

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No.: 2009-008

In the Matter of GARY GREENSTEIN, M.D.)))))
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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 Gary Greenstein, M.D. (Respondent) has practiced medicine in violation of law, regulations, or good and accepted medical practice, as set forth herein. The investigative docket number associated with this order to show cause is 07-470.

Background

1. The Respondent was born on December 10, 1967. He graduated from the Sackler School of Medicine in Tel Aviv in 1994. He has been licensed to practice medicine in Massachusetts since 2007 under certificate number 202780. He is board certified in Obstetrics and Gynecology. Presently, he is working at Ashkelon Hospital and other locations in Israel.

2. On July 27, 2007, St. Vincent's Hospital (St. Vincent's) filed a Health Care Facility Disciplinary Action Initial report (HCFD) with the Board. The HCFD alleged that within the first two weeks of Dr. Greenstein becoming an active medical staff member, he had accumulated

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six allegations of misconduct including: disruptive behavior, sexual harassment, and quality of care.

Factual Allegations

Nurse A:

3. On a date unknown in May 2007, Nurse A told the Respondent that she counseled the husband of a patient to apply counter pressure to the patient's back and hips in order to alleviate back labor.

4. The Respondent replied by asking if that was how the couple got in trouble--the patient's husband grabbing the patient by her hips.

Nurse B:

5. On May 25, 2007, the Respondent performed an ultrasound on a patient who, based on previous ultrasound results, believed she was expecting a boy.

6. Upon completing this ultrasound, the Respondent commented to the patient that he hoped that she did not spend too much money on boy clothes.

7. The Respondent's remark upset the patient.

8. The Respondent ordered Demerol for this patient.

9. Nurse B retrieved the Demerol.

10. When the Respondent noticed that Nurse B had placed the syringe in her rear pants pocket, he said "You better be careful not to fall and stick yourself in the bottom."

11. On May 26, 2007, Nurse B asked the Respondent to explain the hospital policy regarding leaving the premises to a patient who wanted to leave the premises in order to smoke a cigarette.

12. The Respondent and the patient disagreed over whether the patient could leave the hospital building in order to smoke a cigarette, since she was in preterm labor and wanted to leave the hospital against medical advice (AMA).

13. Nurse B convinced the patient to stay and administered the medication that the Respondent had previously ordered.

14. Nurse B informed Dr. Greenstein that the patient had decided to stay.

15. The Respondent told Nurse B that he had retracted the medication order because the patient wanted to be discharged.

16. The Respondent stood up and slammed his hands upon the desk.

17. The Respondent told Nurse B that he rescinded the medication order.

18. The Respondent accused Nurse B of administering medication without an order.

19. Nurse B was humiliated and intimidated by the Respondent's behavior.

Nurse C:

20. On the evening of May 26, 2007, a secretary paged the physician on-call for Nurse C.

21. The Respondent returned the page.

22. The secretary told the Respondent that Nurse C and Nurse D wished to speak with him.

23. The secretary transferred the call to Nurse C.

24. Nurse C answered the phone and the Respondent made an inappropriate remark about Nurse C's name.

25. Nurse C was taken aback by this statement and attempted to tell the Respondent about the patient.

26. The Respondent interrupted Nurse C and said it was going to be difficult to meet her without turning red.

- 27. After that telephone conversation, the Respondent arrived and saw the patient with Nurse C.
- 28. Nurse C suggested that they see the patient later since the patient was breastfeeding her baby at that time.
- 29. The Respondent wanted to see the patient at that time.
- 30. After the Respondent spoke with the patient about the pros and cons of breast feeding, the Respondent looked at Nurse C and said, "I'm more of a breast guy."
- 31. Nurse C felt uncomfortable for the patient and for herself.

Legal Basis for Proposed Relief

A. 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.

B. 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.

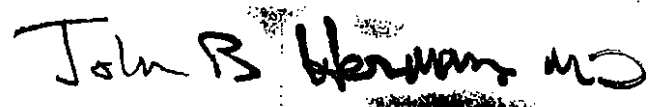
Nature of Relief Sought

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

Order

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

By the Board of
Registration in Medicine,



John B. Herman, M.D.
Chair

Date: April 1, 2009

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration In Medicine

Adjudicatory No.: 2009-008

_____)
In the Matter of)
GARY D. GREENSTEIN, M.D.)
_____)

CONSENT ORDER

Gary D. Greenstein, M.D. (the "Respondent") and the Complaint Counsel, representing the Board of Registration in Medicine agree, that the Board of Registration in Medicine (the "Board") may issue this Consent Order, in lieu of convening an adjudicatory proceeding, with 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 described below and agrees the Board may make conclusions of law and impose a sanction based on Docket No. 07-470, as set forth below.

FINDINGS OF FACT

1. The Respondent was born on December 10, 1967. He graduated from the Sackler School of Medicine in Tel Aviv in 1994. He has been licensed to practice medicine in Massachusetts since 2007 under certificate number 202780. He is board certified in Obstetrics and Gynecology. Presently, he is working at Ashkelon Hospital and other locations in Israel.
2. On July 27, 2007, St. Vincent's Hospital (St. Vincent's) filed a Health Care Facility Disciplinary Action Initial report (HCFD) with the Board. The HCFD alleged that within the first two weeks of Dr. Greenstein becoming an active medical staff member, he had accumulated six allegations of misconduct including: disruptive behavior, sexual harassment, and quality of care.

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9. Nurse B retrieved the Demerol.
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CONCLUSIONS OF LAW

A. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession, in violation of the standards set forth in Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979) and Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982).

B. The Respondent violated 243 CMR 1.03(5) (a) 18, in that he committed misconduct in the practice of medicine.

SANCTION

The Respondent is hereby reprimanded.

This sanction is imposed for Conclusions of Law A and B individually and not for any combination of them.

This sanction is imposed for Docket No. 07-470.

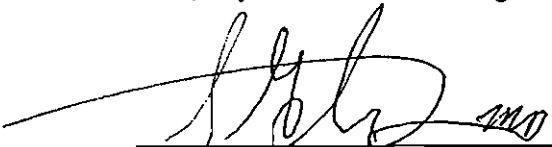
EXECUTION OF THIS CONSENT ORDER

The Complaint Counsel, Respondent and Respondent’s attorney agree that the approval of this Consent Order is left to the discretion of the Board. The signature of Complaint Counsel, the Respondent and the Respondent’s counsel are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order in whole or in part, then the entire document shall be null and void; thereafter, neither of the parties nor anyone else may rely on these stipulations in this proceeding.

As to any matter this Consent Order leaves to the discretion of the Board, neither the Respondent, nor anyone acting on his behalf, has received any promises or representations regarding the same.


The Respondent waives any right of appeal that he may have resulting from the Board’s acceptance of this Consent Order.

The Respondent shall provide a complete copy of this Consent Order 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 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 he becomes associated within one year of the imposition of the reprimand. 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 independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.



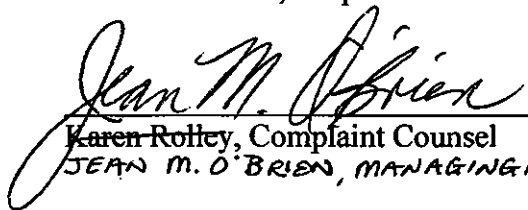
Gary D. Greenstein, M.D., Respondent

2-17-09
Date



David O'Connor, Respondent's Counsel

2/21/09
Date

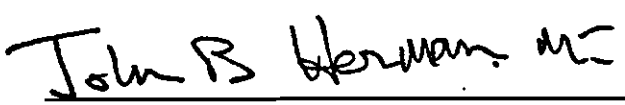


Karen Rolley, Complaint Counsel
JEAN M. O'BRIEN, MANAGING ATTORNEY

3/5/09
Date

Accepted by the Board of Registration in Medicine on this 1st day of April, 2009.

SENT CERTIFIED MAIL
4/1/09 KSD



John Herman, M.D.
Chairman