

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2015-025

In the Matter of)
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)
STEPHEN H. FOX, M.D.)
_____)

STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine (Board) has determined that good cause exists to believe the following acts occurred and constitute a violation for which a licensee may be sanctioned by the Board. The Board therefore alleges that Stephen H. Fox, M.D. (Respondent) has practiced medicine in violation of law, regulations, or good and accepted medical practice as set forth herein. The investigative docket number associated with this order to show cause is Docket No. 14-297

Biographical Information

1. The Respondent was born on July 4, 1968. He graduated from the University of Connecticut School of Medicine in 1996. He is certified by the American Board of Surgeons. He has been licensed to practice medicine in Massachusetts under certificate number 216553 since 2003.

Factual Allegations

2. On July 29, 2014, the Respondent entered into a Voluntary Agreement Not to Practice Medicine ("VANP"). The VANP was ratified by the full Board on September 10, 2014.

3. The Respondent was employed by Baystate Medical Practice (“BMP”) and was affiliated with Baystate Franklin Medical Center (“Baystate Franklin”).

4. In or about late Spring 2014, after work, the Respondent frequently consumed a sixteen-ounce beer and smoked marijuana.

5. By June 2014, the Respondent smoked marijuana at times in the evening when he was on call.

6. During the weekend of July 4, 2014, the Respondent was the on-call surgeon at Baystate Franklin.

7. On the evening of July 4, 2014, as the on-call surgeon, the Respondent performed an exploratory laparotomy.

8. On the morning of July 5, 2014, as the on-call surgeon, the Respondent performed an incision and drainage.

9. As the weekend progressed, concerns were raised by hospital staff about the Respondent’s ability to perform his duties.

10. On the evening of July 5, 2014, BMP removed the Respondent from call and from all clinical duties.

11. The Respondent had a blood sample drawn on the evening of July 5, 2014.

12. On July 7, 2014, the sample results were positive for alcohol and marijuana.

13. The Respondent voluntarily entered an in-patient substance abuse treatment program at Caron in Pennsylvania on July 13, 2014. He remained at Caron until November 5, 2014.

14. The Respondent successfully completed the Caron program on November 5, 2014.

15. The Respondent entered into a Physician Substance Use Monitoring/Behavioral Health Monitoring Contract with the Physician Health Services (PHS) program of the Massachusetts Medical Society, effective July 13, 2014. He has been compliant with that contract.

Legal Basis for Proposed Relief

A. Pursuant to G.L. c. 112, §5, ninth par. (d) and 243 CMR 1.03(5)(a)4, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician practiced medicine while his ability to do so was impaired by alcohol, drugs, physical disability or mental instability.

B. Pursuant to *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982), the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has engaged in conduct that undermines the public confidence in the integrity of the medical profession.

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§ 5, 61 and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01.

Nature of Relief Sought

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure, reprimand, fine, the performance of uncompensated public service, a course of education or training or other restrictions upon the Respondent's practice of medicine.

Order

Wherefore, it is hereby **ORDERED** that the Respondent show cause why the Board should not discipline the Respondent for the conduct described herein.

By the Board of Registration in Medicine,

Candace Lapidus Sloane, MD
Candace Lapidus Sloane, M.D.
Board Chair

Date: September 10, 2015