

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2011-026

In the Matter of

ANDREW L. STOLL, M.D.

STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine (Board) has determined that good cause exists to believe the following acts occurred and constitute a violation for which a licensee may be sanctioned by the Board. The Board therefore alleges that Andrew L. Stoll, M.D. (Respondent) has practiced medicine in violation of law, regulations, or good and accepted medical practice, as set forth herein. The investigative docket numbers associated with this order to show cause are Docket Nos. 10-240, 10-415, 11-092 and 11-109.

Biographical Information

1. The Respondent was born on May 14, 1959. He graduated from the University of Medicine & Dentistry in New Jersey in 1987. He is certified by the American Board of Medical Specialties in Psychiatry. He has been licensed to practice medicine in Massachusetts under certificate number 60376 since September 28, 1988. He was affiliated with Whittier Pavilion in Haverhill, Massachusetts and maintained a private practice in Cambridge, Massachusetts until December 2010.

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Factual Allegations

2. The Respondent's license to practice medicine in Massachusetts lapsed on May 14, 2011.

3. The Respondent entered into a Voluntary Agreement Not to Practice Medicine (VANP), which was accepted by the Board's Chair on December 20, 2010. The VANP was ratified by the full Board on January 5, 2011.

Docket No. 10-240

4. Patient A, a 42-year-old female, became the Respondent's patient in the fall of 2000. The Respondent managed Patient A's prescription medication.

5. Within the first few months of treatment, Patient A told the Respondent that she had fallen in love with him.

6. Patient A asked the Respondent if she should transfer her care to a different physician; the Respondent replied that Patient A was "safe with him."

7. The Respondent gave Patient A his private telephone number, and during 2001 he and Patient A discussed personal matters outside of the treatment setting. The personal discussions contained sexual innuendo.

8. During a treatment session in December 2001, Patient A disclosed to the Respondent that she wanted to have an intimate relationship with the Respondent; the patient-physician relationship was terminated at that session.

9. In January 2002, during a telephone call, Patient A asked the Respondent to refer her to a different physician; the Respondent did not offer any names or contact information of other providers to Patient A.

10. In approximately April 2002, the Respondent had a sexual relationship with Patient A, which lasted at least six weeks.

11. The American Psychiatric Association's *Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry*, Section 1, 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."

12. The American Psychiatric Association's *Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry*, Section 2, states "Sexual activity with a current or former patient is unethical."

13. The American Medical Association's *Code of Medical Ethics*, Opinion 8.14, states "Sexual contact that occurs concurrent with the patient-physician relationship constitutes sexual misconduct. ... Sexual or romantic relationships between a physician and a former patient may be unduly influenced by the previous physician-patient relationship. Sexual or romantic relationships with former patients are unethical if the physician uses or exploits trust, knowledge, emotions, or influence derived from the previous professional relationship."

Docket No. 10-415

14. On November 10, 2010, the Board received a peer report, pursuant to G.L. c. 112, § 5F, from two psychiatrist Reporters.

15. The Reporters and the Respondent provided medical care to a mutual patient, Patient B, a 52-year-old male.

16. The Reporters called the Respondent several times in October 2010 to discuss the Reporters' concerns about Patient B, but the Respondent's voice mailbox was full; the Reporters could not leave a message or otherwise communicate with the Respondent.

17. The Reporters continued to call the Respondent, and were ultimately able to leave urgent voice messages on the Respondent's telephone; the Respondent did not respond.

18. Patient B died on October 26, 2010; the Respondent did not communicate with the Reporters prior to or after Patient B's death.

19. Approximately one week after Patient B's death, Patient B's caretaker met with the Respondent in the Respondent's Cambridge, Massachusetts office.

20. The Respondent told Patient B's caregiver that he did not return the Reporters' telephone messages because he (the Respondent) was phobic and unable to talk on the telephone. The Respondent also told Board staff that the statement he made to Patient B's caretaker was true.

21. The Reporters believed that the Respondent's inaccessibility and the disclosure to Patient B's caretaker indicated that the Respondent may be practicing medicine while impaired.

Docket No. 11-092

22. Patient C, a 40-year-old female, became the Respondent's patient in 2000, and saw him periodically through 2008.

23. The Respondent disclosed details of his personal life to Patient C, including the Respondent's divorce.

24. In late 2008, the Respondent told Patient C that he thought she was special and that he had romantic feelings for her.

25. The Respondent saw Patient C for treatment after this disclosure, but shortly thereafter terminated the patient-physician relationship without coordinating Patient C's continuation of treatment with another provider.

26. The Respondent's termination of Patient C disrupted her continuum of care.

Docket No. 11-109

27. The Respondent and Patient D, a 70-year-old female, began a patient-psychotherapy relationship in 1995.

28. In March 2010, Patient D called the Respondent for an appointment.

29. The Respondent did not return Patient D's repeated telephone calls.

30. Patient D experienced withdrawal symptoms related to the Respondent's failure to communicate with Patient D, and related to the Respondent's neglect in renewing Patient D's prescriptions when they ran out.

Impairment

31. During the early part of 2010, the Respondent became depressed. The depression worsened over time, leaving the Respondent unable to complete paperwork or to communicate with patients and colleagues by telephone.

Legal Basis for Proposed Relief

A. Pursuant to G.L. c. 112, §5, ninth par. (c) and 243 CMR 1.03(5)(a)3, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that he engaged in conduct that places into question the Respondent'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, ninth par. (d) and 243 CMR 1.03(5)(a)4, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician practiced medicine while his ability to do so was impaired alcohol, drugs, physical disability or mental instability.

C. Pursuant to 243 CMR 1.03(5)(a)18, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician committed misconduct in the practice of medicine

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

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

Nature of Relief Sought

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

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Order

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

By the Board of Registration in Medicine,



Peter Paige, M.D.
Chairman

Date: August 17, 2011

SENT CERTIFIED MAIL 8/17/11 *lay*⁷

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COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2011-026

In the Matter of)
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ANDREW L. STOLL, M.D.)
_____)

CONSENT ORDER

Pursuant to G.L. c. 30A, § 10, Andrew L. Stoll, M.D. (Respondent) and the Board of Registration in Medicine (Board) (hereinafter referred to jointly as the "Parties") agree that the Board may issue this Consent Order to resolve the above-captioned adjudicatory proceeding. The Parties further agree that this Consent Order will have all the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact specified below and agrees that the Board may make the conclusions of law and impose the sanction set forth below in resolution of investigative Docket Nos. 10-240, 10-415, 11-092, and 11-109.

Findings of Fact

1. The Respondent was born on May 14, 1959. He graduated from the University of Medicine & Dentistry in New Jersey in 1987. He is certified by the American Board of Medical Specialties in Psychiatry. He has been licensed to practice medicine in Massachusetts under certificate number 60376 since September 28, 1988. He was affiliated with Whittier Pavilion in Haverhill, Massachusetts and maintained a private practice in Cambridge, Massachusetts until December 2010.

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Docket No. 10-240

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