The suggestion that the Board is required to wait for a physician to seek to renew his or her license before commencing disciplinary proceedings was rejected in *Wang*. 405 Mass. at 19 (“We cannot say, however, as a matter of law,

In sum, and for the foregoing reasons, I conclude that the Board is entitled to exercise personal jurisdiction over Dr. Poore.

B. Statutory Authority

Dr. Poore argues that the Board lacks statutory authority to proceed against him because G.L. c. 112, § 5 authorizes the Board to investigate complaints of medical misconduct concerning “person[s] holding a certificate of registration” under Chapter 112. According to Dr. Poore, this means that the Board may initiate disciplinary proceedings only against currently licensed physicians or formerly licensed physicians whose alleged misconduct occurred while still licensed by the Board.

There is some support for Dr. Poore’s position. The *Wang* opinion, which concerned the Board’s authority to discipline a physician whose registration had lapsed, but whose misconduct occurred while he was still licensed, contains the following language:

General Laws c. 112, § 5, mandates that the board “investigate all complaints relating to the proper practice of medicine by any person holding a certificate of registration.” This provision is ambiguous in resolving the question before us because the statute fails to state explicitly whether the board’s jurisdiction pertains to persons holding certificates at the time of the investigation or to persons holding certificates at the time of the alleged misconduct.

Wang, 405 Mass. at 18.

As First Magistrate Rooney observed in *Board of Registration in Medicine v. Conigliaro*, this language, if read in isolation, could suggest that the Board cannot proceed unless the physician holds a certificate of registration at the time of the Board’s investigation or was registered at the

that the board must wait for Wang’s renewal application to initiate disciplinary proceedings rather than doing so when his misconduct became known to the board.”).

time of the misconduct. RM-17-256, at *6 (Div. Admin. Law App. Nov. 15, 2018), *aff'd* Bd. of Reg. in Med., Adjudicatory Case No. 2017-019 (Final Decision and Order Feb. 28, 2019) (citation omitted). The context, however, makes it reasonably apparent that the Court was not purporting to limit the Board's authority to those two options. The Court concluded that the "statutory scheme" supported jurisdiction over Dr. Wang because he retained an "inchoate right to reestablish his status as a licensed physician in Massachusetts simply by completing the renewal process." *Wang*, 405 Mass. at 19. The rule, as stated, does not depend on the timing of the alleged misconduct, and the Court makes no reference to when the misconduct took place, indicating that the timing of the misconduct had no role in its analysis.

Even if *Wang* was ambiguous on this issue, in the absence of controlling judicial authority to the contrary, the Board's properly adopted regulations on the subject have the force of law and must be followed. *Conigliaro, supra* (citing *Royce v. Commissioner of Correction*, 390 Mass. 425 (1983)). Those regulations provide that the Board may discipline a "licensee [who] is practicing medicine in violation of law, regulations or good and accepted medical practice." 243 CMR 1.03(5)(a). A "licensee" is defined in turn as "person holding or having held any type of license." 243 CMR 1.01(2). Because Dr. Poore is a licensee under that definition, the Board is authorized to proceed against him.

C. Summary Decision

A motion for summary decision is "the administrative equivalent of a motion for summary judgement." *Zoning Bd. of App. of Amesbury v. Hous. App. Comm.*, 457 Mass. 748, 750 (2010). A

motion for summary decision may be granted when no genuine dispute of material fact exists and a party has established that it is entitled to prevail as a matter of law. 801 C.M.R. 1.01(7)(h).

Under 243 CMR 1.03(5)(a)(12), a complaint from the Board may be founded upon the fact that a physician has “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).”

Here, there is no dispute that Dr. Poore was disciplined in Tennessee. The TN Board disciplined Dr. Poore for “habitual intoxication.” (Exhibit 3, pp. 3-4). The TN Board cited the following statutory grounds for disciplinary action, under Tenn. Code Ann. § 63-6-214(b):

(5) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, controlled substance analogues or other drugs or stimulants in such manner as to adversely affect the person’s ability to practice medicine.

The TN Board’s discipline of Dr. Poore under Tenn. Code Ann. § 63-6-214(b) is substantially the same as the following bases under Massachusetts law:

- M.G.L. c. 112, § 5 (d)-(e) authorizes the Board to discipline a physician who:
 - (d) is guilty of practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
 - (e) is guilty of being habitually drunk or being or having been addicted to, dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects.
- 243 CMR 1.03(5)(a)(4)-(5) authorizes the Board to discipline a licensee physician on the grounds of:
 - (4) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;

(5) Being habitually drunk or being or having been addicted to, dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects.

Because Dr. Poore was disciplined in Tennessee for reasons substantially the same as those for which the Board could discipline him in Massachusetts, the Board is authorized to impose reciprocal discipline upon him.

Based on the foregoing, I recommend that the Board's motion for summary decision be allowed. The Board should take appropriate action.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Timothy M. Pomarole

Timothy M. Pomarole
Administrative Magistrate

Date: October 17, 2025



THE COMMONWEALTH OF MASSACHUSETTS

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