

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

BOARD OF REGISTRATION
IN MEDICINE

Adjudicatory Case No. 2008-040

In the Matter of Dennis Matthew Kim, M.D.)))))
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STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine ("Board") has reason to believe that Dennis Matthew Kim, M.D. ("Respondent") has violated professional boundaries, has exhibited behavior which calls into question his mental stability while he was continuing to practice medicine, and engaged in behavior that undermines the public's confidence in his ability to practice medicine.

BACKGROUND

1. The Respondent was born on February 6, 1971. He is a 1996 graduate of Duke University School of Medicine, South Carolina. He has been licensed to practice medicine in Massachusetts under registration number 156065 since 1998. He practiced psychiatry at McClean Hospital, Waltham Massachusetts until December 2006.

2. On December 14, 2006, the Board accepted the Respondent's Voluntary Agreement Not to Practice Medicine.

FACTUAL ALLEGATIONS

3. Patient A is thirty-two year old female who was diagnosed as bipolar when she was approximately eighteen years old.

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4. From in or about November 2000 to May 2002, Patient A saw the Respondent for psychiatric treatment approximately two times per week.
5. In or about May 2002, the Respondent informed Patient A that his clinical responsibilities had changed and that he would no longer be treating patients. Patient A was referred to another psychiatrist for treatment.
6. In or about Spring (March) 2004, Patient A telephoned her treating psychiatrist and learned that her psychiatrist was on vacation and that the Respondent was the covering psychiatrist.
7. Patient A scheduled an appointment with the Respondent at McClean Hospital. At that appointment, Patient A reported feeling depressed, and the Respondent made an adjustment to Patient A's medications.
8. At that same appointment, Patient A asked the Respondent if he could be her psychiatrist.
9. The Respondent told Patient A that she should remain with her treating psychiatrist if things were good.
10. As Patient A was leaving the Respondent's office, the Respondent told Patient A that they should see each other again and "maybe do lunch."
11. On or about March 15, 2004, Patient A informed her psychiatrist that the Respondent asked her to lunch.
12. On or about Friday, October 27, 2006, Patient A received a voice mail message from the Respondent. In that message, the Respondent told Patient A that he was thinking of leaving McClean Hospital and moving to New York.

13. In that voice message, the Respondent provided Patient A with his cell phone number.
14. On or about Saturday, October 28, 2006, the Respondent left a second voicemail message on Patient A's cell phone requesting that Patient A call the Respondent.
15. On Sunday, October 29, 2006, the Respondent called Patient A's cell phone. Patient A was on another call and told the Respondent that she would call him back.
16. At approximately 9:35 PM, Patient A called the Respondent back. The Respondent and Patient A spoke to one another for approximately three hours and twenty-one minutes. During their cell phone conversation, service was interrupted several times.
17. During the conversation referred to in paragraph number 16, the Respondent shared personal information with Patient A.
18. The Respondent told Patient A that he questioned his life and his career choices.
19. The Respondent told Patient A that his brother died of cancer at twelve years-old and the Respondent donated bone marrow to his brother.
20. The Respondent told Patient A that when he was a nineteen year old camp counselor, he had a sexual relationship with a fifteen year-old female camper.
21. The Respondent told Patient A that illicit relationships are more of a fantasy to him and that once a relationship becomes normal, the sex is no good.
22. The Respondent told Patient A that she is smart, beautiful, hot, and sexy.
23. The Respondent also told Patient A that if he could have it his way, he would have her [Patient A] as his fantasy, which would lead to great sex and that maybe they could get married.

24. The Respondent told Patient A that if they got married that they would have to move away and change their names.
25. The Respondent also told Patient A that she could not tell anyone about how they met because all of the Respondent's friends are psychiatrists.
26. The Respondent told Patient A that she was smart and that he wanted to go to lunch with her so that she [Patient A] could analyze the Respondent.
27. The Respondent told Patient A that he felt that she was misdiagnosed.
28. The Respondent told Patient A it would be inappropriate to tell her what her correct diagnosis is.
29. The Respondent told Patient A that he did not believe in medication or therapy.
30. Patient A informed the Respondent that she was in a committed relationship with her baby's father and that she was not the same person she was when the Respondent was treating her.
31. The Respondent told Patient A that if they went to lunch together and he felt that Patient A was too vulnerable that he would not pursue her, but that if he felt she was not vulnerable, then he would pursue her.
32. The Respondent ended the conversation by telling Patient A that if she needed to talk again that she could call him.
33. The Respondent also stated that if he initiated the call to her then it would only be to pursue a relationship with her.
34. Patient A informed the Respondent that she would have to tell someone about the telephone conversation.
35. The Respondent replied by telling Patient A that she had a big responsibility.

36. The Respondent told Patient A that that she could sue the Respondent.
37. The Respondent also told Patient A that he hoped he would not be getting a telephone call from Patient A's current therapist.
38. During the conversation as outlined in paragraphs 16 through 37, the Respondent was laughing in a nervous manner.
39. The Respondent called Patient A a week later but did not leave a message.
40. On December 7, 2006, Patient A told her current psychiatrist about the Respondent's telephone contact with her.
41. The Respondent submitted to a Board-approved independent psychiatric evaluation and the Respondent was diagnosed with an adjustment disorder.
42. The American Psychiatric Association's *Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry* states, "A psychiatrist shall not gratify [his] own needs by exploiting the patient. The psychiatrist shall be ever vigilant about the impact that [his] conduct has upon the boundaries of the doctor-patient relationship, and thus upon the well-being of the patient."

LEGAL BASIS FOR PROPOSED RELIEF

A. Pursuant to G.L. c. 112, § 5 (c) and 243 C.M.R. 1.03 (5) (a) 3, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician engaged in conduct which places into question the physician's competence to practice medicine, including but not limited to gross misconduct in the practice of medicine, or practicing medicine fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions.

B. Pursuant to G.L. c. 112, § 5 (d) and 243 C.M.R. 1.03 (5) (a) 4, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has practiced medicine while his ability to practice is impaired by disability or mental instability.

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

D. Pursuant to 243 CMR 1.03(5)(a)17, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician is guilty of malpractice, within the meaning of G.L. c. 112, § 61.

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

NATURE OF RELIEF SOUGHT

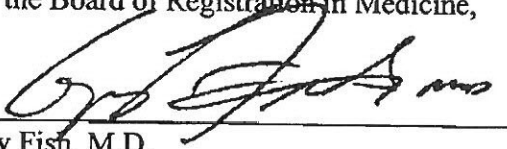
The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure,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

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ORDER

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

By the Board of Registration in Medicine,



Guy Fish, M.D.
Secretary

Dated: November 5, 2008

SENT CERTIFIED MAIL
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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

BOARD OF REGISTRATION
IN MEDICINE

ADJUDICATORY CASE NO.
2008-040 (RM-08-778)

_____)
 IN THE MATTER OF)
)
 Dennis Matthew Kim, M.D.)
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Final Decision & Order

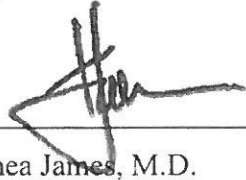
This matter came before the Board for consideration of the Administrative Magistrate's Recommended Decision, dated January 20, 2012. That Recommended Decision adopted the Findings of Fact and Conclusions of Law set forth in a joint Stipulation by the Parties, and incorporated them by reference. After full consideration of the Recommended Decision, which is attached hereto and incorporated by reference, the Board adopts the Recommended Decision, and also adopts the Recommended Sanction proposed by the Parties.

The Recommended Sanction is consistent with Board precedent, and takes into account, as mitigation, that the Respondent has completed an intensive course in medical ethics, boundaries and professionalism. Therefore, the Board hereby ADMONISHES the Respondent.

The Respondent shall provide a complete copy of this Final Decision and Order, with all exhibits and attachments, within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal

facility at which he practices medicine; any in- or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; the state licensing boards of all states in which he has any kind of license; the Drug Enforcement Administration – Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such designated entities with which he becomes associated in the year following the date of imposition of this Order. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive. The Board expressly reserves the authority to notify independently, at any time, any of the entities designated above, or any other affected entity, of any action taken.

Date: June 20, 2012



Thea James, M.D.
Acting Chair

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