

Board of Registration in Medicine, Adjudicatory Case No. 2005-030 (Final Decision and Order, February 20, 2008); In The Matter of Karen S. Kagey, M.D., Board of Registration in Medicine, Adjudicatory Case No. 05-15 (Final Decision and Order, November 15, 2006); and In the Matter of William Kadish, M.D., Board of Registration in Medicine, Adjudicatory Case No. 2001-XX (Consent Order, August 22, 2001). In this case, the Respondent committed sexual boundary violations with a patient during the course of the psychoanalyst – patient relationship. By doing so, the Respondent crossed the boundary which separates reasonable and appropriate professional conduct from unacceptable personal relations, all in violation of the standards set forth, since 1993, in *The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry* by the American Psychiatric Association (APA), making it unethical for a psychiatrist to have a sexual relationship with a current or former patient.

In the past, the Board has imposed a lesser sanction than revocation after taking into account such factors as the nature and extent of the overall misconduct, the number of patients involved, the duration of the misconduct, and whether the physician self-reported the misconduct and cooperated with the Board. See In the Matter of Terrence M. O'Neill, M.D., Board of Registration in Medicine, Adjudicatory Case No. 88-44-TR (Final Decision and Order, August 9, 1994). In *O'Neill*, the Respondent, an Ob-Gyn, did transfer the patient's care to a psychiatrist, there was no harm according to the patient and the Respondent had no other violations or matters before the Board. There was only one patient involved, that patient was a former patient and there was not likely to be a recurrence of this behavior. The Board suspended his license for 3 years, which suspension was stayed 7 months after the Final Decision; In the Matter of Howard Berens, M.D., Adjudicatory Case No. 02-33-XX, (Consent Order, August 2, 2002), where the psychiatrist started a sexual relationship with a patient two months after the physician-patient relationship had been terminated. The patient declined to file a complaint and the Respondent cooperated with the Board. The Board suspended him for 3 years and stayed the suspension upon entry into a probation agreement; and In the Matter of Harold Williams, M.D., Adjudicatory Case No. 92-15-DALA, (Final Decision and Order, April 14, 1993), where the psychiatrist had a sexual relationship with his patient during the course of treatment. The Board accepted a stipulation by the parties

allowing for a suspension of five years, stayed after one year upon entering into a five year probation agreement.

Sanction

In light of the Respondent's sexual boundary violation with a patient, and taking into consideration mitigating factors, including that there was no physical boundary violation and that the Respondent cooperated with the Board, the Board hereby SUSPENDS the Respondent's license to practice medicine.

The Respondent has not practiced medicine since April 30, 2014, the date she entered into a Voluntary Agreement Not to Practice with the Board. The Respondent may petition to stay the suspension one year from the date of this Order. Approval of such petition is within the discretion of the Board and is contingent upon a determination that the Respondent is fit to practice medicine, is in compliance with all the terms of her Physician Health Services (PHS) contract, and upon the Respondent's entry into a five-year Probation Agreement. The five year term shall commence on the date of the Board's approval of the terms of the Probation Agreement, which shall include, but not be limited to, the following:

1. Participation and compliance with a PHS Substance Use and Behavioral Health monitoring contract throughout the duration of the Probation period;
2. Compliance with all outstanding recommendations of an Acumen Assessment, LLC report from 2014;
3. Entry into a Transitional Practice Plan at such time as the Respondent commences the practice of medicine to include, but not be limited to, the following provisions:
 - a. The Respondent shall meet with a Board-certified, Board-approved psychiatrist weekly for clinical supervision to review cases and discuss, among other topics, the maintenance of psychiatrist-patient boundaries and a review of the Respondent's protocols and practices for managing transference and counter-transference with patients.
 - b. The Respondent shall authorize the approved psychiatrist to submit quarterly reports on compliance and progress in correcting any identified deficiencies.

The Respondent may petition to terminate the Probation Agreement upon her demonstration of five years of successful compliance with its terms.

The Respondent is also permanently restricted from practicing psychoanalysis.

The sanction is imposed for each violation of the law, and not a combination of any or all of them.

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 she practices medicine; any in- or out-of-state health maintenance organization with whom she has privileges or any other kind of association; any state agency, in- or out-of-state, with which she has a provider contract; any in- or out-of-state medical employer, whether or not she practices medicine there; the state licensing boards of all states in which she has any kind of license to practice medicine; 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 she becomes associated for the duration of this suspension. The Respondent is further directed to certify to the Board within ten (10) days that she has complied with this directive. The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.

Date: September 22, 2016



Kathleen Sullivan Meyer, J.D.
Vice Chair
Board of Registration in Medicine

SENT CERTIFIED MAIL 9/23/16 

THE COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Board of Registration in Medicine,
Petitioner

v.

Julieta Holman, M.D.,
Respondent

Division of Administrative Law Appeals
One Congress Street, 11th Floor
Boston, MA 02114
(617) 626-7200
www.state.ma.us/dala

Docket No. RM-15-165

Appearance for Petitioner:

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Board of Registration in Medicine
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Wakefield, MA 01880

Appearance for Respondent:

Jennifer Boyd Herlihy, Esq.
Adler, Cohen, Harvey, Wakeman, Guekguezian, LLP
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Administrative Magistrate

Edward B. McGrath
Chief Administrative Magistrate

Summary of Decision

Psychiatrist who stipulated that she revealed personal information about herself that was romantic, sexual and personal in nature while overusing prescribed amphetamine medication is subject to discipline by the Board.

RECOMMENDED DECISION

On April 17, 2015, the Board of Registration in Medicine issued a Statement of Allegations ordering psychiatrist Julieta Holman, M.D. to show cause why she should not be

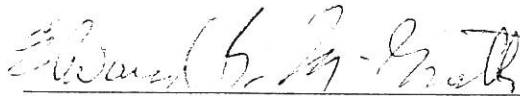
disciplined for the manner in which she practiced medicine. On the same date, the Board referred the matter to the Division of Administrative Law Appeals.

On March 21, 2016, by mutual agreement among the parties, Complaint Counsel filed a Stipulation of Facts and Conclusions of Law. The stipulation is signed by Dr. Holman, her counsel, and Complaint Counsel. The Stipulation is attached as Exhibit 1.

Other than the Stipulation and the admissions of fact it contains, I have not taken evidence with respect to the facts of this matter. I adopt the facts as stipulated. The conclusions of law set forth in the Stipulation are warranted and I therefore adopt them as well.

Based on the foregoing, I recommend that the Board impose such discipline on Dr. Holman as it deems appropriate in light of the facts and conclusions of law as stipulated by the parties.

DIVISION OF ADMINISTRATIVE LAW APPEALS



Edward B. McGrath
Chief Administrative Magistrate

Dated: **APR 28 2016**

3. The Respondent began treating her first psychoanalytical patient in September 2009.
4. In October 2010, Patient A became the Respondent's second psychoanalytical patient (first male).
5. In October 2010, Patient A had a history of depression and anxiety and was engaged in psychopharmacology treatment with Dr. F.
6. Dr. F referred Patient A to the Respondent.
7. In October 2010, the Respondent's BPI supervisor was Supervisor 1.
8. From October to December 2010, the Respondent met two or three times a week with Patient A.
9. In January 2011, the Respondent began meeting four times a week with Patient A.
10. During April, May and June 2012, the Respondent, via email to Patient A, revealed personal information about herself that were of a romantic, sexual and personal nature.
11. During this time period of spring 2012, the Respondent was overusing prescribed amphetamine medication.
12. On June 7, 2012, Patient A discussed the Respondent's emails with Dr. F.
13. On the same day, the Respondent spoke to Patient A's Dr. F and the Respondent agreed that she should get a consult regarding her treatment of Patient A.
14. On June 7, 2012, the Respondent also called Supervisor 1. The Respondent told Supervisor 1 that she had sexual fantasies about Patient A and that she had told Patient A in an email that she was attracted to him.

15. After speaking with the Respondent about her feelings towards Patient A, Supervisor 1 contacted the Chair of the Student Committee at BPI. It was determined that the situation would be brought up at the Respondent's next evaluation.

16. In September 2012, the Respondent began supervision with Supervisor 2. The Respondent discussed her complex feelings towards Patient A with Supervisor 2.

17. On December 19, 2012, the Respondent had an annual review at BPI. Both Supervisors 1 and 2 gave extremely positive reviews of the Respondent.

18. In June 2013, the Respondent told Supervisor 2 about personal emails that she sent to Patient A after the Supervisor requested same.

19. On July 3, 2013, Supervisor 2 asked Dr. H, another supervising and training analyst at BPI, to perform a consult with the Respondent.

a. Dr. H spoke with the Respondent.

b. Dr. H met with Patient A.

20. On October 31, 2013, Patient A stopped having sessions with the Respondent.

21. On December 11, 2013, Patient A was admitted to an inpatient psychiatric unit Tufts Medical Center.

22. On December 23, 2013, Dr. H filed a peer report with the Board based on the Respondent's "inappropriate email exchange" with a patient concurrent with the doctor-patient relationship. The report did not identify Patient A nor did it include copies of the email exchange.

23. In January 2014, Patient A went to the Respondent's office in Belmont. The Respondent told Patient A that she could not speak to him.

24. In the spring of 2014, when the Respondent would not respond to Patient A's attempts at contact, Patient A left a voicemail for the Respondent in which he threatened to file a complaint with the Board.

25. On April 1, 2014, Patient A spoke with Dr. Holman. Dr. Holman told Patient A that a complaint had already been filed at the Board by another professional.

26. On April 1, 2014, Patient A filed a complaint about the Respondent with the Board.

27. On April 30, 2014, during the investigation of Patient A's complaint, the Respondent entered a Voluntary Agreement Not to Practice (VANP).

MITIGATING CIRCUMSTANCES

28. Since the Respondent entered into a VANP on April 30, 2014, she has taken a number of steps:

a. She attended a three-day course on Maintaining Appropriate Boundaries in June 2014.

b. She underwent evaluation at Acumen Assessments in August 2014. The Acumen report concluded that the Respondent's risk to reoffend is low, and that the Respondent is fit to practice subject to the following limitations:

- i. PHS Contract
- ii. Substance testing
- iii. Refrain from mind-altering and/or stimulating drugs
- iv. Return to Acumen for a 2.5 day quarterly follow-up professional boundary coaching and polygraph boundary monitoring;

- v. Limit practice to 30 clinical hours per week with monitoring/oversight;
- vi. Refrain from practicing psychoanalysis until it is determined by BPI, PHS and Acumen that it is safe for her to practice;
- vii. Continue treatment with a therapist including but not limited to treatment/coaching to facilitate the internalization of solid self-regulation skills, a reality-based orientation toward adaptively getting her emotional needs met outside the professional and psychotherapeutic spheres.

c. The Respondent entered into a monitoring contract with Physician Health Services on September 19, 2014. The Respondent has been compliant with her contract with Physician Health Services since she entered into it.

ADDITIONAL INFORMATION

29. The Petitioner consulted with a psychiatrist certified by The American Board of Psychiatry and Neurology with a subspecialty in Forensic Psychiatry (Petitioner's Expert).

a. The Petitioner's Expert determined that Dr. Holman violated the standard of care concerning Patient A including but not limited to the following:

i. the Respondent crossed and violated boundaries while continuing to "psychoanalyze" Patient A and while offering diagnostic and medication-related opinions.

ii. the Respondent "failed to appropriately manage [Patient A's] feelings towards her."

iii. the Respondent "misused the power differential of the psychoanalytic relationship to the detriment of a psychologically vulnerable patient."

- iv. the Respondent failed to treat Patient A's psychiatric symptoms.
- b. According to the Petitioner's Expert, there is no substantive difference between the standard of care for a general psychiatrist and a psychiatrist practicing analysis.

30. The Respondent consulted with a psychiatrist Bernard Levy, M.D., who is certified by The American Board of Psychiatry and Neurology since 1969 with a specialty in ethics including appointments through the Massachusetts Psychiatry Society and the Massachusetts Medical Society and affiliation with Physician Health Services ("PHS") ("Dr. Levy").

31. Dr. Levy personally evaluated the Respondent, and reviewed the pertinent materials in this case.

- a. He concluded that the Respondent is ethically fit to practice medicine.
- b. In Dr. Levy's opinion, the Respondent did not engage in professional misconduct or unethical behavior in this case.
 - i. Dr. Levy opines that the Respondent's reciprocation of Patient A's free association and transference process through emails exchanged with sexual-fantasy content was a known complication of the psychoanalytic transference/countertransference process.
 - ii. Dr. Levy avers that the Respondent appropriately recognized, sought guidance, and addressed her difficulties with countertransference with Patient A.
 - iii. At no time did she engage in inappropriate physical contact, sexual relations, unduly exploitive acts, or other unethical behavior toward Patient A.

f. It is Dr. Levy's opinion that there is a substantive difference between the standard of care for a general psychiatrist and a psychiatrist practicing psychoanalysis.

g. Dr. Levy's opinion is that the nature of the psychoanalytic process is to encourage the patient's free association process wherever it leads; the analyst does not manage the patient's feelings or thoughts.

h. Dr. Levy further opines the process notes were available and periodically reviewed by the Respondent's supervisor(s), whose comments were contemporaneously entered into the progress notes. The notes make clear that the content of the Respondent's emails was purely fantasy, an extension of the transference/countertransference process, rather than secretive acting-out of unethical relations or exploitation.

32. It is expected that in the Respondent's case there will be testimony that the overuse of prescribed amphetamine medication may have clouded her clinical judgment.

CONCLUSIONS OF LAW

A. Pursuant to G.L. c. 112, §5(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 said physician has committed conduct which places into question his 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 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 has committed misconduct in the practice of medicine.

C. Pursuant to Sugarman v. Board of Registration in Medicine, 422 Mass. 338 (1996); 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 Aronoff v. Board of Registration in Medicine, 420 Mass. 830, 834 (1995), the Board may discipline a physician upon proof satisfactory to a majority of the Board that the physician has violated an ethical principle.

EXECUTION OF THIS STIPULATION

The parties agree that the approval of this Stipulation is left to the discretion of the Administrative Magistrate and the Board. As to any matter this Stipulation leaves to the discretion of the Administrative Magistrate or the Board, neither the Respondent, nor anyone else acting on her behalf has received any promises or representations regarding the same.

The signature of the Respondent, her attorney, and Complaint Counsel are expressly conditioned on the Administrative Magistrate and the Board accepting this Stipulation.

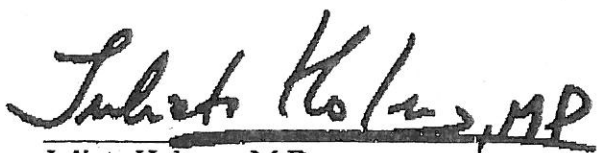
If the Administrative Magistrate rejects any provision contained in this Stipulation, the entire document shall be null and void and the matter will be scheduled for a hearing pursuant to General Laws c. 30A and 801 CMR 1.00 et seq., after a reasonable time for the parties to re-negotiate the provision in light of the Magistrate's rejection.

If the Board rejects any provision in this Stipulation, the entire document shall be null and void and the matter will be recommitted to the Division of Administrative Law Appeals for a

hearing pursuant to General Laws c. 30A and 801 CMR 1.00 et seq., after a reasonable time for the parties to re-negotiate the provision in light of the Board's rejection.

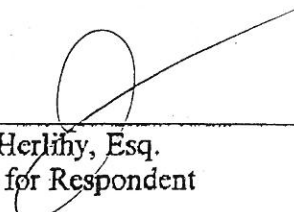
The Parties did not agree upon a Recommended Sanction, and have agreed to defer to the discretion of the Board in matters related to Sanction. If the Respondent rejects the Board's proposed Sanction, the Respondent specifically reserves the right to pursue an adjudicatory hearing pursuant to G.L. c. 30A and 801 CMR 1.00 et seq.

Neither of the parties nor anyone else may rely on the Stipulation in these proceedings or in any appeal there from.



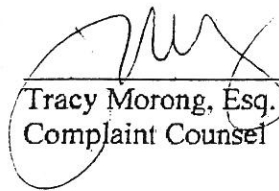
Julieta Holman, M.D.
Respondent

15 March 2016
Date



Jennifer Herlihy, Esq.
Attorney for Respondent

3/15/16
Date



Tracy Morong, Esq.
Complaint Counsel

3/15/2016
Date