

STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

DEPARTMENT OF FINANCIAL AND)	
PROFESSIONAL REGULATION)	
of the State of Illinois,	Complainant,)	
v.)	No. 2018-05376
Pavan Y. R. Prasad, M.D.,)	
License No. 036-137175,	Respondent.)	

ORDER

This matter having come before the Medical Disciplinary Board of the Department of Financial and Professional Regulation of the State of Illinois, Division of Professional Regulation, and the Medical Disciplinary Board having made certain Recommendation to the Director of the Division of Professional Regulation; and the Division of Professional Regulation having complied with all required notices; and the time allowed for filing of a Motion for Rehearing/Reconsideration before the Director of the Division of Professional Regulation having now passed.

NOW, THEREFORE, I, CECILIA ABUNDIS, ACTING DIRECTOR OF THE DIVISION OF PROFESSIONAL REGULATION of the State of Illinois do hereby adopt the Recommendation of the Illinois Medical Disciplinary Board in this matter.

IT IS THEREFORE ORDERED that Pavan Y. R. Prasad, M.D., Illinois Physician and Surgeon License No. 036-137175, shall be reprimanded, fined in the amount of \$2,500.00 (two thousand and five hundred dollars) due in 90 (ninety) days, and required to complete 10 (ten) Category I CMEs in risk management and 10 (ten) Category I CMEs in professionalism, medical ethics and boundaries, all due in 90 (ninety) days. Aforementioned Category I CMEs have to be pre-approved by the Department's Chief Medical Coordinator.

DATED THIS 29th DAY OF June, 2021.

**DEPARTMENT OF FINANCIAL AND
PROFESSIONAL REGULATION of the State of Illinois
Mario Treto, Jr., Acting Secretary
DIVISION OF PROFESSIONAL REGULATION**



Cecilia Abundis
Acting Director of the Division of Professional Regulation

REF: License No. 036-137175/Case No. 2018-05376

**STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION**

DEPARTMENT OF FINANCIAL AND)
PROFESSIONAL REGULATION)
of the State of Illinois,) Complainant,)
v.)
Pavan Y. R. Prasad, M.D.,)
License No. 036-137175,) Respondent.)

No. 2018-05376

CLERK OF THE COURT

21 JUN -4 AM 11:17

20 DAY NOTICE

TO: Pavan Y. R. Prasad, M.D.,
Care of Richard Hickey, Esq.
Via email at rhickey@hickeylegallgroup.com

PLEASE TAKE NOTICE that the Medical Disciplinary Board of the Department of Financial and Professional Regulation, Division of Professional Regulation, of the State of Illinois, after considering the record presented in the above case, has issued the Findings of Fact, Conclusions of Law and Recommendation to the Director. Copies of the Board's Findings of Fact, Conclusions of Law and Recommendation to the Director as well as ALJ Report and Recommendation are attached.

YOU ARE HEREBY NOTIFIED that you have 20 days from the date this Notice is emailed to present to the Division of Professional Regulation your written Motion for a Rehearing/Reconsideration. Said Motion shall specify the particular grounds for a rehearing. The Director of the Division of Professional Regulation may grant oral argument on this motion if deemed necessary for a clearer understanding of the issues presented. The Department shall have 20 days to file a response to said motion and Respondent shall have 10 days after the date the Department's response is due to file a reply, unless otherwise ordered by the Director.

**DEPARTMENT OF FINANCIAL AND
PROFESSIONAL REGULATION, DIVISION OF
PROFESSIONAL REGULATION, of the State of Illinois**

BY: _____

Vladimir Lozovskiy
Attorney for the Department

Vladimir Lozovskiy
Staff Attorney, Medical Prosecution Unit
Department of Financial and Professional Regulation
Division of Professional Regulation
100 West Randolph Street, Suite 9-300
Chicago, Illinois 60601
312/814-1691

STATE OF ILLINOIS)
) ss: 2018-05376
COUNTY OF COOK)

UNDER PENALTY OF PERJURY, as provided by law, Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that I caused copies of the foregoing 20 Day Notice along with the attached documents to be emailed to Respondent's attorney on June 4, 2021



AFFIANT

**STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION**

DEPARTMENT OF FINANCIAL AND)	
PROFESSIONAL REGULATOIN)	
Of the State of Illinois,)	Complainant,
)	
v.)	No. 2018-05376
)	
Pavan Y.R. Prasad, M.D.,)	
License No. 036.137175)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDATION TO THE DIRECTOR**

Now comes the Medical Disciplinary Board ("Board") of the Department of Financial and Professional Regulation, Division of Professional Regulation of the State of Illinois ("Department") and, after reviewing the record in this matter, a majority of its members hereby make the following Findings of Fact, Conclusions of Law and Recommendation to the Director of the Department:

FINDINGS OF FACT

The Board hereby adopts the Findings of Fact contained in the May 4, 2021, Administrative Law Judge's Report and Recommendation of Administrative Law Judge Ian Brenson (hereinafter "ALJ Report") and incorporates the Findings of Fact herein.

CONCLUSIONS OF LAW

The Board hereby adopts the Conclusions of Law contained in the ALJ Report and incorporates the Conclusions of Law herein.

RECOMMENDATION

Based on the aforementioned Findings of Facts and Conclusions of Law, the Board accepts the recommendation contained in the ALJ Report in part and adds to the recommendation. The Board accepts the ALJ Report's recommendation that Respondent's Illinois physician and surgeon license, no. 036.137175, be reprimanded and fined in the amount of two thousand five hundred dollars and no cents (\$2,500.00). The Board has determined that Respondent needs to complete Continuing Medical Education

(CME). The Board recommends that Respondent complete 10 hours of Category 1 CMEs in risk management and 10 hours of CME in professionalism and medical ethics and boundaries. The CMEs shall be approved by the Chief Medical Coordinator.

DATED THIS 2nd DAY OF June 2021.


CHAIRPERSON, Amy Derick, M.D.

MEMBER

MEMBER

MEMBER

MEMBER

MEMBER

MEMBER

MEMBER

MEMBER

MEMBER

MEMBER

STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

DEPARTMENT OF FINANCIAL AND)	
PROFESSIONAL REGULATION)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	No. 2018-05376
)	
PAVAN Y.R. PRASAD, M.D.,)	
License No. 036.137175,)	
)	
Respondent.)	

ADMINISTRATIVE LAW JUDGE'S REPORT AND RECOMMENDATION

This report is being filed with the Illinois Medical Disciplinary Board by Administrative Law Judge Ian Brenson pursuant to 225 ILCS 60/35.

BACKGROUND OF CASE

Pavan Y.R. Prasad, M.D. (hereinafter "Respondent") is presently the holder of a Physician and Surgeon License in Illinois. Respondent's license is active and unencumbered.

On July 3, 2018, the Department filed its Complaint against Respondent, alleging that, as the owner of Clarity Clinic, LLC (the "clinic"), he had interviewed and hired Scott Curtis Redman a/k/a Dr. Julian Lopes Garcia ("Redman") as a licensed psychiatrist at the clinic. The Department further alleged that Redman treated patients at the clinic from December 2015 to February 2016 with a combination of therapy and medications, including controlled substances, despite the fact that Redman – holding himself out to be Lopes Garcia, a properly licensed physician – was unlicensed. The Department alleged that, during the application process, Respondent had failed to notice several discrepancies in the documents that the Applicant had submitted and

that he gave Redman permission to see and treat patients before the credentialing process was completed.

The Department alleged that, on or about April 7, 2016, Redman was charged in federal court in Illinois in a multi-count indictment arising out of his practice of medicine in Respondent's clinic. After a jury trial, Redman was found guilty of three counts of wire fraud, one count of making false statements to the DEA, and five counts of distribution of a controlled substance. For this, he was sentenced to 157 months imprisonment to be followed by three years of supervised release. On April 17, 2018, the Seventh Circuit affirmed the District Court's judgment.

Finally, the Department alleged that the actions or omissions of the Respondent in connection with the hiring of the Applicant are grounds for discipline pursuant to the Illinois Medical Practice Act, 225 ILCS 60/22(a)(5), and its associated Rules, specifically 68 Ill. Admin. Code 1285-240 (a). On October 1, 2018, Respondent filed an unverified Answer to the Department's Complaint. He subsequently filed an affidavit in support of his responses to the factual allegations in the Complaint on January 16, 2019, pursuant to court order. Respondent's Answer admitted in part the factual allegations of the Department's Complaint as to the events that took place during the hiring process, but denied that he was at fault. Instead, Respondent blamed the Department for failing to provide him protection or assistance against the "sophisticated con or fraud" of which Respondent alleged he was the victim. Among other things, "the [Department] never informed him in 2015 that an individual known as Scott Curtis Redman was posing as Dr. Julian Lopez-Garcia." (Answer, *passim*).

The formal hearing to determine the truth of the charges set forth in the Complaint filed against him by the Department commenced on November 21, 2019. The second day of the formal hearing took place on November 22, 2019. Due to the COVID pandemic and the schedules of respective counsel, the formal

hearing was concluded on December 17, 2020, and December 18, 2020. The formal hearing was presided over by Administrative Law Judge Ian Brenson. There was no Board member present on behalf of the Illinois Medical Disciplinary Board. The Department was represented by attorney Vladimir Lozovski. Respondent appeared in person and through his counsel Richard Hickey, Katelyn Jun (the first two days) and Merriam Lee (the remaining days).

SUMMARY OF EVIDENCE

Exhibits

The following exhibits of the Department were admitted into evidence:

- Exhibit A:** United States Court of Appeals for the Seventh Circuit opinion in USA v. Scott Redman, No. 17-1357.
- Exhibit B:** Applicant's 1st *curriculum vitae*.
- Exhibit C:** Applicant's 2nd *curriculum vitae*.
- Exhibit D:** Emails between Applicant and Respondent.
- Exhibit E:** Application for Employment.
- Exhibit F:** Applicant's 3rd *curriculum vitae*.
- Exhibit G:** University of Connecticut School of Medicine Diploma.
- Exhibit H:** Applicant's Illinois Physician and Surgeon License.
- Exhibit I:** Applicant's Illinois Controlled Substances License.
- Exhibit J:** Applicant's 4th *curriculum vitae*.
- Exhibit K:** Applicant's 5th *curriculum vitae*.
- Exhibit L:** University of Connecticut Health Center and School of Medicine Residency Diploma.
- Exhibit N:** IDFPR Look-Up Screen View for License No. 036.134940 (retrieved 1/8/2018).

- Exhibit O:** Dr. Bryan Zachariah's *curriculum vitae*.
- Exhibit P:** Respondent's advertisements for position at Clarity Clinic.
- Exhibit Q:** Illinois Secretary of State File Detail Report for Clarity Clinic, LLC (retrieved 10/29/2019).
- Exhibit T:** Text messages.

The following exhibits of the Respondent were admitted into evidence:

- Exhibit 1:** Dr. Pavan Y.R. Prasad *curriculum vitae*.
- Exhibit 2:** Dr. Philip K. McCullough's *curriculum vitae*.
- Exhibit 4A:** Sentencing Transcript in USA v. Scott Redman, No. 16 CR 79-1, N.D. Illinois.
- Exhibit 6:** Applicant's DEA Controlled Substance Registration Certificate.
- Exhibit 13:** Applicant's W-9 Tax Form.
- Exhibit 14:** Applicant's USCIS Form I-9.
- Exhibit 17:** Email correspondence re: Applicant's Malpractice Application.
- Exhibit 18:** Email correspondence re: Applicant's Malpractice Application.
- Exhibit 19:** Email correspondence re: National Provider Identifier, ZocDoc Shoot.
- Exhibit 20:** Email correspondence re: Credentialing.
- Exhibit 21:** Email correspondence re: DEA Application.
- Group**
- Exhibit 22:** Email correspondence re: Miscellaneous Topics.
- Exhibit 26:** Template of letter sent by Respondent to patients re: refund.
- Exhibit 27:** Draft cover letter to patients enclosing refund of co-pay.

Exhibit 29: List of refund checks.

Exhibit 43: IDFPR Look-Up Screen View for License No. 036.134940 (retrieved 12/16/2020).

Group

Exhibit 46: Email correspondence re: private practice psychiatry opportunity.

Witnesses

The Department called Respondent as an adverse witness and Brian Zachariah, M.D., to testify in its case-in-chief. Respondent called Philip McCullough, M.D. to testify in his case-in-chief and testified in his own behalf.

Summary of Testimony

1. Respondent I.

Dr. Pavan Prasad was called both as an adverse witness (Respondent I) and in his own case-in-chief. (Respondent II). The witness testified that he received his medical degree when he completed medical school at St. Matthews in the Cayman Islands in 2010. (Tr. I at 44, 54).¹ He did research for a year at the University of Illinois in Chicago, and then applied for residency. (Tr. I at 44, 54-55). He finished his residency at Chicago Medical School at the end of June 2015. (Tr. I at 54). A typical residency year runs from the beginning of July through the middle or end of June. (Tr. I at 44-45). The witness testified that his psychiatric residency was for four years or 48 months, although he couldn't speak for all residencies. (Tr. I at 51-52). He was not Board certified but was Board eligible. (Tr. I at 52). In order to be board certified, the witness testified that one would have to graduate the residency program and take the examination. (*Id.*).

The witness testified that he set up Clarity Clinic in about July 2015, although he started some of the process prior to that date. (Tr. I at 45-46). He is

¹ Since the transcript pages were not numbered consecutively, the citations to the specific days of testimony are as follows: November 21, 2019 ("Tr. I at"); November 22, 2019 ("Tr. II at"); December 17, 2020 "Tr. III at"); and December 18, 2020 ("Tr. IV at").

the doctor, founder, sole owner and de facto medical director at Clarity Clinic. (Tr. I at 47). The witness testified that he first placed an advertisement for a psychiatrist position on Indeed.com on September 11, 2015, and then on Craigslist in mid-September 2015. (Tr. I at 48-49, 56). He and his office manager, Niralli Bhatt ("Bhatt"), came up with the job description. (Tr. I at 49). The advertisement sought somebody Board eligible or Board certified. (Tr. I at 50-51). This meant that the applicant would have finished residency and would meet a certain standard and reach a proper standard for treating patients. (Tr. I at 51). He believed that it was important for an applicant to be either Board eligible or Board certified. (Tr. I at 56). The witness testified that, at that time, they had two part-time psychiatrists. (Tr. I at 57).

In September 2015, Redman sent an email including his C.V. to Clarity Clinic in response to the Craigslist advertisement. (Tr. I at 57-59; Exhibit B). The email was forwarded on September 14, 2015, by the recipient, Heidi Shavan Pur, the receptionist, to Respondent. (Tr. I at 59-60). No cover letter was apparently attached. (Tr. I at 62-63). Respondent reviewed the C.V. at that time. (Tr. I at 64). Nothing caught his attention. (Tr. I at 64-65). The witness testified that he noticed that Redman indicated that he included "child and adolescent psychiatry." (Tr. I at 65). His understanding was that to see a child patient one had to have started a four-year residency, but to be considered a specialist meant "to have a fellowship training to be board eligible to take the board for child and adolescents. Then you would have to take an additional fellowship for that." (Tr. I at 66). He believed that fellowship to be at least two years in length. (Tr. I at 66-67, 68). The witness testified that there was no indication on the C.V. that Redman had undergone that specific training. (Tr. I at 67, 70). In fact, the residency listed by Redman, which he went through at the University of Connecticut, ran from July 2013 to June 2015, which was two years. (Tr. I at 67-68).

The witness testified that the Awards and Honors section of the C.V. shows that Redman graduated *summa cum laude* from UA College of Medicine;

however, the first page lists his attendance at the University of Connecticut. (Tr. I at 70). Respondent glanced at this but did not notice what he would have considered to be a "typo" at the time. (Tr. I at 71). The witness testified that, if he had noticed the inconsistency, he would have looked into it more, probably by calling him to make sure of the accurate numbers. (Tr. I at 72-73). At that time, he did not know that Redman had only completed two years of his residency. (Tr. I at 73). That would have been important information to know. (Tr. I at 74). "[I]t would have been important to make sure that he was board certified, board eligible." (*Id.*). The witness testified that, if he had known that Redman didn't fit the criteria, he wouldn't have been interviewed or hired. (Tr. I at 77).

Respondent testified that, at some point later, he was contacted by Redman by email concerning an incorrect telephone number on the C.V. (Tr. I at 78-81). After receiving this second email on September 13, 2015, together with a second C.V., he glanced at it and forwarded it to his office manager. (Tr. I at 82, 83). Respondent did not notice that "child adolescent psychiatry" had been changed to "general psychiatry." (Tr. I at 83-84). The witness testified that he interpreted "general psychiatry" to be a residency, which would normally be for about four years. (Tr. I at 86-87). But he saw both types of listed psychiatry just as "psychiatry." (*Id.*). The witness did not notice the discrepancy in dates of attendance at medical school in the two C.V.s (August 2008 to May 2012 as opposed to August 2009 to May 2013), and stated that he didn't consider that it would have been reasonable for him to notice the discrepancy. (Tr. I at 88-89).

The witness agreed that the second C.V. now showed the period of Redman's residency to be June 2012 to July 2015 and that the words "Board eligible" followed the dates of attendance, but testified that he did not confront Redman about the discrepancies in the dates of attendance or the fact that he now considered himself to be Board eligible. (Tr. I at 91-93). The witness also did not think much of the change in college names (from UA to University of Connecticut) at the time. (Tr. I at 93). He did not even notice it. (Tr. I at 94). The

witness testified that he also did not notice that Redman's undergraduate degree and medical school degree overlapped. (*Id.*). (Although the witness testified that he had "glanced" at this and other documents, during his May 11, 2017 deposition under oath in the underlying case, the witness admitted that he had carefully reviewed the C.V. marked in this case as Exhibit C). (Tr. I at 170-174). If he had noticed it, he would have investigated further, but was unable to indicate what he would have done. (Tr. I at 95-96). He added that "there's a strong chance that we probably would have clarified it further with him through my office. My office manager would probably clarify further with him." (Tr. I at 100). However, he couldn't speak to what Bhatt would have done. (*Id.*).

Respondent testified that he was ultimately the person who made all the hiring decisions, but that he and his office manager would be part of the process to evaluate whether an individual would be an appropriate person to work in the clinic. (Tr. I at 100-101). He testified that his office manager had worked for him for some six to seven weeks at that time and had also been hired through Craigslist from a home healthcare agency, where she had worked in a similar capacity. (Tr. I at 101-102).

Following receipt of the second C.V., Redman was called in for an in-person interview on September 16, 2015, which lasted from 45 to 60 minutes. (Tr. I at 103-105). Bhatt was present for some period of time, but primarily the interview was between Respondent and Redman. (Tr. I at 104). At the conclusion of the interview, "we discussed that we would be excited for him to possibly join us." (Tr. I at 105).

Respondent reviewed a series of emails covering the period from September 17, 2015 to September 18, 2015, between him and Redman which raised points concerning the cost of DEA registration, malpractice insurance, and family medical insurance. (Tr. I at 107-109). The witness reluctantly agreed that the closing email, where he responded: "I really wish you had told me that before you accepted the job and I had to spend time and money to get your

paperwork together and order your marketing materials,” confirmed that he had offered the job to Redman. (Tr. I at 109-110). The witness testified that the job offer was based in great part on the September 16, 2015 interview, where Respondent did not ask Redman about the inconsistencies in the C.V.s, nor his inability to be Board eligible, nor the inconsistent dates of attendance at medical school and residency program. (Tr. I at 110-111, 118-122).

After Redman declined the position on September 18, 2015, the next contact with him was on October 28, 2015. (Tr. I at 123). The witness testified that he doesn’t recall if he hired any other psychiatrists or whether they needed psychiatrists during the intervening period. (Tr. I at 124). He interviewed Redman again on October 29, 2015 at his office for about 45 minutes. (Tr. I at 125-126). He doesn’t recall if anybody else was present at the interview. (Tr. I at 126). The witness testified that he did not ask Redman for the specifics of the home health service that he had worked for since September 18, 2015 or obtain any references from that facility. (Tr. I at 127). The witness testified that he does not know anything about the home health agency where Redman worked, including its address (although he believed it was somewhere in Illinois) or how many days Redman worked there. (Tr. I at 127-128, 131). Redman did tell him that he had left the position because they were billing unethically, but Respondent did not follow up to confirm this. (Tr. I at 128).

The witness testified that he offered Redman a job following the October 29, 2015 interview. (Tr. I at 128-129). As part of the process, Redman submitted a completed application for employment, which the witness testified he saw “very briefly.” (Tr. I at 129-130). The witness did not contact any of the references listed on the application and failed to contact Redman’s only listed previous employer (“Uncle Juan Rodriguez” from September 1992 to April 2006). (Tr. I at 130-131). The witness testified that Redman did not disclose the home health care agency on his application for employment and did not ask Redman about his only medical employment. (Tr. I at 131-132). When asked whether it was important

for him to know specific information about the only job that Redman had had since he his recent claimed graduation from residency, Respondent replied: "Because we had discussed it, I didn't think it was reasonable for me to have to go and see it again on the – you know, to verify if it was on the application for employment at the time." (Tr. I at 133-134).

Respondent next reviewed Exhibit F, which was another C.V. Respondent did not recall when he looked at the C.V. but conceded that he had noticed that this C.V. did not contain the residency training and "Board eligible" elements. (Tr. I at 134-135). The witness testified that, during one of the two interviews, he discussed with Redman when he was going to start studying and take his Boards, but he does not recall whether this took place during the September 2015 or October 2015 interview. (Tr. I at 135). When it was discussed, Redman told Respondent that he was Board eligible, even though his own C.V.s showed that he was not. (Tr. I at 136). The witness testified that, after he received the C.V. marked as Exhibit F, he did not discuss with Redman the fact that it showed he was not Board eligible. (Tr. I at 136-137).

Respondent testified that he did not recall when Redman started to see patients, or when he was set up in the office to start seeing patients. (Tr. I at 137-138). It was possible that it was the end of November 2015, according to his prior testimony. (Tr. I at 138). The witness acknowledged that this would have been after Redman received his DEA number, but couldn't recall when this was. (Tr. I at 139, 140, 144). The DEA license was issued on November 23, 2015; however, the witness testified that Redman wouldn't have seen patients until after they had submitted the Blue Cross paperwork, which would follow the issuance of the DEA license. (Tr. I at 142). He didn't recall when that would have been. (*Id.*). The paperwork for Blue Cross was submitted by a third-party credentialing service, the name of which Respondent could not recall. (Tr. I at 142-143). The witness testified that Redman would have started seeing patients following his receipt of the Blue Cross credentials and continued until the time he was

arrested on February 10, 2016. (Tr. I at 145). The witness did not recall how many patients Redman would have seen during that period or how many letters of apology the witness sent out to patients who had been treated by an untrained and unlicensed psychiatrist. (Tr. I at 145-146). Respondent testified that Redman saw patients with acute and chronic psychiatric problems and prescribed medications including controlled substances with sometimes dangerous side effects, like Benzodiazepine and stimulants (Schedule II and Schedule IV medications). (Tr. I at 151-154). The witness couldn't "speak to everything he prescribed because I wasn't him." (Tr. I at 153). He did review the charts, and those were two of the types he prescribed. (Tr. I at 153-154).

The witness testified that he only discovered that Redman was not Board eligible following his arrest. (Tr. I at 149). He did not contact the University of Connecticut to find out if Redman had had any problems in residency or why the residency finished one or two years early. (*Id.*). He did not contact anybody in Connecticut to determine Redman's standing as far as his temporary license as a resident was concerned. (Tr. I at 150). The witness did not recall if Redman ever submitted a copy of his medical school diploma; however, the witness then agreed that it was submitted to him along with his application at the beginning of November 2015. (Tr. I at 154-155). Redman never displayed it in his office, claiming that it was with the framing people and had been delayed. (Tr. I at 155-156). The date of issuance for the diploma was May 7, 2012. (Tr. I at 156-157). The witness did not recall if Redman ever displayed a copy of his Illinois medical license in his office – it was not a requirement that he do so. (Tr. I at 159). He did not recall whether Redman ever produced his original license to him. (Tr. I at 159-160). The witness never contacted the State of Illinois to verify Redman's Illinois medical license. (Tr. I at 160-161). He acknowledged that Illinois license look-up would have shown that the effective date of Redman's medical license was April 2014, which would have been inconsistent, but he did not go on the website. (Tr. I at 192-196). He didn't recall whether he contacted the State to

verify his controlled substance license. (Tr. I at 161-162). He didn't recall if he was ever provided original documentation received by Bhatt from Redman. (Tr. I at 162-163).

Respondent testified that he didn't recall whether he received a copy of the Illinois controlled substance license before or after he offered the position to Redman in September 2015. (Tr. I at 163). It was somewhere between September 16 or 17, 2015 and the beginning of November 2015. (Tr. I at 163-164). He didn't recall if he ever followed up to establish why the controlled substance license listed 5730 West Roosevelt Road as the relevant address. (Tr. I at 164). He conceded that none of the other documents listed an address in Illinois, although he did remember that Redman "said something like he was getting a place in northwest Indiana, but he - his family had a place somewhere in Chicago. At the time he was living somewhere temporarily." (Tr. I at 165). He never raised this with Redman. (Tr. I at 166). The witness testified that this would be important information to know. (Tr. I at 167-168). The witness also testified that they did not run a social security check, a criminal background check or credit bureau check, although he was familiar with those. (Tr. I at 185). He did not recall whether anybody verified Redman's driver's license. (Tr. I at 219).

The witness testified that the financial arrangement with Redman was that there would be a percentage split, which was common in his field. (Tr. I at 209-210). 40% would go to overheads and 60% would go to Redman. (*Id.*). There was no set amount that he was expected to clear the first year of practice, but this was just an expectation. (*Id.*). There was a "blind estimate" of \$200,000 to \$250,000. (*Id.*).

During this period, there were some calls from local pharmacies with concerns about and clarifications requested for Redman's prescribing, but not more or less than a different doctor. (Tr. I at 210-211). While it was true that a primary care physician contacted his office concerning a prescription by Redman of ten times the expected dose of Benzodiazepine, the witness took Redman's

word that this was a mistake. (Tr. I at 211-212). He didn't recall if this was at the beginning of January 2016. (Tr. I at 212).

Upon cross-examination, Respondent's counsel addressed a few points in brief. The witness testified that he had obtained his temporary license on July 1, 2014, and his full license on January 27, 2015. (Tr. I at 227). It was possible to obtain a full license prior to completing a residency. (Tr. I at 228-229). After finishing Step 3 in residency, he applied for and obtained a permanent license. (*Id.*). He testified that he "moonlighted" at another private practice for those six months or so. (*Id.*). The witness testified that you can work as a doctor, but, if you are not Board eligible, there may be liability issues. (Tr. I at 229).

The witness further testified that he had rotated through several different areas of psychiatry. (Tr. I at 229-230). It was possible not to be fellowship-trained in certain areas, but to express an interest in them. (Tr. I at 231-232).

Finally, the witness agreed with his counsel that he didn't know the length of every residency in the country, and that there could be three-year residencies and four-year residencies. (Tr. I at 235-236).

2. Dr. Zachariah.

Dr. Zachariah testified that he had been a doctor for some thirty years, having graduated from medical school and done his residency at the University of Louisville in Kentucky. (Tr. II at 5-6). He is board certified in emergency medicine. (Tr. II at 6). The witness testified that, for the past eight years, he has been the chief medical coordinator with the Department. (Tr. II at 6-7). As chief medical coordinator, he reviews complaint information in the investigative files to advise the Board whether or not the conduct alleged violated the Illinois Medical Practice Act. (Tr. II at 10). He testified that he serves as the Department's representative to a variety of organizations around the country and advises the Secretary and the Governor's office on medical and other issues involving the Illinois Medical Practice Act. (*Id.*). He has testified in approximately a hundred

hearings, predominately concerning the issues of ethics, professionalism and the expectations of a physician licensed in Illinois. (Tr. II at 11). The witness testified that he also deals with controlled substance, boundary and other types of cases. (*Id.*). He has been qualified as an expert on each occasion that he has been called upon to give expert testimony. (*Id.*). In federal and state court settings, the witness has testified as both a fact witness to department policy and procedure, and as an expert witness as to the standards and expectations of the Department and Board. (Tr. II at 12-13). The witness testified that he has had supervisory authority in universities and other medical institutions, where hiring and credentialing were at issue. (Tr. II at 7-8). Over Respondent's objections, Dr. Zachariah was qualified as an expert as to his opinions concerning the professional responsibility expected of a physician practicing in the State of Illinois. (Tr. II at 13, 54-55).

Dr. Zachariah testified that, following his opportunity to review the documents of the case, he held an opinion to a reasonable degree of medical certainty that Respondent breached his physician responsibility to the patients of his private practice by delegating their care to Redman, an incompetent and unqualified individual. (Tr. II at 81). The bases of his opinion were that "[Respondent] went to hire an associate who not only had a CV or multiple CVs that were internally inconsistent, which should have been a red flag that there was something wrong, but that were even submitted claiming to be a corrected copy were not consistent with the training that [Respondent] knew was necessary for a board-eligible psychiatrist." (Tr. II at 85-86). It was important for a physician to verify the clinical background and training of an applicant prior to bringing him on board because this would assure the patient that "this is a doctor I trust to work with me, to see you as a patient, to take care of you to the same quality that I would take care of you." (Tr. II at 86). The witness testified that this was even more so in the case of a psychiatric patient who may be more vulnerable than a medical or surgical patient. (*Id.*). Ultimately, it is Respondent's

responsibility as the medical director and/or owner of that clinic to perform the necessary verification. (Tr. II at 87).

The witness focused upon specific "red flags" raised by Redman's provided documentation. In the first CV (Exhibit B), the witness testified that the resume only indicated two years of residency training in psychiatry where it should have reflected a four-year program. (Tr. II at 91). In the second CV (Exhibit C), the two years of residency do not match those listed in the first CV. (Tr. II at 91-92). Although it was Respondent's responsibility to resolve those discrepancies, the witness understood that Respondent had not, even in the period between the time that Redman was offered the position and that he initially declined the offer. (Tr. II at 93-96). The witness testified that Respondent was provided with three physician references in Redman's application for employment but failed to contact them. (Tr. II at 97-98). This was even more important given Redman's lack of prior listed medical employment. (Tr. II at 100). It did not appear to the witness that Respondent contacted the University of Connecticut psychiatric residency program to confirm Redman's residency. (Tr. II at 105). The witness further testified that certain text messages from Redman to Respondent revealed that he was going to take the board examination the following year and that was why he could not advertise himself as a child and adolescent psychiatrist at that time. (Tr. II at 110-112). These were inconsistent with the CVs previously submitted by Redman. He simply did not have adequate training. (*Id.*).

Reviewing Exhibit G, the diploma from the University of Connecticut, Dr. Zachariah testified that he understood it to be a fake diploma which was never verified by Respondent or his employees. (Tr. II at 115). Exhibit L purported to be a certificate of training from the residency program in general psychiatry at the University of Connecticut, which showed that a Dr. Julian Lopes Garcia had completed the program in 36 months, and not the usual 48 months. (Tr. II at 116-117). The witness testified that it was his understanding that nobody followed up

with the Department to determine whether the Illinois licenses (Exhibits H and I) were valid, particularly in light of the two different states listed as his addresses. (Tr. II at 120-121).

The witness testified that Redman obtained a DEA number in the name of Dr. Lopez-Garcia and prescribed controlled substances to the Clarity Clinic patients. (Tr. II at 121-122). In one particular case, Redman wrote a prescription for Benzodiazepine that was ten times the prescribed dose. (Tr. II at 122). However, when it was brought to his attention, Respondent did nothing about it. (Tr. II at 123-124). He dismissed it as a mistake. (*Id.*). The witness testified that Redman failed to show up at Clarity Clinic, which was not an approved absence ahead of time, but that he was allowed to continue to see patients. (Tr. II at 124-126).

Finally, the witness stated that it was his continued opinion to a reasonable degree of medical certainty, reinforced by some of the documents discussed, that Respondent breached his duty to his patients at Clarity Clinic by hiring and delegating care to an unlicensed person who was, by definition, untrained and unsuitable to practice medicine. (Tr. II at 128).

Under cross-examination, Dr. Zachariah testified that he was not aware of whether there were courses or rotations in residency in the state of Illinois that trained a psychiatrist on how to open a practice and hire another physician. (Tr. II at 130-132). He didn't know off the top of his head how many residency programs were accredited in Illinois, or elsewhere in the United States. (Tr. II at 132). However, he testified that every psychiatry residency program in the United States lasts for four years. (Tr. II at 134). The witness did not recall reviewing Dr. McCullough's CV prior to the hearing. (*Id.*). When asked to assume that he graduated from a residency in three years, Dr. Zachariah could not agree with the assumption since he didn't know when Dr. McCullough was trained. (*Id.*). His understanding was that a psychiatry residency took four years to complete. (Tr. II at 134).

The witness did not know how many CME courses existed on how to interview another psychiatrist. (*Id.*). He would be surprised to learn that it was zero and did not investigate that issue prior to testifying that day. (*Id.*).

Although he had testified that he would confront an applicant with so many "red flags," he wouldn't say that his management style was "confrontational." (Tr. II at 139-141). He wouldn't use that word to describe any of his past physician encounters. (Tr. II at 143-144). He didn't recall ever reviewing a physician who presented him an employment packet that was this inconsistent. (Tr. II at 142). The witness recalled saying that an individual could try to clarify a problem [in an employment application setting,] potentially call the listed references, or maybe contact the institution. (Tr. II at 144-145). He testified that he didn't know what Respondent had asked about during the interview, how long the interview(s) lasted, or how many interviews took place. (Tr. II at 145).

As part of his preparation to testify, the witness agreed that he did no investigation to contact any physician who practices in an outpatient clinic setting on hiring practices, nor did he feel the need to contact the DEA. (Tr. II at 147-154). He doesn't know every requirement for obtaining a DEA license, but understood that Redman had submitted similar documents to the DEA, and they gave him a license. (Tr. II at 155). He was told that a medical malpractice insurer gave Redman insurance, but don't know what documents Redman submitted to obtain it. (Tr. II at 157). The witness was unaware what documents were submitted to Blue Cross Blue Shield and didn't know that Redman applied to be credentialed by that company. (Tr. II at 158).

Dr. Zachariah testified that he was familiar with the Illinois Medical Practice Act and its purposes, as well as the mission statement of the Department, which were to protect the residents of Illinois, to educate practitioners on the practice of medicine and the other areas that would come under the jurisdiction of the Department, to assist them in the protection of

Illinois residents, to enhance commerce in the State for the benefit of all residents, and to ensure that competent professionals are licensed to provide these services to the public. (Tr. II at 164-165). When asked to list every CME program that he had created since 2011 to educate physicians what to look out for in hiring another physician, he testified that he didn't believe "that's an area we have ever addressed." (Tr. II at 165-166). The Department had never worked with medical schools to create a class to help graduates to understand the process of setting up a business and interviewing other people - or any class - or with residency programs to set up programs during residency concerning setting up a practice or interviewing someone. (Tr. II at 166).

The witness agreed that one of the ethical standards was that he should not show any bias or prejudice in testifying as a medical expert. (Tr. II at 148). He had testified earlier that he reviewed cases to decide whether they were going to be medical prosecutions, and that he was involved in each stage as these cases proceeded, at least in some cases. (Tr. II at 148-149). He doesn't recall if he was involved before a complaint was filed, but he didn't approve any complaints. (Tr. II at 153-154). "It's not part of my job." (Tr. II at 154). When asked about his history with the case, the witness testified that he did not recall hearing about it in 2014. (Tr. II at 167). He does not remember cases happening in 2014 and did not recall any involvement in "disciplining" Redman because he was practicing psychology without a license, given the large number cases, and that it was several years ago. (Tr. II at 167-168).

The witness testified that he did not recall reading an exhibit which contained a trial judge's finding that Respondent was the victim of a sophisticated fraud by a con man. (Tr. II at 169-170). When asked whether he told the Department not to put in the complaint that that the Department knew about Redman in advance, that they had information that he posed as a health practitioner, and that they failed to tell practicing physicians about Redman, the witness testified that he did not. (Tr. II at 171-172). The witness testified that he

did not personally publish Redman's picture and send it out to people in the health field, nor did he direct anybody in the Department to do so. (Tr. II at 175). The Department does not usually issue circulars with photographs. (*Id.*). The witness testified that he did not call Respondent personally to warn him about Redman, nor did he direct anybody to contact Respondent. (Tr. II at 176-177).

Dr. Zachariah testified that the Department has not published anything for the benefit of practitioners in the State of Illinois to the effect that they are not allowed to rely upon sworn statements by other health professionals. (Tr. II at 203). "It is not something we do... [I]t's not an area we would ever get anywhere near." (Tr. II at 203-204).

The witness testified that he did not recall the reason that Redman gave for not accepting the job at Clarity Clinic. (Tr. II at 221). He would have no reason to doubt counsel's testimony that it was because Redman had accepted a position elsewhere, or that Redman needed family medical coverage. (Tr. II at 221-222). The witness testified that he had no opinion or expertise one way or the other concerning how con men acted. He didn't know if this was normal or abnormal. (Tr. II at 222).

When asked about the number of psychiatrists available for positions in Illinois, Dr. Zachariah testified that, as far as he was aware, there is a relative shortage of psychiatrists and mental health professionals in this and every other state. (Tr. II at 229).

The witness' testimony was straightforward, responsive, credible and restrained.

3. Dr. McCullough.

Dr. Philip McCullough was an undergraduate at Ripon College in Wisconsin, where he majored in biology. (Tr. III at 14). He graduated in 1973 from medical school at Northwestern University and started a residency training program in psychiatry in 1973. (Tr. III at 14-15). He completed his residency

training in July 1976, and then was Chief Resident for a twelve-month term. (Tr. III at 15). He is Board certified by the American Board of Psychiatry and Neurology. (*Id.*).

The witness testified that he has been a fellow with the American Psychiatric Association since 1990, which is an honorary position. (Tr. III at 15-16). He has received numerous awards for academic and teaching activities. (Tr. III at 16). The witness testified that he has been involved in a number of different situations where ethics were involved and that he had a level of comfort with analyzing those. (Tr. III at 19-21). Dr. McCullough was also involved in the recruiting and hiring of mental health professionals and psychiatrists for the McHenry Public Health Department, using the associate director who handled many of the details. (Tr. III at 22, 24-25). The witness testified that he has held multiple different roles in the practice of psychiatry, including trying to hire psychiatrists, reviewing resumes and other applicant materials, and using staff to gather materials in connection with an application. (Tr. III at 24-25).

Over the Department's objection that the witness may be qualified to opine on clinical matters, but not to ethical matters, the Administrative Law Judge found Dr. McCullough to be qualified to testify concerning the ethics involved in Respondent's conduct. (Tr. III at 30-32).

The witness testified that his opinion was that Respondent did not engage in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public. (Tr. III at 50, *quoting* 225 ILCS 60/22(a)(5)). He agreed with his counsel that this was based upon his education, training, and experience, all of his activity and all the committees and his attendance at local, regional and national conferences. (Tr. III at 50-51). He testified that he had been retained by the Cassidy Schade law firm previously in connection with some malpractice claims made against Respondent and had reviewed a number of records, depositions, emails, text messages, different C.V.s, licenses, certificates, the diploma, and read the trial and deposition testimony of Respondent, Bhatt

and the claimants in the underlying case. (Tr. III at 51-54).

The witness testified that it was absolutely necessary that, in evaluating an ethical issue, that the context be taken into account. (Tr. III at 54-55). It had never been a hot topic at local, regional or national meetings that somebody might try to deceive people by pretending to be a psychiatrist, that people should be on the lookout for somebody posing as a psychiatrist, and nobody had approached him at societies with such concerns. (Tr. III at 55-56). The witness testified that the thought that somebody might not be a physician and was committing some kind of fraud "was never on anybody's radar screen." (Tr. III at 58). Dr. McCullough had never heard of a similar situation to this case before. (Tr. III at 58-59).

The witness testified that he had seen typos and errors in dates in cover letters and C.V.s, and they were probably par for the course. (Tr. III at 59-60). When two parties are trying to sell each other in an interview setting, the professionals do not "confront" each other. (Tr. III at 60-62). The witness testified that he had never performed a criminal background check on an applicant back in 2015, and he was not aware of anybody else doing that at that time. (Tr. III at 64-65). The same was the case for a credit bureau or social security check. (Tr. III at 65-66). Generally, doctors in private practice would delegate the checks to their office staff, practice manager, or the like, since they are busy seeing patients. (Tr. III at 66-67). The witness testified that he considered the use of a Connecticut address on the Department's look-up screen ("he claimed that's where his training was, his residency training") to be consistent, although he was unaware of the website and had not personally used it. (Tr. III at 68-69). "We generally had people bring in their license, which we would then photocopy, or bring in a photocopy of the license." (Tr. III at 69). If a staff member did not pick up on it, it would not mean that Respondent was acting unethically. (*Id.*). The witness testified that it was regular, common and appropriate to delegate to a staff member the task of obtaining the documents so that copies could be made, to check on a NPI license number, to follow up with credentialing issues, to confirm

a DEA number, or to check on an Illinois Controlled Substance license. (Tr. III at 71-72). He agreed with counsel that there is no ethical duty "to disbelieve a staff member." (Tr. III at 72). Dr. McCullough agreed that the physician running an outpatient practice had ultimate responsibility for decisions, but "I don't think there's any other way you could survive in a medical practice without having reliable staff." (Tr. III at 73).

The witness testified that a physician could rely upon documents presented to him which were official and signed under oath, such as a federal W-9, federal I-9, State of Illinois W-9 and I-9, which would be "very reassuring in that regard." (Tr. III at 74-75). The witness also testified that he would tend to rely upon the issuance of a NPI number, medical malpractice insurance, and other work of third-party credentialing services where those organizations had larger staffs and resources for vetting than an individual practitioner. (Tr. III at 77-78). It was reasonable and ethical for Respondent to rely upon the approval of different outside vendors. (Tr. III at 81).

The witness testified that he had never seen a reasonable, careful and ethical psychiatrist, back at the relevant time, sit down and compare conflicting CVs line-by-line or word-for-word, and had never heard of it happening among his colleagues. (Tr. III at 109). The witness agreed with Dr. Zachariah's testimony that there were several paths one could take to clarify the residency issue, and it was his understanding that Respondent had sought to clarify the issue with Redman during the interview. (Tr. III at 114-115). Concerning the discrepancies in the information provided to Respondent, the witness testified that it was necessary to look at the "whole picture of what happened and under what circumstances." (Tr. III at 119). "It wouldn't be part of what's on your radar and part of what you're thinking about. You're thinking about trying to recruit this person to the practice, if they seem to be a good fit and they seem to be qualified, and that's what you're focused on. You're not really focused on looking for discrepancies or evidence that this person is a fraudster, because that's just not

something we ever deal with." (Tr. III at 118-119).

The witness testified that he disagreed with Dr. Zachariah's conclusion that the multiple C.V.s submitted by Redman should have alerted Respondent that Redman did not have the training necessary for a Board eligible psychiatrist. (Tr. III at 120-121).

Well, again, in terms of any training and experience that we as psychiatrists tend to have, it doesn't include auditing C.V.s and double-checking dates and things. What we tend to do is, sort of, go to the bottom line. A person's got a certificate from a residency program, claiming he finished the program; to me, that's the bottom line. And for me to go back and say, well, did he get a B or an A in psychopharmacology? That's kind of irrelevant. He completed an accredited residency program, per the documentation that he presented. This is consistent with the other documents he presented, and, again, we have no training in medical school or residency, to determine what's a counterfeit certificate or how do you determine that?

So he comes in with a bunch of very official, appearing to be legitimate documents for his training and experience and so on, and I'm going to be inclined to accept those. Especially since he's been vetted by other people, like, insurance companies, malpractice insurance companies, Blue Cross Blue Shield, the State, the DEA, all these other agencies who are better equipped to look for discrepancies seemed to waive everything on through. So that's going to be pretty reassuring for me.

(Tr. III at 121-122). The witness testified that he would call references in the event that something arose during the interview concerning their bedside manner, ability to treat patients, or how they think about patients. (Tr. III at 122-123). Not to confirm dates. If somebody came across appropriately at an interview, he would probably not pursue any further follow-up. (Tr. III at 123). He testified that he had an advantage over Respondent because many of the applicants he had hired had been former medical students. (*Id.*). The witness testified that he would find the interviewing of an applicant before all the paperwork was complete to be "pretty routine." (Tr. III at 125-126). It would be more of a green flag than a red flag for Redman to turn down the position because it did not offer family medical health insurance. (Tr. III at 127-128). There would be no duty to

further investigate the applicant at that time, because the deal would be off. (Tr. III at 128-129). Finally, the witness testified that a "reasonable and ordinary" psychiatrist would not know what a diploma from the University of Connecticut or a State of Illinois license would look like, since they differ in format and design, and that nothing should have concerned Respondent in 2015 about learning that an applicant had worked for a home health agency. (Tr. III at 171-172).

Upon cross-examination, the witness testified that he did not know that the State of Illinois had established standards that specifically outlined for physicians examples of dishonorable, unethical or unprofessional conduct. (Tr. III at 178). He assumed that one of those standards would be to ensure that patients are taken care of by properly trained physicians, and that one of the dangers of a physician not being properly trained would be that he could give substandard care. (Tr. III at 180). The witness testified that, if that were so, patients could get hurt since they were vulnerable. (Tr. III at 181). It was also paramount for a new physician to be properly trained because of the often lethal nature of medications that could be prescribed. (Tr. III at 181-182).

Although the witness testified that, if one has completed an accredited residency, one is automatically Board eligible, and that the issue of residency was redundant in his eyes, he did admit that Redman's Board eligibility was not only pertinent to Respondent, but also a prerequisite of the position. (Tr. III at 182). Although unclear to him which of the two C.V.s Respondent had reviewed and which he had glanced at, the witness agreed that Respondent had testified in the underlying case that he had missed the fact that Redman had listed his Board residency as lasting only two years. (Tr. III at 183-187). The witness testified that the normal residency is four years, although, in some circumstances, previous training might be included. Redman's C.V. did not show any additional training. (Tr. III at 192, 193). Respondent had testified that if he had known that the residency had only been for two years, he might not even have offered him an

interview. (Tr. III at 188). The witness did not know if Respondent had ever obtained originals of the photocopied documents submitted by Redman or followed up with any authority to verify any information. (Tr. III at 189).

The witness had testified about the importance of having reliable staff; however, the practice had only been open for a year to eighteen months. (Tr. III at 200). The clinic was opened in the Spring, and Respondent was already attempting to hire Redman in the Fall of the same year. (*Id.*).

When asked about Respondent's review of the C.V.s, the witness testified that a "reasonably careful" person would have reviewed a one-and-half page C.V., and would also have reviewed a second C.V. (Tr. III at 201). The witness was not aware that five C.V.s had been submitted to Respondent's office by Redman. (Tr. III at 201-203).

The witness testified that, at the height of things, Redman saw five to ten patients a day at Respondent's clinic. (Tr. III at 203). He did not see any significant questionable clinical decisions in the charts, although he had read that Redman had prescribed one patient ten times the customary dose of Benzodiazepine. (Tr. III at 203-204). The expert testified that it may have been misread by the pharmacy or had been misinterpreted. (Tr. III at 204). In any case, the witness didn't consider it to be a major issue. (*Id.*). He was not aware that there had been multiple calls from the local pharmacies about Redman's prescriptions. (Tr. III at 204-205).

When asked whether the victims of Redman's actions were Respondent's patients, the witness testified that his review of the records showed that no patient suffered any kind of permanent damage, and that he considered Respondent to be the "main victim of what the Federal Court described as a sophisticated fraud." (Tr. III at 208).

The witness' testimony was straightforward, responsive and credible.

4. Respondent II.

In his case-in-chief, Respondent testified that, during medical school and residency, he had not received any training as to how to open and run a psychiatry practice beyond clinical training. (Tr. IV at 7). There were no courses on how to hire a fellow psychiatrist. (*Id.*). Nobody told him that he should be on the alert for somebody who might pose as a psychiatrist to obtain a job. (Tr. IV at 7-8). He testified that, although he was exposed to medical records during his medical school and residency training, typos occurred. (Tr. IV at 9). He had served on a committee to help decide who got a residency position and had looked at resumes and transcripts. (Tr. IV at 9-10). There were a lot of errors, but the applicants did not pay much detail to their cover letters and resumes. (Tr. IV at 11). He testified that they didn't "have a lot of chance to practice with professionals ahead of time." (*Id.*).

When he was hired for his first job, he was interviewed and one of the doctors took him to a Bulls game and asked if he was ready to join. (Tr. IV at 11-12). He provided a few doctors' names as references, including his program director, who was never contacted. (Tr. IV at 12-13). Respondent joined the practice and took his experience during that hiring into account when hiring for his own practice. (Tr. IV at 14-15). The witness testified that, when he started hiring for the psychiatrist position in September 2015, the general process was that C.V.s and cover letters went to his office staff who would forward them to him. (Tr. IV at 15). There were often typos and inconsistencies. (*Id.*).

Respondent summarized the contents of the series of emails from September 14, 2015 through October 28, 2015, which had been identified as Exhibit 46. Respondent testified that, on September 14, 2015, he was forwarded Redman's email and attached C.V. (Tr. III at 19; Exhibit B). Respondent stated that, just after midnight, he had reviewed the email and asked Redman to come for an interview. (Tr. IV at 19-20). On September 15, 2015, Redman responded that he was looking forward to it. (Tr. IV at 20). A few hours later, Respondent

emailed Redman telling him that Respondent had tried to call Respondent at the provided telephone number, but that somebody had answered that it was a wrong number. (Tr. IV at 21-22). Respondent testified that Redman called him a couple of minutes later claiming that he had tried to send an updated C.V. with a corrected number, but he assumed that it had not been received. (Tr. IV at 22).

Respondent interviewed Redman later that day (September 15, 2015). (*Id.*). Respondent testified that Redman came in and handed him something, but does not recall whether this was the second C.V. (Exhibit C), implying that he could not sit down, as Dr. Zachariah had suggested, to compare the two C.V.s. (Tr. IV at 45-46). He testified that he was unable to recall exactly the words that were exchanged during the interview, but they covered topics like what Redman enjoyed in training, what his interests were, whether he got along with his co-residents, whether he liked the attending physicians he trained under, what happens in the clinic and if he could handle this. (Tr. IV at 22-23). Those were the various types of things they talked about. (Tr. IV at 23).

Respondent now remembered that he offered the position to Redman the following day, which Redman accepted. (Tr. IV at 28). On September 17, 2015, there were more emails, including one concerning the payment of a DEA fee and a request by Redman to ascertain which medical malpractice he would need to obtain, since he was a contractor and had to get it for himself. (Tr. IV at 29).

Respondent testified that the job offer was contingent upon Redman obtaining a number through NPI, receiving approval by the malpractice company, passing scrutiny by the credentialing company, and getting a DEA license. (Tr. IV at 30-31). "There's no way I would have been able to hire him." (Tr. IV at 31). On September 18, 2015, Respondent learned from Redman by email that Redman had been offered a contract where malpractice and family medical insurance would be included in the benefits package and that that would seem to work better, given the needs of his family. (*Id.*). At that point, Respondent assumed that Redman was going to work somewhere else. (Tr. IV at 32).

Respondent testified that he received an email on October 28, 2015 wherein Redman explained that he had had differences with the home healthcare place and expressed an interest in the position offered to him previously, if it were still available. (Tr. IV at 33). Redman came in for another interview, this time on October 29, 2015. (Tr. IV at 34). Respondent testified that they discussed topics such as why he had left where he was working – to ensure that he would be dedicated to a position at Clarity Clinic, should it be offered to him – and the daily flow of work at the workplace to be sure it would be something he would be okay with in terms of the amount of work necessary in the job. (Tr. IV at 35). Redman discussed what he had been doing in his prior position, which made sense to Respondent. (*Id.*). At the end of the interview, Redman was offered the position since Respondent did not feel as if there were any red flags at the time. (Tr. IV at 35-36). Respondent testified that the job was still contingent on his obtaining an NPI number, DEA license, medical malpractice insurance and passing scrutiny with the credentialing company. (Tr. IV at 36-37). He delegated the follow-up to his office manager and receptionist. (Tr. IV at 37).

Respondent further testified that he invited Redman to come by the office to meet people, which he did on November 1, 2015, two business days after the job offer was extended and accepted. (Tr. IV at 37-38). Nobody raised any concerns, and Respondent even recalled that Redman discussed and debated therapy matters with another doctor. (Tr. IV at 38). Respondent was impressed, everybody thought that Redman was a “nice guy,” so Respondent was optimistic. (*Id.*). Respondent described how Redman and another doctor accompanied him to an Eating Disorder Recovery Center dinner on November 6, 2015, where Redman interacted with other therapists and psychiatrists. (Tr. IV at 38-40). The reaction to Respondent and his team was positive. (Tr. IV at 40).

Respondent testified that, in checking with his office staff and the contents of his computer, that he had two Redman C.V.’s in the files. (Tr. IV at 49). Respondent testified that he was shown many documents by the FBI, DEA

and U.S. Attorney concerning Redman, and that he had testified in Redman's criminal trial. (Tr. IV at 50).

Respondent testified that, as of November 20, 2015, he had a level of comfort that Redman was a legitimate psychiatrist because he had passed all the different levels of credentialing and had received an NPI number and DEA registration. (Tr. IV at 55). When reminded by his counsel that Redman did not have a DEA license on November 20, 2015, Respondent testified that he had a comfort level "up to that point, and I had comfort knowing that he wouldn't start" (Tr. IV at 56-57). "Obviously if there was a red flag, I would think that would come through that process." (Tr. IV at 57). He testified that, at that time, he did not believe that there was any reason to call references. (Tr. IV at 57-58). Redman received his DEA registration on November 24, 2015. (Tr. IV at 59). Concerning Redman's W-9 and I-9 that were signed under penalties of perjury, Respondent testified that "[w]hen I see these things and people swear to the truth, you know, usually in our realm of hiring psychiatrists, those are routine things that they swore that they're telling the truth. I took it for what it was." (Tr. IV at 60). Respondent testified that he even made a loan to Redman around that time. (Tr. IV at 63).

Following Redman's arrest by the DEA, Respondent and his staff were interviewed. (Tr. IV at 64). He testified that they started to get together all of the phone numbers of all of the patients that Redman had seen so that they could help in whatever way was possible. (*Id.*). The next day, they tried on multiple occasions to reach each patient, and those they could reach were informed of the situation and offered a free re-evaluation. (Tr. IV at 65). Respondent testified that he personally reviewed all of the charts of patients seen by Redman because he was worried and wanted to make sure that they had not been harmed. (Tr. IV at 65-66). In addition to making calls, Respondent sent a letter to those patients so that they could correct any "missteps" from the previous provider, to make sure "how this had caused any trauma," and to ensure that we had the chance to talk

to them about it "since ... obviously it would be very, probably, devastating to hear for some of them." (Tr. IV at 68). This would all be done free of charge, and their co-pays would be refunded. (Tr. IV at 68-69; Exhibit 27). Respondent testified that he had his staff calculate any amounts collected and had those amounts paid back to the patients and Blue Cross. (Tr. IV at 69, 71). Exhibit 29 lists the 80 or so patients and repayment amounts. (Tr. IV at 70-71). Respondent testified that he also faced malpractice actions, which he authorized to be settled. (Tr. IV at 71-72). "I wanted them to get whatever they could for the suffering they had." (Tr. IV at 72).

Respondent also testified that he prepared with the U.S. Attorney and the DEA for trial testimony and took time out of his practice to do so. (*Id.*). He was told of the impact that his role had in the criminal case. (Tr. IV at 73).

Finally, Respondent testified that he fired the credentialing company and hired a new one. (*Id.*). He hired an HR person and a COL to help avoid any such events happening again. (*Id.*). Respondent testified that he hired a company to conduct background checks, and somebody to help with compliance matters. (*Id.*). Respondent testified that he had never had any prior disciplinary issues with the Department, or any other malpractice issues. (Tr. IV at 73-74).

Respondent understands that he has been accused by the Department of engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public, but testified that he did not and never would do any of that. (Tr. IV at 64).

Upon cross-examination, the Department established that, although Respondent continued to testify that he had never seen the second C.V. (Exhibit C), he had previously testified in his 2017 deposition in an underlying civil case that he had "carefully reviewed" that C.V., because it was the "updated version." (Tr. IV at 79-81). At that time, Respondent testified that he did not know that the dates of attendance at medical school had been changed. (Tr. IV at 81).

Respondent testified that he didn't recall the exact date that Redman had

started seeing patients at Clarity Clinic, but that he believed it was in mid-December. (Tr. IV at 91). He doesn't recall the exact number of patients that Redman saw and never knew the exact number of co-pays he returned. (Tr. IV at 92). He testified that they may have suffered from seeing an unlicensed physician/person, and that he was responsible "when things didn't go correctly - reasonably, within a reasonable person would do, yes. [sic]" (Tr. IV at 94). Having Redman in his clinic "wasn't ideal. It was unfortunate." (Tr. IV at 94-95). Respondent testified that he had heard that Redman didn't finish high school. (Tr. IV at 95).

When asked about the supporting documentation, Respondent conceded that he was never able to obtain originals of the photocopied documents that Redman submitted. (Tr. IV at 97-98). He testified that he always expected to do what's reasonable to make sure that happens in answer to the Department's question whether he was responsible to ensure that patients in his clinic are seen by properly-trained providers. (Tr. IV at 100-101). Respondent wanted "to be sure people are trained so that people get good treatment;" however, he did not respond to the Department's question of what he did to ensure that Redman was properly trained, despite several attempts. (Tr. IV at 102-104).

Upon redirect examination, Respondent confirmed that his normal process was not to ask for original documents, but to rely upon copies. (Tr. IV at 106-107). He testified that he could never give a 100 percent guarantee concerning anything occurring in his practice as a psychiatrist. (Tr. IV at 109). Finally, Respondent testified that he did make sure that Redman satisfied the contingencies in the job offer by confirming that he had an NPI number, had passed the credentialing check, had a DEA license and approval by a malpractice insurer prior to his treating patients. (Tr. IV at 110-111).

During both adverse and direct examinations, Respondent's testimony was occasionally credible, although it did become highly evasive and non-responsive when addressing the question of what he knew and when concerning

Redman's documentation. His answers were particularly contradictory when testifying whether or not he noticed conflicting representations in Redman's submitted C.V.s.

FINDINGS OF FACT

The Administrative Law Judge makes the following Findings of Fact, based upon the evidence presented at the hearing:

1. Respondent received his license from the State of Illinois in 2015.
2. He founded Clarity Clinic in about July 2015.
3. He is the doctor, founder, sole owner and de facto medical director at Clarity Clinic.
4. Respondent first placed an advertisement for a psychiatrist position on Indeed on September 11, 2015, and then on Craigslist in mid-September 2015.
5. The advertisement sought somebody Board eligible or Board certified.
6. In September 2015, Scott Redman, posing as Dr. Julian Lopez Garcia, sent an email including his C.V. to Clarity Clinic in response to the Craigslist advertisement.
7. The email was forwarded on September 14, 2015, by the recipient, Heidi Shavan Pur, the receptionist, to Respondent.
8. Respondent reviewed the C.V. at that time.
9. He noticed that Redman indicated that he included "child adolescent psychiatry."
10. The residency listed by Redman at the University of Connecticut was from July 2013 to June 2015, which was two years.
11. The Awards and Honors section of the C.V. showed that Redman graduated summa cum laude from UA College of Medicine, but the first page lists his attendance at the University of Connecticut.
12. Respondent glanced at this, but did not notice what he considered to be a "typo" at the time.

13. If he had noticed the inconsistency, Respondent would have looked into it more, probably by calling him to make sure of the accurate numbers.

14. At that time, he did not know that Redman had only completed two years of his residency.

15. If he had known that Redman didn't fit the criteria, he wouldn't have been interviewed or hired.

16. He was subsequently contacted by Redman by email concerning an incorrect telephone number on the C.V.

17. Redman sent him a second email on September 13, 2015, together with a second C.V., which he reviewed.

18. Respondent did not notice that "child adolescent psychiatry" had been changed to "general psychiatry."

19. Respondent did not notice the discrepancy in dates of attendance at medical school in the two C.V.s (August 2008 to May 2012 as opposed to August 2009 to May 2013).

20. Although the second C.V. showed the period of Redman's residency as June 2012 to July 2015 and the words "Board eligible" following the dates of attendance, Respondent did not confront Redman about the discrepancies in the dates of attendance or the fact that he now considered himself to be Board eligible.

21. Respondent did not notice the change in college names from UA to University of Connecticut at the time.

22. Respondent did not notice that Redman's undergraduate degree and medical school degree overlapped.

23. Following receipt of the second C.V., Redman was called in for an in person interview on September 16, 2015, which lasted from 45 to 60 minutes.

24. Respondent was unable to recall exactly the words that were exchanged during the interview, but they covered topics like what Redman enjoyed in training, what his interests were, whether he got along with his co-

residents, whether he liked the attending physicians he trained under, what happens in the clinic and if he could handle this.

25. At the conclusion of the interview, Respondent and Redman discussed that "we would be excited for him to possibly join us."

26. Redman was offered the position after the September 16, 2015 interview.

27. The job offer was contingent upon Redman obtaining a license through NPI, receiving approval by the malpractice company, passing scrutiny by the credentialing company, and getting a DEA license.

28. During the interview, Respondent did not ask Redman about the inconsistencies in the C.V.s, nor his inability to be Board eligible, nor the inconsistent dates of attendance at medical school and residency program.

29. On September 18, 2015, Redman declined the position stating that this was due to being offered a contract with family medical insurance and malpractice insurance.

30. On October 28, 2015, Redman sent an email to Respondent asking if the position was still available.

31. Respondent interviewed Redman again on October 29, 2015 at his office for about 45 minutes.

32. During the second interview, they discussed topics such as why he had left where he was working – to ensure that he would be dedicated to a position at Clarity Clinic should it be offered to him – and the daily flow of work at the workplace to be sure it would be something he would be okay with in terms of the amount of work necessary in the job, as well as what Redman had been doing in his prior position.

33. He did not ask Redman for the specifics of the home health service that he had worked for since September 18, 2015 or obtain any references from that facility.

34. Respondent does not know anything about the home health agency

where Redman worked, including its address or how many days Redman worked there.

35. Redman did tell him that he had left the position because they were billing unethically, but Respondent did not follow up to confirm this.

36. Respondent offered Redman a job following the October 29, 2015 interview.

37. As part of the process, Redman submitted a completed application for employment.

38. Respondent did not contact any of the references listed on the application and failed to contact Redman's only listed previous employer ("Uncle Juan Rodriguez" from September 1992 to April 2006).

39. Redman did not disclose the home health care agency on his application for employment, and Respondent did not ask Redman about his only medical employment.

40. During one of the two interviews, he discussed with Redman when he was going to start studying to take his Boards, but he does not recall whether this took place during the September 2015 or October 2015 interview.

41. When it was discussed, Redman told Respondent that he was Board eligible.

42. After he received a third C.V. marked as Exhibit F, he did not discuss with Redman the fact that it showed he was not Board eligible.

43. Respondent invited Redman to come by the office to meet people, which he did on November 1, 2015.

44. Nobody raised any concerns.

45. Redman discussed and debated therapy matters with another doctor.

46. On November 6, 2015, Redman and another doctor accompanied Respondent to an Eating Disorder Recovery Center dinner, where Redman interacted with other therapists and psychiatrists.

47. The reaction to Respondent and his team was positive.

48. Respondent does not recall when Redman started to see patients, or when he was set up in the office to start seeing patients but believes it may have been at the end of November 2015.

49. Redman's DEA license was issued on November 23, 2015.

50. Redman would not have seen patients until a third-party credentialing service would have submitted the Blue Cross paperwork, which would follow the issuance of the DEA license.

51. From the time he received his Blue Cross credentials to the date of his arrest, Redman saw patients with acute and chronic psychiatric problems and prescribed medications including controlled substances with sometimes dangerous side effects, like Benzodiazepine and stimulants (Schedule II and Schedule IV medications).

52. Respondent only discovered that Redman was not Board eligible following his arrest.

53. Respondent did not contact the University of Connecticut to find out if he had any problems in residency or why the residency finished one or two years early.

54. Respondent did not contact anybody in Connecticut to determine Redman's standing as far as his temporary license as a resident was concerned.

55. Redman submitted his medical diploma, dated May 7, 2012, to Respondent along with his application at the beginning of November 2015, but Redman never displayed it in his office, claiming that it was with the framing people and had been delayed.

56. Respondent did not recall if Redman ever displayed a copy of his Illinois medical license in his office, or if Redman ever produced his original license to him.

57. Respondent never contacted the State of Illinois to verify the Illinois medical license submitted by Redman.

58. Illinois' license look-up shows that the effective date of the Illinois

medical license submitted by Redman was April 2014.

59. Respondent doesn't recall whether he contacted the State to verify the Illinois controlled substance license submitted by Redman.

60. He doesn't recall if he ever followed up to establish why the controlled substance license listed 5730 West Roosevelt Road as the relevant address.

61. None of the other documents listed an address in Illinois.

62. He never raised this with Redman.

63. Respondent did not run a social security check, a criminal background check or credit bureau check on Redman.

64. He did not recall whether anybody verified Redman's driver's license.

65. He was never able to obtain originals of the photocopied documents that Redman submitted, although his normal process was not to ask for original documents, but to rely upon copies.

66. During this period, there were some calls from local pharmacies with concerns about and clarifications requested for Redman's prescribing, but not more or less than a different doctor.

67. A primary care physician contacted his office concerning a prescription by Redman of ten times the expected dose of Benzodiazepine.

68. Respondent took Redman's word that this was a mistake.

69. Redman was arrested on February 10, 2016.

70. Following Redman's arrest by the DEA, Respondent and his staff were interviewed.

71. They started to collect all of the phone numbers of the patients that Redman had seen so that they could help in whatever way was possible.

72. The next day, they tried on multiple occasions to reach each patient, and those they could reach were informed of the situation and offered a free re-evaluation.

73. Respondent personally reviewed all of the charts of patients seen by Redman because he was worried and wanted to make sure that they had not

been harmed.

74. In addition to making calls, Respondent sent a letter to those patients so that they could correct any "missteps" from the previous provider, free of charge, and their co-pays would be refunded.

75. Respondent had his staff calculate any amounts collected and had those amounts paid back to the patients and Blue Cross.

76. Respondent believes that there were 80 or so patients.

77. Respondent faced malpractice actions, which he authorized to be settled.

78. Respondent prepared with the U.S. Attorney and the DEA for trial testimony and took time out of his practice to do so.

79. Respondent fired the credentialing company and hired a new one.

80. He hired an HR person and a COL to help avoid any such events happening again.

81. Respondent hired a company to conduct background checks, and somebody to help with compliance matters.

82. Respondent has never had any prior disciplinary issues with the Department, or any other malpractice issues.

ANALYSIS

Pursuant to the Illinois Civil Administrative Code, 20 ILCS 2105/2105-10, the practice of the regulated professions, trades, and occupations in Illinois is hereby declared to affect the public health, safety, and welfare of the People of this State and in the public interest is subject to regulation and control by the Department of Professional Regulation. It is further declared to be a matter of public interest and concern that standards of competency and stringent penalties for those who violate the public trust be established to protect the public from

unauthorized or unqualified persons representing one of the regulated professions, trades, or occupations.

It is a general purpose of the Medical Practice Act of 1987 to protect the public health and welfare from those not qualified to practice medicine. *Vine Street Clinic v. HealthLink, Inc.*, 222 Ill. 2d 276, 295 (2006) (citing *Ikpoh v. Department of Professional Regulation*, 338 Ill. App. 3d 918, 926 (1st Dist. 2003)). The practice of medicine, in addition to skill and knowledge, requires honesty and integrity of the highest degree, and inherent in the State's power is the right to revoke the license of those who violate the standards it set. *Kaplan v. Department of Registration and Ed.*, 46 Ill. App. 3d 968, 975 (1st Dist. 1977).

The issues for the Administrative Law Judge in this case are whether the Department has proven its allegations of unlawful conduct under the Act and, if so, the nature of the public discipline, if any, to be imposed upon Respondent's physician and surgeon's license. The Department is proceeding under 225 ILCS 60/22(A) (5) which provides the grounds for disciplinary or non-disciplinary action as follows:

- (5) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.

(*Id.*). The Illinois Administrative Code provides a list of standards to be considered by the Medical Disciplinary Board in determining what constitutes dishonorable, unethical or unprofessional conduct. Section 1285.240(a)(1)(E) requires the Board to consider whether the questioned activities "[r]esulted in a delegation of a responsibility for delivery of patient care to persons who were not properly supervised or who were not competent to assume such responsibility." 68 Ill. Admin. Code 1285.240(a)(1)(E). The Illinois Administrative Code further provides examples of questionable activities, including "[d]elegating patient care responsibility to an individual when the physician has reason to believe that the person may not be competent." *Id.* at (a)(2)(B).

In order to prevail, the Department must prove by clear and convincing evidence that Respondent acted unprofessionally in hiring Redman, who turned out to be an individual impersonating a licensed, Board eligible psychiatrist, and allowing him to treat patients in his Clarity Clinic for a period of some two months. The allegations in this case most closely resemble those to be found in a "negligent hiring" cause of action in civil court, and Respondent's actions will be reviewed by applying the "reasonable person" standard. Both experts in this case (and counsel) proceeded on this footing.

The Department introduced evidence in the form of an adverse examination of Respondent, expert testimony of Dr. Zachariah, and numerous exhibits. The Department established that Respondent advertised on Craigslist for a Board-eligible, licensed psychiatrist for his clinic, Clarity Clinic, and that an individual purporting to be Dr. Lopes Garcia, but who was in actuality Redman, responded to the advertisement. Redman sent an email to Respondent's offices expressing an interest in the position and attaching a copy of his resume. Respondent interviewed Redman for the position and offered him the position the following day. Redman accepted the job, then a few days later withdrew from consideration, claiming that he had been offered a different position by a different employer whose contract included family medical health insurance and medical malpractice insurance. Towards the end of October 2015, Redman contacted Respondent again to inform him that he had quit the other job due to unethical billing practices and asked if the other position was still available. Respondent interviewed Redman again, largely to find out how dedicated Redman would be, were he to be offered the position again, and to discuss the requirements of the job. The same day, Redman was offered and accepted the position at Clarity Clinic contingent upon Redman's obtaining an NPI number and DEA registration, satisfying a third-party credentialing examination, and passing muster with the clinic's medical malpractice insurer and Blue Cross. Redman saw some eighty or so psychiatric patients at Clarity Clinic between the

end of December 2016 and February 2016, when he was arrested by the federal authorities, charged and convicted for various counts of fraud and unlawful prescribing of controlled substances arising from his employment by Respondent at Clarity Clinic. It turned out that Redman had no medical degree and had not even completed high school.

The Department established at the formal hearing that Respondent had received at least two copies of C.V.s from Redman which, upon the most cursory review, revealed discrepancies and inconsistencies. The problem was that Redman either failed to give them a cursory review, or simply turned a blind eye to the issues they raised. The testimony and documents themselves showed that Redman was never Board-eligible because he had not attended residency for sufficient time, which was properly established as four years, although Respondent's expert argued that a three year duration was possible in special situations (lacking in this case). In the first CV (Exhibit B), the resume only indicated two years of residency training in psychiatry where it should have been a four-year program. In the second CV (Exhibit C), the years of residency do not match those listed in the first CV. Respondent did not resolve the discrepancy, which he could have done by questioning Redman or contacting the institution.

Respondent was provided with three physician references in Redman's application for employment but failed to follow up on them. The fact that Redman had no previous listed medical employment was another red flag, which should have been pursued. In fact, his only listed employment appeared to be with "Uncle Juan Rodriguez" at a market from 1994 to 2006. Respondent never contacted the University of Connecticut psychiatric residency program to confirm Redman's residency. Respondent received text messages from Redman that revealed that, despite his earlier representations, he intended to take the board examination the following year and that was why he could not advertise himself as a child and adolescent psychiatrist at that time. Those were

inconsistent with the CVs submitted by Redman, since he did not have adequate training. Further, as recited by the Department's expert witness, the diploma from the University of Connecticut, which turned out to be fake, had never been verified by Respondent or his employees. Neither Respondent nor his staff followed up with the Department to determine whether the Illinois licenses were valid, which would have been prudent given the two different states listed as his addresses. They did not run a social security check, a criminal background check or credit bureau check, although Respondent was familiar with those. Apparently, nobody even verified Redman's driver's license.

The medical school changed from the first C.V. to the second, as did the relevant dates. An apparent psychiatric specialty, "Children Adolescent Psychiatry" had changed to "General Psychiatry" in the second C.V. Respondent knew what was required to hold himself out in these areas of specialty, but evidently did not dwell on this. Despite these obvious discrepancies, Redman was never asked to clarify them. Respondent never sought, or obtained, any original documentation to confirm the information he received from Redman. Even Respondent's own expert described that his normal process was to have an applicant come with original licenses, which he would then photocopy. Finally, Respondent did not follow up with the home health care agency which Redman had recently left - Redman's only known prior medical employment. This is inexplicable.

Respondent attempted to minimize these red flags by presenting his own evidence to show that he was very comfortable on an interpersonal level with Redman. For him, it was more how he got on with Redman and whether Redman would fit in with the practice. Everything was contextual, and nothing was allowed to slow down the hiring process. Respondent felt he could rely upon the various third-party services, which had larger staffs and greater resources, to provide vetting on Redman. The fact that NPI issued him a number, that DEA gave him a registration, that Redman was okayed by a credentialing

service and Blue Cross, and managed to obtain medical malpractice insurance – all these were factors upon which Respondent felt he could rely. He considered federal documents submitted under penalties of perjury (W-9s, I-9s) important. When Redman declined the first offer of employment, Respondent considered this to bolster his trustworthiness. Moreover, nobody raised any concerns to Respondent, whether they were other psychiatrists and providers at a fundraising dinner or office personnel. Respondent even gave him a loan when hardly knowing him.

Respondent's expert reinforced this approach:

So he comes in with a bunch of very official, appearing to be legitimate documents for his training and experience and so on, and I'm going to be inclined to accept those. Especially since he's been vetted by other people, like, insurance companies, malpractice insurance companies, Blue Cross Blue Shield, the State, the DEA, all these other agencies who are better equipped to look for discrepancies seemed to waive everything on through. So that's going to be pretty reassuring for me.

(Tr. III at 121-122). Respondent argued that Redman was a "sophisticated con man" who made him, not the psychiatry patients being treated by an unqualified and untrained individual, the true victim in this case.²

The Administrative Law Judge has reviewed many pages of trial testimony and numerous exhibits, and assessed the credibility of the witnesses at trial, in reaching his recommendation. Respondent clearly should have been alerted to the numerous, obvious discrepancies in the documentation provided to him by Redman. Had he made an effort to verify Redman's representations, no interview would even have taken place – a fact conceded by Respondent himself. Redman was clearly unqualified for the position he was seeking, and

² Respondent also argued at great length that this was all the Department's fault. According to Respondent, the Department had a duty to provide CME programs to educate physicians in what to look out for in hiring another physician, to work with medical schools to create a class to help graduates to understand the process of setting up a business and interviewing other people or with residency programs to set up programs during residency concerning setting up a practice or interviewing someone. This obvious attempt to deflect away from the real issues in this case merits short shrift.

should never have been permitted to see patients, let alone vulnerable psychiatric patients. With a minimal effort, Respondent would have learned that Redman was not who he said he was and that he had no medical training whatsoever. Ultimately, it was Respondent's responsibility as the medical director and/or owner of Clarity Clinic to perform the necessary verification. Respondent's reliance on the apparent approval of other agencies and companies does not excuse him from performing his own minimal due diligence. Any reasonable person would have done so. Respondent breached his duty to his patients at Clarity Clinic by hiring and delegating care to an unlicensed person who was, by definition, untrained and unsuitable to practice medicine.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Administrative Law Judge concludes as a matter of law the following:

1. The Illinois Medical Disciplinary Board has jurisdiction over the subject matter and the parties in this case.
2. The Department has proven the allegations of its Complaint against Respondent by clear and convincing evidence.

FACTORS IN AGGRAVATION AND MITIGATION

Pursuant to 68 Ill. Admin. Code 1130.200(a) and 20 ILCS 2105/2105-130(b), when making a determination of the appropriate disciplinary sanction to be imposed, the Administrative Law Judge shall consider certain factors in aggravation and mitigation, limiting his or her consideration to factors contained in the record.

The aggravating factors present for Respondent in this case are (1) the seriousness of the offense; (4) the impact of the offenses on any injured party; and (5) the vulnerability of any injured party, including, but not limited to, consideration of the injured party's age, disability, or mental illness. 20 ILCS

2105/2015-130(b). The factors in mitigation that require consideration are (1) the lack of prior disciplinary action; (4) restitution to injured parties; and (6) any voluntary remedial actions taken. 20 ILCS 2015/2105-130(c).

In this case, Respondent acted unprofessionally in hiring an unqualified person to act as a psychiatrist and allowing him to treat patients. There is evidence in the record to show that he relied in large part on his personal interactions with Redman during the interview process. He relied upon the fact that Redman obtained an NPI number and a DEA license, and that he passed a credentialing check and malpractice insurance review. Respondent should have done more. While this may have resulted in serious consequences, the Administrative Law Judge does not consider Respondent's conduct to be as serious as the frequent criminal or fraudulent activity, boundary violations or oversubscribing issues that come before him in this Agency.

As far as the impact on the injured parties and their vulnerability to the offense are concerned, both parties assumed that the treatment of patients in a psychiatric setting by a totally unqualified medical provider would impact the patients, and that those patients by their very nature are vulnerable. However, the Department provided few specifics to support the imposition of these aggravating factors. At most, both parties alluded to personal injury cases having been filed and resolved, and one case of inappropriate prescribing of a controlled substance was the subject of testimony. However, Respondent did agree generally with the Department that these were vulnerable patients and that, by acting precipitously after Redman's arrest, he sought to minimize the harm to the patients. Finally, Respondent's expert testified that he had reviewed the charts of each patient and had not found any serious problems caused by Redman.

Respondent testified effectively to the mitigation factors listed above. He does not appear to have run into any other disciplinary issues since he received his license in 2015. The only medical malpractice claims against him appear to have arisen from his ill-advised decision to employ Redman. Following his

employee's arrest, Respondent and his staff reviewed the files to ensure that attempts were made to contact every patient who had seen Redman during the few months that Redman had treated patients. First, they telephoned the patients and then followed up with letters. The patients were offered a free re-evaluation by Respondent and a refund of any co-payments they had made. The insurance company was informed of the problem and received a refund of any monies they had paid on the patients' behalves. Respondent settled the personal injury claims brought by some patients without fighting them. Finally, Respondent testified that he terminated the services of his credentialing company and hired a new company, as well as engaging new HR and COL staff to help with compliance matters. It is apparent that, since Redman's actions were uncovered by the federal authorities, Respondent has acted in an appropriate and time fashion.

The Administrative Law Judge does not consider the application of the factors concerning cooperation (or lack of cooperation) with the Department or other investigative authorities to weigh significantly one way or the other. It did not appear from Respondent's testimony or his demeanor that he made any real effort to cooperate with the Department. Indeed, one of the takeaways from the lengthy formal hearing in this case is that Respondent blames the Department for his problems, apparently more than himself. The reason that this factor does not weigh against Respondent is that it appears that he did cooperate with various federal authorities in the criminal action against Redman, although the extent and/or willingness of Respondent to do so was never brought out through appropriate testimony. 20 ILCS 2105/2105-130(b)(9), (c)(3).

The Administrative Law Judge does not believe that a severe sanction is warranted in this case. He is confident that Respondent has now put in place remedial measures which will ensure that no such events take place in the future. Reprimand of Respondent's license and a fine as a result of his unprofessional conduct are recommended as an appropriate public discipline.

RECOMMENDATION

Based on the above Findings of Fact and the Conclusions of Law, the Administrative Law Judge recommends to the Illinois Medical Disciplinary Board that PAVAN Y.R. PRASAD, M.D.'s Illinois Physician and Surgeon's License, License No. 036.137175, be REPRIMANDED and a fine in the amount of TWO THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$2,500.00) be imposed upon the Licensee.

Dated: May 4, 2021

Respectfully submitted:

/s/ Ian Brenson
Ian Brenson
Administrative Law Judge

Case No. 2018-05376
PAVAN Y.R. PRASAD, M.D.
License No. 036.137175