

FILED OF RECORD

JUL 25 2022

K.B.M.L.

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2044

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF  
KENTUCKY HELD BY PAVAN BEJGUM, M.D., LICENSE NO. 52262, 110  
SOUTH 9<sup>TH</sup> STREET, MAYFIELD, KENTUCKY 42066

**ORDER OF INDEFINITE RESTRICTION**

At its July 21, 2022, meeting, the Kentucky Board of Medical Licensure (hereinafter “the Board”), acting by and through its Hearing Panel B, took up this case for final action. The members of Panel B reviewed the Complaint, filed of record March 4, 2022; the Hearing Officer’s Findings of Fact, Conclusions of Law and Recommended Order, dated May 3, 2022; the licensee’s exceptions, filed of record May 17, 2022; and a May 17, 2022 memorandum from the Board’s counsel.

Having considered all the information available and being sufficiently advised, Hearing Panel B ACCEPTS the hearing officer’s Findings of Fact and Conclusions of Law and ADOPTS those Findings of Fact and Conclusions of Law and INCORPORATES them BY REFERENCE into this Order. (Attachment) Hearing Panel B FURTHER ACCEPTS AND ADOPTS the hearing officer’s recommended order and in accordance with that recommended order, Hearing Panel B ORDERS:

1. The license to practice medicine held by Pavan Bejgum, M.D., SHALL BE RESTRICTED/LIMITED FOR AN INDEFINITE PERIOD OF TIME to begin immediately upon the date of filing of this Order of Indefinite Restriction and continuing until further order of the Board;
2. During the effective period of this Order of Indefinite Restriction, the licensee’s Kentucky medical license SHALL BE SUBJECT TO THE FOLLOWING TERMS

AND CONDITIONS OF RESTRICTION/LIMITATION until further order of the Board:

- a. The licensee SHALL NOT perform any act within the Commonwealth of Kentucky which would constitute the "practice of medicine or osteopathy," as that term is defined by KRS 311.550(10) – the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities," unless and until approved to do so by the Panel;
- b. The Panel SHALL NOT consider a request by the licensee to resume the practice of medicine unless and until:
  - i. The Board has received a copy of a document issued by the Illinois Board reinstating the license to practice medicine and surgery held by the licensee in Illinois;
  - ii. The Board has received documentation showing that the licensee has successfully completed the "Maintaining Proper Boundaries" course at The Center for Professional Health at Vanderbilt University Health Center, Nashville, TN, (615) 936-0678, at his expense; and
  - iii. The licensee has reimbursed the Board the costs of the proceedings in the amount of \$812.50, pursuant to KRS 311.565(1)(v).
- c. If the Panel should grant his request to resume the practice of medicine within the Commonwealth of Kentucky, it SHALL do so pursuant to an Amended Agreed Order which SHALL require that the licensee indefinitely utilize a Board-approved chaperone when consulting, evaluating, diagnosing or otherwise providing treatment for any female patients and any other conditions deemed necessary by the Panel at that time;
- d. If the licensee does not resume the practice of medicine before March 4, 2024, the provisions of both KRS 311.604 and 311.607 shall apply to any petition by the licensee and the burden shall be upon the licensee to satisfy to the Panel that he is clinically competent, of good moral character and qualified both physically and mentally to resume the practice of medicine, without undue risk or danger to his patients or the public;
  - i. The Panel shall not consider a request by the licensee to resume the practice of medicine unless and until the Panel has received copy of an Assessment Report as well as an Education Plan (if recommended) following the licensee's completion of a clinical skills assessment, at his expense, from *either*:
    1. The Center for Personalized Education for Professionals ("CPEP"), 720 South Colorado Boulevard, Suite 1100-N, Denver, Colorado 80246, Tel. (303) 577-3232 Fax: (303) 577-3241; or

2. LifeGuard, 400 Winding Creek Boulevard, Mechanicsburg, Pennsylvania 17050, Tel. (717) 909-2590; and

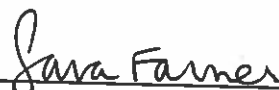
e. The licensee SHALL NOT violate any provision of KRS 311.595 and/or 311.597.

SO ORDERED on this 25<sup>th</sup> day of July, 2022.

  
DALE E. TONEY, M.D.  
CHAIR, HEARING PANEL B

#### CERTIFICATE OF SERVICE

I certify that the original of the foregoing Order of Indefinite Restriction was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222 and a copy was mailed, first-class postage prepaid, to Keith Hardison, Esq., Hearing Officer, 2616 Bardstown Road, Louisville, Kentucky 40205; and copies were mailed via certified mail return-receipt requested to the licensee, Pavan Bejgum, License no. 52262, 110 South 9<sup>th</sup> Street, Mayfield, Kentucky 42066, and to his counsel, Brian R. Good, Esq., Elder & Good, PLLC, 159 St. Matthews Avenue, Suite 1, Louisville, KY 40207 on this 25<sup>th</sup> day of July, 2022.

  
Sara Farmer  
Assistant General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
502/429-7150

#### EFFECTIVE DATE AND APPEAL RIGHTS

Pursuant to KRS 311.593(1) and 13B.120, the effective date of this Order will be thirty (30) days after this Order is received by the licensee or the licensee's attorney, whichever shall occur first.

The licensee may appeal from this Order, pursuant to KRS 311.593 and 13B.140-.150, by filing a Petition for Judicial Review in Jefferson Circuit Court within thirty (30) days after this Order is mailed or delivered by personal service. Copies of the petition shall be served by the licensee upon the Board and its General Counsel or Assistant General Counsel. The Petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested, along with a copy of this Order.

MAY - 3 2022

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2044

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF  
KENTUCKY HELD BY PAVAN BEJGUM, M.D. LICENSE NO. 52262 , 110  
SOUTH 9<sup>TH</sup> STREET, MAYFIELD, KENTUCKY, 42066

**FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND RECOMMENDED ORDER**

This action is before the hearing officer on the Motion for Summary Disposition (hereinafter the "Motion") filed by the Kentucky Board of Medical Licensure (hereinafter the "Board") on April 1, 2022. Dr. Bejgum, the licensee, filed a response on April 27, 2022. After reviewing the Motion, including its attachments, the Response and its attachments, the other pleadings of record, and the applicable law, the hearing officer finds there are no genuine issues of material fact in dispute and that judgment as a matter of law is appropriate pursuant to KRS 13B.090(2). Therefore the hearing officer recommends the Board grant the Motion for Summary Disposition, find Dr. Bejgum in violation of KRS 311.595 (17) and impose any appropriate sanction for this violation.

In support of this recommendation the hearing officer submits the following Findings of Fact, Conclusions of Law and Recommended Order:

**FINDINGS OF FACT**

1. At all times relevant to this matter, Dr. Bejgum was licensed by the Board to practice medicine in the Commonwealth of Kentucky. *Complaint ¶ 1, Answer ¶ 1*

2. Dr. Bejgum's medical specialty is internal medicine. *Complaint ¶ 2 Answer ¶ 1*

3. On February 17, 2022, the Board, through its Inquiry Panel A, issued a Complaint against the license to practice medicine in the Commonwealth of Kentucky held by Dr. Bejgum, alleging certain facts and charging that Dr. Bejgum was in violation of KRS 311.595 (17) See

*Complaint generally and ¶ 9*

4. Dr. Bejgum was also licensed to practice medicine in the state of Illinois. *Complaint ¶ 3 Answer ¶ 1*

5. The factual basis for the Complaint was that Dr. Bejgum has been disciplined by the State of Illinois, Department of Financial and Professional Regulation, Division of Professional Regulation (hereinafter the Illinois Board). *Complaint ¶ 8*

6. Dr. Bejgum admits that on November 28, 2021, the Illinois Board issued an *Order* that indefinitely suspended his medical license for a minimum of four (4) years and fined him \$15,000, payable within six (6) months of the entry of the *Order*. *Answer ¶ 1*

7. Dr. Bejgum however denies any wrongful conduct. *Answer ¶ 2*

8. On March 5, 2020, the Illinois Board filed a single count Complaint against Dr. Bejgum alleging that he engaged in unprofessional, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public and immoral conduct in the commission of an act of sexual misconduct related to Dr. Bejgum's practice, in violation of Illinois law. Specifically he was alleged to have engaged in sexual misconduct, including touching a female patient's vagina during an examination without a clinical rationale and/or medical necessity. *Attachment to Motion, Administrative Law Judge's Report and Recommendation, p. 1.*

9. The matter proceeded to a formal hearing on April 29 and May 3, 2021. *Attachment to Motion, Administrative Law Judge's Report and Recommendation, pp. 1-2.*

10. On June 7, 2021, following the administrative hearing, the Administrative Law Judge issued a *Report and Recommendation* in which she concluded that the Illinois Board had proven, by clear and convincing evidence, that Dr. Bejgum had violated 225 ILCS 60§22 (A) (5) and 225 ILCS 60§22 (A) (20) as set forth in the Complaint filed by the Illinois Board. *Attachment to Motion, Administrative Law Judge's Report and Recommendation, p. 44*

11. The Administrative Law Judge recommended that the Illinois Board place Dr. Bejgum's Illinois license on indefinite suspension for a minimum of four years and impose a fine of \$15,000 payable within six months. *Attachment to Motion, Administrative Law Judge's Report and Recommendation, p. 46*

12. On June 16, 2021, the Illinois Board adopted the Administrative Law Judge's *Findings of Fact*, her *Conclusions of Law* and concurred in her *Recommendation* that Dr. Bejgum's license be suspended and that he be fined. *Attachment to Motion, Findings of Fact, Conclusions of Law and Recommendation to the Director.*

13. In opposition to the Board's Motion before this hearing officer, Dr. Bejgum advises that the Illinois Board denied his motion for rehearing and entered a final order on November 28, 2021. He further advises that Dr. Bejgum is appealing this matter to a court of law in Illinois. This appeal is pending. *Response to Motion for Summary Disposition ¶ 6*

14. Dr. Bejgum asserts that only two fact witness testified at the administrative hearing in Illinois; the complainant who claimed the wrongful conduct occurred, and Dr. Bejgum who denied the conduct. The Administrative Law Judge found the complainant's testimony to be more credible, thus her finding that the evidence supported the Illinois Board's claims. *Response to Motion for Summary Disposition ¶ 2*

15. The basis for his request for a rehearing by the Illinois Board and presumably his pending judicial appeal, is the claim that there are two other fact witness, both nurses who worked directly with him in his practice, who would have supported Dr. Bejgum's denial of the allegation against him. *Response to Motion for Summary Disposition ¶ 3*

16. Dr. Bejgum claims that both witnesses were reluctant to come forward and testify out of fear of repercussions from their employer, the hospital where they worked. The legal counsel who represented him in the administrative hearing in Illinois convinced him that these witnesses were not necessary to his case. According to Dr. Bejgum's response, these witnesses are now

willing to testify on his behalf. *Response to Motion for Summary Disposition* ¶ 3- 6

### CONCLUSIONS OF LAW

1. The Board has jurisdiction over this action pursuant to KRS 311.591 and KRS 311.595.

2. This administrative proceeding was conducted in accordance with the provisions of KRS Chapter 13B and KRS 311.591.

3. Under KRS 13B.090 (7) the Board has the burden to prove the allegations against Dr. Bejgum by a preponderance of the evidence.

4. Pursuant to KRS 13B.090 (2), “the hearing officer may make a recommended order in an administrative hearing submitted in written form if the hearing officer determines there are no genuine issues of material fact in dispute”.

5. Summary proceeding, such as those contemplated by KRS 13B.090 (2) are generally appropriate when, construing all evidence in favor of the party against whom the motion is made, there are no disputed issues of fact upon which reasonable minds could differ. *Bierman v. Klapheke*, 967 S.W. 2d. 16, 18 – 19 (Ky.1998)

6. In order to overcome a properly supported summary judgment motion the opposing party must present at least some affirmative evidence showing that there is a genuine issue of material fact for trial. *Steelvest, Inc. v. Scansteel Services Center, Inc.*, 807 S.W. 2d 476 (1991)

7. Pursuant to 201 KAR 9:081 Section 9 (2) (e) (3) (a) a licensee may not re-litigate a disciplinary action taken by another jurisdiction in a Board disciplinary proceeding. See also KRS. 311.595 (17) Therefore any evidence concerning the existence of favorable witnesses or evidence Dr. Bejgum may have presented to refute the claims made against him in the proceedings in Illinois is not relevant to the matter currently before this hearing officer. This evidence would not be admissible in a Kentucky administrative hearing. See KRS 13B. 090 (1)

8. 201 KAR 9:081 Section 9 (2) (e) anticipates an expedited resolution of the Complaint whenever the sole allegation is a disciplinary sanction imposed against a license by the licensing

board of another state.

9. To this end, 201 KAR 9:081 Section 9 (2) (e) (2) requires the prompt filing of a Motion for Summary Disposition by Board Counsel after an answer has been filed.

10. Furthermore 201 KAR 9:081 Section 9 (2) (e) (4)(a) states that the hearing officer shall rule on the motion “as soon as possible but no later than thirty (30) days after the motion is submitted for decision”.

11. Accordingly Dr. Bejgum’s renewed request that this matter be held in abeyance pending the judicial review of the action of the Illinois Board is contrary to this authority and must be **DENIED**.<sup>1</sup>

12. Dr. Bejgum has presented no evidence to refute the existence of the official record of the disciplinary action taken against his license in Illinois by the Illinois Board. 201 KAR 9:081 Section 9 (2) (e) (1) See *Response to Motion for Summary Judgment*

13. Although denying that he committed any acts of wrongdoing, Dr. Bejgum has admitted that he was subject to disciplinary action against his license to practice medicine in the state of Illinois. See *Findings of Fact* ¶ 6 -7 above

14. Based upon the pleadings and the record, there are no genuine issues of material fact upon which reasonable minds could differ. Accordingly judgment is appropriate as a matter of law under the provisions of 13B.090 (2).

15. Based upon the above findings of fact, the preponderance of the evidence supports the conclusion that Dr. Bejgum has violated KRS 311.595 (17) and is subject to sanction by the Board by virtue of his having been disciplined by the Illinois Board.

16. Upon finding that a licensee has violated any of the provisions of KRS 311.595 the Board has the power to:

---

<sup>1</sup> This request was first made in a pre-hearing conference held on April 12, 2022 and renewed in the licensee's Response to Motion for Summary Disposition.



...place a licensee on probation for a period not to exceed five (5) years; suspend a license for a period not to exceed five (5) years; limit or restrict a license for an indefinite period; or revoke any license heretofore issued by the Board.

17. In addition, the licensee's request that the hearing officer include language in this *Findings Of Fact, Conclusions of Law And Recommended Order* to address the effect of a hypothetical ruling by the reviewing court in Illinois is **DENIED**. Such language would be premature and inappropriate at this stage of the proceedings.

### **RECOMMENDED ORDER**

Based upon the foregoing findings of fact and conclusions of law, the hearing officer recommends the Board find Dr. Bejgum guilty of violating KRS 311.595(17), and impose any appropriate sanction for this violation.

### **NOTICE OF RIGHT TO FILE EXCEPTIONS AND TO APPEAL**

Pursuant to KRS 13B.110 (4), a party has the right to file exceptions to this recommended decision.

A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head. Transmittal of a recommended order may be sent by regular mail to the last known address of the party. Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal the circuit court will consider only the issues a party raised in written exceptions.

A party also has the right to appeal the Final Order of the agency pursuant to KRS 13B.140 (1 - 2) which states:

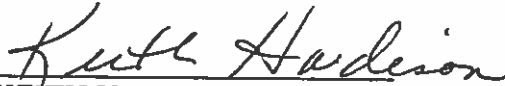
- (1) Except as provided in KRS 452.005, all final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the date of the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit

Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

- (2) A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged, and within any other agency authorized to exercise administrative review.

Pursuant to KRS 23A.010 (4), "Such review (by Circuit Court) shall not constitute an appeal but an original action." Some courts have interpreted this language to mean that summons must be served upon filing an appeal in circuit court.

So ORDERED this 3rd day of May 2022

  
KEITH HARDISON  
HEARING OFFICER  
2616 BARDSTOWN RD.  
LOUISVILLE KY 40205  
(502) 432-2332  
keithdiver@bellsouth.net

**CERTIFICATE OF SERVICE**

I hereby certify that the original of this **FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER** was hand delivered this 3<sup>rd</sup> day of May 2022, to:

JILL LUN  
KY BOARD OF MEDICAL LICENSURE  
HURSTBOURNE OFFICE PARK STE 1B  
310 WHITTINGTON PKWY  
LOUISVILLE KY 40222

for filing; and a true copy was hand delivered to:

HON. LEANNE K. DIAKOV  
GENERAL COUNSEL  
KY BOARD OF MEDICAL LICENSURE  
HURSTBOURNE OFFICE PARK STE 1B  
310 WHITTINGTON PKWY  
LOUISVILLE KY 40222

and a true copy was mailed via overnight mail to:

HON. BRIAN GOOD  
ELEDR AND GOOD PLLC  
159 N. ST. MATTHEWS AVE STE 1  
LOUISVILLE KY 40245

  
\_\_\_\_\_  
KEITH HARDISON  
HEARING OFFICER

FILED OF RECORD

MAR - 4 2022

K.B.M.L

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2044

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY PAVAN BEJGUM, M.D., LICENSE NO. 52262, 110 SOUTH 9<sup>TH</sup> STREET, MAYFIELD, KENTUCKY 42066

**EMERGENCY ORDER OF SUSPENSION**

At its February 17, 2022 meeting, the Kentucky Board of Medical Licensure (hereafter "the Board"), acting through its Inquiry Panel A, considered a memorandum prepared by Stephen Manley, Board Investigator, dated January 10, 2022; Notice of Preliminary Hearing and Complaint from the State of Illinois Department of Financial and Professional Regulation Division of Professional Regulation, dated March 5, 2020; State of Illinois Department of Financial and Professional Regulation Division of Professional Regulation Order and attached Findings, dated November 28, 2021; Application for Renewal of Kentucky Medical/Osteopathic License for Year 2021, dated February 1, 2021; correspondence from by Brian Good, Esq., dated December 10, 2021, including attachments; and correspondence from Fred Nicki, Esq., dated December 2, 2021.

Having considered all of this information and being sufficiently advised, Inquiry Panel A ENTERS the following EMERGENCY ORDER OF SUSPENSION, in accordance with KRS 311.592(1) and 13B.125(1):

**FINDINGS OF FACT**

Pursuant to KRS 13B.125(2) and based upon the information available to it, Inquiry Panel A concludes there is probable cause to make the following Findings of Fact, which support its Emergency Order of Suspension:

1. At all relevant times, Pavan Bejgum, M.D. ("the licensee"), was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Internal Medicine.
3. The licensee was also licensed by the State of Illinois Department of Financial and Professional Regulation Division of Professional Regulation ("the Illinois Board").
4. On or about March 5, 2020, the Illinois Board filed a Notice of Preliminary Hearing and Complaint, alleging that the licensee engaged in unwanted sexual contact with Patient A during an office visit, offered her money, and subsequently contacted her by phone and through another person on his behalf.
5. The Illinois Board held an administrative hearing regarding its allegations against the licensee on April 29-May 3, 2021.
6. On June 7, 2021, the Administrative Law Judge filed her Report and Recommendation with the Illinois Board.
7. On June 16, 2021, the Illinois Board adopted the ALJ's Findings of Fact and Conclusions of Law and concurred with her recommendation that the licensee be indefinitely suspended for a minimum of four (4) years and be fined \$15,000. The Findings of Fact, Conclusions of Law and Recommendation to the Director and the Administrative Law Judge's Report and Recommendation are attached hereto and incorporated herein.
8. On November 28, 2021, the Illinois Board issued an *Order* that indefinitely suspended the medical license held by the licensee for a minimum of four (4) years and fined the licensee \$15,000 payable within six (6) months of the entry of the *Order*.

### CONCLUSIONS OF LAW

Pursuant to KRS 13B.125(2) and based upon the information available to it, Inquiry Panel A finds there is probable cause to support the following Conclusions of Law, which serve as the legal bases for this Emergency Order of Suspension:

1. The licensee's Kentucky medical license is subject to regulation and discipline by this Board.
2. KRS 311.592(1) provides that the Board may issue an emergency order suspending, limiting, or restricting a physician's license at any time an inquiry panel has probable cause to believe that a) the physician has violated the terms of an order placing him on probation; or b) a physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.
3. There is probable cause to believe that the licensee has violated the provisions of KRS 311.595(17).
4. The Panel concludes there is probable cause to believe this physician's practice constitutes a danger to the health, welfare and safety of his patients or the general public.
5. The Board may draw logical and reasonable inferences about a physician's practice by considering certain facts about a physician's practice. If there is proof that a physician has violated a provision of the Kentucky Medical Practice Act in one set of circumstances, the Board may infer that the physician will similarly violate the Medical Practice Act when presented with a similar set of circumstances. Similarly, the Board concludes that proof of a set of facts about a physician's practice presents representative proof of the nature of that physician's practice in general. Accordingly, probable cause to believe that the physician has committed certain violations in the recent past presents

probable cause to believe that the physician will commit similar violations in the near future, during the course of the physician's medical practice.

6. The United States Supreme Court has ruled that it is no violation of the federal Due Process Clause for a state agency to temporarily suspend a license, without a prior evidentiary hearing, so long as 1) the immediate action is based upon a probable cause finding that there is a present danger to the public safety; and, 2) the statute provides for a prompt post-deprivation hearing. Barry v. Barchi, 443 U.S. 55, 61 L.Ed.2d 365, 99 S.Ct. 2642 (1979); FDIC v. Mallen, 486 U.S. 230, 100 L.Ed.2d 265, 108 S.Ct. 1780 (1988) and Gilbert v. Homar, 117 S.Ct. 1807 (1997). Cf. KRS 13B.125(1).

KRS 13B.125(3) provides that the Board shall conduct an emergency hearing on this emergency order within ten (10) working days of a request for such a hearing by the licensee. The licensee has been advised of his right to a prompt post-deprivation hearing under this statute.

#### EMERGENCY ORDER OF SUSPENSION

Based upon the foregoing Findings of Fact and Conclusions of Law, Inquiry Panel A hereby ORDERS that the license to practice medicine in the Commonwealth of Kentucky held by PAVAN BEJGUM, M.D., is SUSPENDED and Dr. BEJGUM is prohibited from performing any act which constitutes the "practice of medicine or osteopathy," as that term is defined by KRS 311.550(10) – the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities - until the resolution of the Complaint setting forth the allegations discussed in this pleading or until such further Order of the Board.


Inquiry Panel A further declares that this is an EMERGENCY ORDER, effective upon receipt by the licensee.

SO ORDERED this 4<sup>th</sup> day of March, 2022.

  
WAQAR A. SALEEM, M.D.  
CHAIR, INQUIRY PANEL A

CERTIFICATE OF SERVICE

I certify that the original of this Emergency Order of Suspension was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; and copies were mailed via certified mail return-receipt requested to the licensee, Pavan Bejgum, License no. 52262, 110 South 9<sup>th</sup> Street, Mayfield, Kentucky 42066, and to his counsel, Brian R. Good, Esq., Elder & Good, PLLC, 159 St. Matthews Avenue, Suite 1, Louisville, KY 40207 on this 4<sup>th</sup> day of March, 2022.

  
Sara Farmer  
Assistant General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
(502) 429-7150



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 Bejgum, M.D.,			)	No. 2018-11061
License No. 036-126543,		Respondent.	)	

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

Now comes the Medical Disciplinary Board (the "Board") of the Department of Financial and Professional Regulation, Division of Professional Regulation of the State of Illinois (the "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:

**FINDINGS OF FACT**

The Board adopts the Findings of Fact contained in the June 7, 2021 Administrative Law Judge's Report and Recommendation of the Administrative Law Judge Laura E. Forester (the "ALJ Report and Recommendation") and incorporates the Findings of Fact herein.

**CONCLUSIONS OF LAW**

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

**RECOMMENDATION TO THE DIRECTOR**

The Medical Disciplinary Board of the Department of Financial and Professional Regulation, Division of Professional Regulation of the State of Illinois, after making the above Findings of Fact and Conclusions of Law, concurs with the recommendation of the Administrative

Law Judge Laura E. Forester. The Medical Disciplinary Board recommends that the Illinois Physician and Surgeon License No. 036-126543 issued to Pavan Bejgum, M.D., be indefinitely suspended for a minimum of four (4) years and the imposition of fine in the amount of \$15,000 (fifteen thousand) payable within 6 (six) months of the entry of the final order.

DATED THIS 14th DAY OF June, 2021.

  
\_\_\_\_\_  
~~Amy Derick, M.D.~~ CHAIRPERSON  
SREENIVAS REDDY, MD

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

Pavan Bejgum, M.D., License No. 036-126543  
Case No. 2018-11061

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

ILLINOIS DEPARTMENT OF FINANCIAL  
AND PROFESSIONAL REGULATION,

Complainant,

vs.

PAYAN BEJGUM, M.D.  
License No. 036.126543

Respondent.

No. 2018-11061

ADMINISTRATIVE LAW JUDGE'S REPORT AND RECOMMENDATION

This report is being filed with the Illinois Medical Disciplinary Board (Board) by Administrative Law Judge Laura E. Forester pursuant to 20 ILCS 2105§2105-15(a)(5), 68 Ill. Admin. Code 1110.240, and 225 ILCS 60§35.

BACKGROUND OF CASE

Pavan Bejgum, Respondent, is the holder of a Certificate of Registration as a Physician and Surgeon, License No. 036.126543, issued by the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation (Department), pursuant to the Illinois Medical Practice Act (Act). Said license is currently in active status.

On March 5, 2020, the Department filed a single-count Complaint alleging that Respondent engaged in unprofessional, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public and immoral conduct in the commission of an act of sexual misconduct related to Respondent's practice in violation of 225 ILCS 60§22(A)(5) and (20). Specifically, the Department alleged that Respondent engaged in sexual misconduct including touching a female patient's vagina during an examination without a clinical rationale and/or medical necessity.

This matter proceeded to formal hearing on April 29 and May 3, 2021, before Administrative Law Judge Laura E. Forester. The Department was represented by staff attorney Vladimir Lozovskiy.

Respondent was present via WebEx along with his attorney, James Goldberg, who appeared in person.  
No Board member was present.

The Administrative Law Judge received the complete record on June 7, 2021.

### SUMMARY OF EVIDENCE

#### *Exhibits*

The following exhibits of the Department were admitted into evidence:

- A: IDFPR Complaint Report submitted by Robert Goins against Respondent dated November 13, 2018
- B: Verified Petition for Civil No Contact Order filed September 12, 2018, in Circuit Court of Illinois, First Judicial Circuit of Massac County, *J.E. v. Pavan Bejgum*, Case Number 2018-OP-80
- C: Memorandum of Johnna Douglas, HR Director of Massac Memorial Hospital
- D: Fax transmittal cover sheet from Massac Memorial Hospital dated July 15, 2019 to Dusty Van Brocklin; Medical Disciplinary Board Subpoena for Records of patient J. E. dated July 3, 2019; Certification of Custodian of Records, Sheila Johnston, dated July 15, 2019; Facsimile Cover Sheet dated July 9, 2018 to Massac Memorial Hospital from Dusty Van Brocklin; Medical records for patient J. E. from Massac Memorial Hospital
- E: Curriculum Vitae of John D. Zander, M.D.
- F: AMA Code of Medical Ethics
- G: Civil No Contact Order filed September 12, 2018, in Circuit Court of Illinois, First Judicial Circuit of Massac County, *J.E. v. Pavan Bejgum*, Case Number 2018-OP-80
- H: Order for Extension and/or Modification of Civil No Contact Order filed October 3, 2018, in Circuit Court of Illinois, First Judicial Circuit of Massac County, *J.E. v. Pavan Bejgum*, Case Number 2018-OP-80
- I: Civil No Contact Order filed November 15, 2018, in Circuit Court of Illinois, First Judicial Circuit of Massac County, *J.E. v. Pavan Bejgum*, Case Number 2018-OP-80
- J: Email from Dusty Van Brocklin to Respondent dated October 23, 2019; Email from Respondent to Dusty Van Brocklin dated November 7, 2019

The following exhibits of Respondent were admitted into evidence:

- 1: Curriculum Vitae of Respondent
- 4: Emails between Respondent and Thomas Reed dated June 20, 2018

5: Emails between Respondent and Thomas Reed dated June 20, 2018 and June 21, 2018

*Witnesses*

The following witnesses testified on behalf of the Department:

Patient J.E.

Johnna Douglas

Respondent (as an adverse witness)

John Zander, M.D.

The following witnesses testified on behalf of Respondent:

Respondent

Michael Rafati, M.D.

*Witness testimony – Department's case in chief*

*Patient J.E.*

Patient J.E. testified on behalf of the Department. Tr. p. 32. She testified that she is 33 years old, divorced and has two children (ages 6 and 6 months old). Tr. p. 35. She testified that she has an associate's degree, and she is currently taking classes at Southern Illinois University towards a bachelor's degree in mental health counseling and psychology. *Id.* She testified that she is currently employed as a server. *Id.*

Patient J.E. testified that she started seeing Respondent in September or October of 2017 for anxiety and depression. Tr. p. 38, 119. She testified as follows regarding why she started seeing Respondent:

[W]hen I first started seeing him it was because I was having a lot of anxiety attacks and issues with anxiety and depression and I had really no idea how to cope with them back then, other than medication. I hadn't learned the skills that I have now. And I was having a lot of trouble after getting divorced and losing the good insurance that I had and being put on Illinois medical card, which is very rough in my area, in my small town, to find anyone who will listen to you, help you, whatever. Dr. Bejgum was amazing the first time that I met him and it was because I was having anxiety issues. Tr. p. 38.

She testified that Respondent was aware of her anxiety issues and depression. Tr. p. 39.

Patient J.E. testified as follows:

[Respondent] was amazing because at that time I felt like nobody was listening to me, nobody would help me. I was struggling so much just to work. My anxiety was crippling. It was horrible. He did listen incidentally. He listened a lot, and he made me feel valid. He made me feel heard. He made me feel understood. He made me feel like he really cared. So to me, he was amazing at that time. Tr. p. 39.

She testified that "in the beginning" Respondent was someone who listened to her about "various things" going on in her life. Tr. p. 40. She testified that she was trying to lose weight "back then", and Respondent was her "cheerleader" in "a way a good doctor would do" about her "health and such." *Id.*

Patient J.E. testified that Respondent "turned it into a different level" of her body and not her health. Tr. p. 40. She testified that Respondent made it more about how her legs looked "in a pair of shorts" and "especially [her] breasts. He really liked to speak about [her] breasts." *Id.* She testified that the first comment Respondent made was when he asked if her breasts were real in front of her three-year-old son. *Id.* She testified that Respondent said, "women would pay a lot of money for those kinds of breasts" and he liked them. Tr. p. 41. She testified that she felt like she "wanted to die because [her] child was there"; she never took her child to another visit with Respondent. *Id.* She testified that up to that point she felt "pretty comfortable with him." *Id.*

Patient J.E. testified that up until January or February of 2018 Respondent was "very appropriate." Tr. p. 41. She testified that some of the things he said were "not things a typical doctor would say" but she did not find them offensive. Tr. pp. 41-42. She testified that she thought that Respondent was just being "especially nice" to her." Tr. p. 42. She testified that his remarks changed a few months after she started to see Respondent, and she continued to see him because there was "nowhere else" to get her medication. *Id.* She testified that at that time she felt she could not function or provide for her child without her anxiety and depression medications that Respondent prescribed for her. Tr. pp. 42-43.

Patient J.E. testified that there was never a chaperone present during her examinations with Respondent. Tr. p. 43. She testified that she continued to see Respondent even though she felt uncomfortable. Tr. pp. 43-44. She testified as follows:

Which after that time, he didn't see me as frequently and he didn't spend the time with me as far as, like, asking about my problems, asking things like that. Because at that point I didn't want to talk to him like that, and I think he's smart enough to know that. But he did continue to speak to me in a different way, which was about drinking, a lot about drinking. Apparently he really likes bourbon.

And he kept telling me I didn't need Xanax. I really just need to drink. I'm not a drinker. And you should never, as a doctor -- in my opinion this means nothing, but I wouldn't want my doctor to tell me to drink alcohol in solution to serious mental illness problems. Tr. p. 44.

Patient J.E. testified that she was aware "from the very beginning" that Respondent "was a drinker." Tr. pp. 46-47. She testified that Respondent would offhandedly make comments about how he would unwind, and she did not find it offensive. Tr. p. 47. She testified that she was offended when Respondent mentioned her breasts in front of her son. *Id.* She testified that from February of 2018 through June of 2018, Respondent would make "a lot of remarks about coming around [her] work after [she] got off work" so they could "meet" and "drink bourbon." Tr. p. 47.

Patient J.E. testified that Respondent told her that he had been outside of her work at times, but she had always been with people outside when he saw her. *Id.*

When Patient J.E. was asked why she continued to see Respondent, she testified as follows:

Why did I keep seeing him? Yeah, I'm really not proud of that. I'm not proud of my management of my anxiety at that time. I have since learned. I'm not on medication and I have since learned to cope and learn how to deal with things. But at that time, I just knew I had to work. I had to provide and I was really struggling. And I felt like I couldn't do it without that medication, and I'm really embarrassed about that. Tr. pp. 48-49.

When asked why she never expressed her discomfort to Respondent regarding his comments, her response was, "I don't know. He was my doctor." Tr. p. 52.

Patient J.E. testified that in June of 2018, she got double pneumonia. Tr. p. 50. She testified that she had to go to the hospital. Tr. p. 50. She testified before she was admitted to the hospital for double

pneumonia, she was very sick and went to see Respondent; he did not examine her properly; he gave her a prescription but did not listen to her. *Id.* She testified that Respondent did not listen to her chest, he did not take her seriously, and he was "obsessed" with how she looked more than anything else. *Id.* She testified that a few days later, she "almost collapsed" because she had double pneumonia and was still working. *Id.* She testified that she was taken to the emergency room at that time. *Id.*

Patient J.E. testified that Respondent came to the emergency room when she was there. Tr. p. 52. She testified that she was admitted to the hospital and was there for three days. Tr. p. 53. She testified that she was discharged without any instruction but had a follow-up appointment. *Id.* She testified that she needed to know when she could get back to work because she had missed over a week of work, and as a single mom who lives "day to day" it was "very hard." *Id.*

Patient J.E. testified that she went to see Respondent two days after she was discharged from the hospital which was June 15. Tr. p. 54. She testified that she felt "absolutely horrible." *Id.* She testified that she was by herself. Tr. p. 55. She testified that a nurse named Rochelle Holley brought her into the examination room, took her vitals, asked how she was feeling, and left the room. Tr. pp. 59, 121. She testified that she was in one of the waiting chairs. *Id.*

Patient J.E. testified that Respondent came into the examination room five or ten minutes later and told her that she looked "very sexy" that day." Tr. pp. 59-60. She testified that the door to the examination room was closed. Tr. p. 122. She testified as follows:

He was looking at me like I wasn't even a human being really. He was looking at me very inappropriately and he made me feel very uncomfortable, and I already felt really sick. He asked me to get on the table and so I got on the table. And he started his, I guess you would say exam. Tr. p. 60.

She testified that she was alone in the examination room with Respondent and was wearing a t-shirt and shorts. *Id.* She testified that Respondent did not ask her to change into a gown. *Id.* She testified that Respondent asked her to get on the examination table; she usually sat in the chair not the examination table. *Id.* She testified that Respondent would usually sit in the other chair and comfort her. *Id.*



Patient J.E. testified as follows:

I was trying to ask him questions about when I could go back to work, when I could start running again. When I was going to feel normal again because I still felt like I should have been in the hospital. I was really sick. He didn't seem to really want to talk about any of that. He blew off all my questions. He started to use his stethoscope to listen to my chest, but instead he was saying stuff to me about how attractive I looked, how good I looked, how much weight I'd lost, things like that. And then he stood back and put his stethoscope around his neck and then he tried to kiss me. And I turned my head just kind of out of instinct, and he kissed down my neck.

\* \* \* \* \*

I just kind of moved around. I was obviously very uncomfortable. I was shaking. I didn't really know how to feel, but I didn't scream. I didn't yell. I didn't kick him. I didn't try to run. I just tried to let him know I didn't want him to touch me.

He had -- he had backed up at that point. Well, I had acted like he was making me uncomfortable. He put his legs on my thighs and he held them down on the table. And his grip was tight in a way that let me know he was not really joking around with me, that he didn't want me to create much of a disturbance or problem, was how I felt. I felt like I needed to be still and just be still.

Q. He put his hands on your thighs, what did you do as a reaction?

A. Nothing. I let him. I stayed still.

Q. Did he touch you anywhere else?

A. Yeah. After that he moved one of his hands, his right hand, up my shorts and he made contact. I don't know how many fingers. I couldn't tell you which finger, I don't know. But his fingers, finger, made contact with my vagina, very briefly. And I immediately pushed away and he allowed that. He did not fight. He didn't even necessarily physically hurt me. He traumatized me, but he didn't actually physically -- but he inappropriately touched me. Tr. pp. 61-63.

Patient J.E. testified that Respondent kissed her neck down to her collarbone. Tr. p. 62. She testified that Respondent was not wearing gloves. Tr. p. 63. She testified as follows:

I will never forget the way he looked, how it looked, how it felt, all of it. The side of my shorts he was on. I don't wear shorts to this day. I wear leggings or jeans almost every single day. I'm screwed up about it. I'm screwed up about my body. Tr. p. 63.

She testified that it made her feel "gross", "scared", "disgusted", "disgusting", and "horrible." *Id.* She testified that Respondent "obviously" picked up on how she felt, and "he didn't force himself on [her] anymore." She testified that he removed his hands, and she was able to get up off the table. *Id.*

Patient J.E. testified that Respondent then put her in a "bear hug" and hugged her for "a really long time and then he shushed [her] like a baby." Tr. pp. 63-64. She testified that Respondent told her she was "okay", she was shaking and needed to calm down, and Respondent was trying to "comfort" her. Tr. p. 64. She testified no one came in the room. *Id.* She testified that Respondent kept telling her she was fine. *Id.* She testified that they were standing about six or seven feet from the door which was closed. *Id.*

Patient J.E. testified that she asked Respondent to give her the release to go back to work and her prescriptions because she did not feel well and wanted to go home. Tr. p. 64. She testified that Respondent asked her if she needed money, and she could not believe he asked her that. Tr. p. 65. She testified that she told him "no", and Respondent said to let him know if she ever needed anything because "he would always take care of [her]." Tr. p. 65. She testified that she felt like a "prostitute, not a patient who just had double pneumonia." *Id.* She testified that she told Respondent that she "really, really didn't feel well", she just wanted her meds and her release, and she wanted to go. *Id.*

Patient J.E. testified that Respondent said he wanted to see her that weekend because she could not go back to work just yet. Tr. p. 65. She testified that she had to wait a few days before she went back to work. *Id.* She testified that Respondent knew that her son was with her father on the weekends, and Respondent asked her if she wanted to get drunk. *Id.* She testified that Respondent said they should drink because that would make her feel better. *Id.*

Patient J.E. testified that she did not respond to Respondent's offer; she said nothing, but she was visibly crying and uncomfortable. Tr. p. 66. She testified that Respondent told her that he was having "bad thoughts" about her "while licking his top lip and biting his lip." *Id.* She testified that Respondent left the room to get the release and to get the prescriptions written. *Id.* She testified that when Respondent left, she left the room and went to the lobby to wait for the nurse to bring her the release and prescriptions. *Id.* She testified that Ms. Holley came out to the lobby and gave her the work release and prescriptions. Tr. p. 122. She testified that she never went back after that. Tr. p. 66.

Patient J.E. testified that she did not tell anybody in the lobby what had happened, and she "pretended like it didn't happen", and she was in shock. Tr. p. 67. She testified that she received her prescriptions and work release, and that was the last time she saw Respondent. Tr. p. 68. She testified that after she left the office, she told her best friend what happened. Tr. p. 70.

Patient J.E. testified that the next time she had any communication with Respondent was August 30, 2018, when he called her. Tr. p. 70. She testified that it was a Thursday afternoon; Respondent knew she was off on Thursdays. *Id.* She testified that Respondent called her sometimes on Thursday afternoons. She testified that Respondent called her to "check" on her and ask why she had not been in to get her refills. *Id.* She testified that she told Respondent that he knew why she had not been in. *Id.* She testified as follows: "He had taken advantage of me and I, to phrase myself, told him to leave me the fuck alone and never contact me again." *Id.*

Patient J.E. testified that the conversation lasted three minutes or less, and Respondent said, "I'm sorry that you felt that way, but that was not my intention." Tr. p. 71. She testified that she told Respondent never to contact her again, to leave her alone, and she hung up. *Id.* She testified that it made her feel "sick" to hear Respondent's voice again, and it "brought up a lot of things that [she] was really trying to bury at that time." *Id.* She testified that she was trying to get off Xanax and handle her anxiety in different ways, coping, and going to therapy. *Id.* She testified that she has thought about Respondent a lot for "a lot of days and a lot of years." Tr. p. 72.

Patient J.E. testified that on September 7, 2018, at 6:56 p.m., she received a message through Facebook Messenger from Ethan May. Tr. p. 72. She testified that she knew Ethan May from high school, he was a couple of years younger than her, they were not friends on Facebook or "in real life", but she was not suspicious of him. *Id.* She testified that he is somebody she knew in the town; it is a small town. *Id.*

Patient J.E. testified that she had never had communication with Ethan May through Facebook prior to September 7, 2018. *Id.* She testified that it was "scary" for her because of the subject matter, and it was "horrible" because she did not "want to deal with any of that." Tr. p. 73. She testified that she was trying to become a better person and "just move on" with her life. *Id.*

Patient J.E. identified Exhibit B as the Petition for Civil No Contact Order that included the Facebook messages she received on September 7, 2018. Tr. pp. 72-73, 78, 95-96. She testified that she was working at Steak 'n Shake as a server when she received these messages. Tr. p. 76. She testified that she responded to the message out of curiosity because the message indicated that Respondent "quit and you had something to do with it. Way to go girl. Getting a doctor to quit, what's your secret? LOL." Tr. pp. 76-77. She testified that she responded by asking how he knew that; she was feeling bad for months for not saying anything, so if Respondent had gotten fired, she wanted to know what was going on. Tr. p. 77.

Patient J.E. testified that she had not gone to the hospital to complain about Respondent because she did not believe that anybody would believe her. Tr. p. 77. She testified that she still does not believe anybody will believe her because "women are not believed. [She] has seen it a thousand times." *Id.* She testified that she just wanted to get on with her life and do better for herself and her child. *Id.*

Patient J.E. testified as follows regarding the Facebook messages she received on September 7, 2018:

Ethan came to me and said he thought it was crazy because he had heard his elderly neighbor saw on Facebook that Dr. Bejgum had got fired. He then turned the conversation completely around and said, my name is Ethan May and I know Dr. Bejgum. I am sorry for deceiving you, but I had to be sure before I could say anything else. And then the conversation completely turned from him thinking Dr. Bejgum was incompetent because he had misdiagnosed him, because that's how he deceived me to begin with, to Dr. Bejgum having young children and there being a strong chance that I could settle this privately out of court if I were to take away any formal statements I had made, which I had not even made. Tr. p. 82.

She testified that after receiving these messages she went to court to get a protective order against Respondent, but not on that date. Tr. p. 84. She testified that after she received the message relating to settling out of court, she responded as follows:

You gave me hope that someone was going to stop that man and he couldn't hurt any more women. You lied. I feel even worse than before and now you want to talk about money. I have a job. I work hard and make my money honestly. I don't care about his money. I care about what he's done to me and has done to others.

There are no words he can say to undo what he did. Tr. pp. 84-85.

Patient J.E. testified that she tried to "find out exactly who he was, his capacity as to why he was speaking to [her] in this manner for Dr. Bejgum, if it was Dr. Bejgum." Tr. p. 85. She testified that the message indicated that she should speak to a "mediator" of Respondent's and that he had a "banker". *Id.* She testified that the message indicated that she could "save a lot of emotional trauma" and she "wouldn't have to say [she] lied"; she would just have to say it was "a huge, huge misunderstanding". *Id.* She testified that it was her understanding that if she said these things, he would give her money. *Id.*

Patient J.E. testified that she is "not that kind of person." Tr. p. 85. She testified that she was scared after receiving all these messages, so she went to a domestic violence shelter in her town because she knows a lot of women that work there and they would know what to do. *Id.*

Patient J.E. testified that she was still at work when she received these messages. Tr. p. 86. She testified that at 11:25 p.m. on September 7, 2018, she had finished her shift and she responded to the messages as follows:

Don't communicate with me then. He should have thought about his young children and the privilege to be a doctor in this country before he did what he knows he did. He doesn't deserve to be called a doctor, let alone the right to practice medicine here or in any country. He's a predator who uses his position of power to abuse and take advantage of women. No sympathy whatsoever from me, the one he took advantage of. He picked the wrong girl. I'm not weak and I'm not stupid and I don't give a damn about money. Money can't buy what he has done to me. Tr. p. 87.

Patient J.E. testified that she received additional Facebook messages the following morning at 11:10 a.m. She testified that these messages involved going to the police and seemed to try to disparage

her character. Tr. p. 89. She testified that she did not respond further because it was "threatening", and she had to work that day. Tr. p. 90. She testified that she received an additional message indicating that Respondent's "banker" can work something out with her and a message that said, "so what's it going to take?" Tr. p. 91.

Patient J.E. testified that she received a message that indicated the following:

So let's chat, so what's it going to take? The police are not involved nor are they investigating him, which makes this much more sensitive. So let's be realistic and talk about what is going to make you feel better." Tr. p. 92.

She testified that she responded, "Leave me alone" and blocked him. *Id.* She testified that the last two pages of the Facebook messages are from "Ethan" to Lea Adams, her best friend. *Id.*

Patient J.E. testified that on Monday she confirmed that Respondent was gone from the clinic and that "scared" her. Tr. p. 93. She testified that she went to the women's shelter in town and spoke with Rita Gower, her "legal advocate through this whole process". *Id.* She testified that Ms. Gower helped her get in front of a judge and to get an emergency protection order (EPO) because she was feeling "very uncomfortable about the way he was speaking to [her] about money, about – just all of it." *Id.* She testified that she had a young child, it was just her and him, and she was "very scared." Tr. pp. 93-94.

Patient J.E. testified that another legal advocate, Amanda Kirby, typed up the petition based on exactly what she said. Tr. pp. 111-112, 132. She testified that it took a "very long time" because it was a "very sensitive subject matter to talk about." Tr. p. 112. She testified that she "was so emotionally distraught at the time", and she was "getting off Xanax after being prescribed it for two years, trying to change [her] medications. It was a very, very hard time." *Id.*

Patient J.E. testified that the verified petition (Exhibit B) was presented to a judge on September 12, 2018, in Massac County, Illinois, and, as a result, she obtained an EPO against Respondent. Tr. pp. 96-97. She testified that she spoke to police on September 12, 2018, regarding delivery of the EPO. Tr.

p. 98. She testified that she took the EPO to the Human Resources Board at the hospital because she felt "they should know" even though Respondent did not work for them anymore. Tr. pp. 98-99.

Patient J.E. testified that three to five days after she got the protective order, she went to Massac Memorial Hospital (MMH<sup>1</sup>) and stated that it was a "really sensitive matter" since the doctor had just recently stopped working at the hospital. Tr. pp. 102-103, 136. She testified that she was sent to the head of the department and spoke to the Director of Human Resources. She testified that she let the Director of HR read the petition (where she "painstakingly described what happened" to her) for herself so she did not have to say it out loud. Tr. p. 104. She testified that she went to MMH so they would know what Respondent did, and they could "send it to the proper people." *Id.*

Patient J.E. testified that she spoke with Dr. Patel around September 10<sup>th</sup>. Tr. p. 106, 138. She testified that she spoke to Dr. Patel because he treated "literally everybody" in her family for her "whole life." *Id.* She testified that Dr. Patel is her "grandpa's doctor"; he is a "small-town doctor" that used to be partners with Respondent. *Id.* She testified that she asked Dr. Patel if she should report the incident to the hospital. *Id.* She testified that she spoke with Dr. Patel after Respondent had left the hospital. Tr. p. 107.

Patient J.E. testified that Respondent did not come to court for matters relating to the EPO; he sent a lawyer to represent him. Tr. p. 107. She testified that in November of 2018 she received the final protective order (Exhibit D) in court which was effective for two years. *Id.* She testified that the order prohibited Respondent from contacting her directly or contacting her through other parties. Tr. p. 108.

Patient J.E. testified that the order specified that "Respondent is not to have Ethan May or Larry May call or message Petitioner on his behalf." Tr. p. 109. She testified that the judge included that in the

---

<sup>1</sup> Massac Memorial Hospital was referenced in multiple ways during the formal hearing including "Massac County Hospital" and "Massac Community Hospital". It will be referenced as MMH for purposes of this Report.

order. *Id.* She testified that Larry May is Ethan May's father, and he owns real estate including laundromats in town; "[p]retty much everybody knows who he is." Tr. p. 110.

Patient J.E. testified that she contacted the Director of Human Resources because she was concerned for "all women" that Respondent would be treating. Tr. p. 114. She testified that HR at the hospital sent her EPO to the State police. Tr. p. 115. She testified that the police came to her home "probably about two weeks after" she got the EPO, and she declined to press charges because she "just couldn't deal with it." *Id.* She testified as follows:

So I said, you know, they gave me their information. I knew how to contact them, did whatever I needed to do from that point on. But I, personally, after speaking to the women at the domestic violence shelter and just thinking about myself, I didn't want to take it further. I didn't think anybody would believe me. I still don't think anybody will believe me, and I think that he -- I knew nothing would come of it except for traumatic stress for myself. And I was already not very mentally well. I was having a very hard time obviously. My anxiety was not well, and so it just wasn't a good time. And then until your Department contacted me, I thought nothing of reaching out to anyone about this. Tr. p. 116.

Patient J.E. testified that she thinks it is "really important" that Respondent not be a doctor anymore and that he "never be given the power over women and the authority over women when he clearly wants to use it to his advantage." Tr. p. 116-17. She testified that she "could not live with [herself] if [she] did not speak [her] truth." Tr. p. 117.

Patient J.E. testified that her insurance is an Illinois medical card. Tr. p. 117. She testified that the Illinois medical card allowed her to see providers other than Respondent, but there are not a lot of options for medical care where she lives. Tr. p. 118. She testified that she had a vehicle that "would not let her drive that far" which limited her options. *Id.*

Patient J.E. testified that she had seen Respondent an estimate of twenty times before June 15, 2018, and Respondent made an improper comment during "probably the last five or six" visits. Tr. p. 123. She testified that she did not complain about Respondent's comments "given the situation" she was in; she felt like she would have to keep seeing Respondent to get her medications, and "no one would believe [her] anyway." Tr. pp. 123-24. She testified that there were one or two other doctors in town that took a



medical card, it is "very hard" to find providers, most places only take private insurance, and she had to go through Massac Mental Health. Tr. p. 125. She testified that after trying she was finally able to see a new doctor; she does not know how many other doctors were in town. Tr. p. 126.

Patient J.E. testified that Respondent said he did not know how he would deal with his life or "do anything in his life", and he'd have depression and anxiety too if he didn't drink every night, which he did. She testified that Respondent told her that "he drank every single night, and he said if [she] drank every single night [she] would feel better, too." Tr. p. 128. She testified that Respondent said that they could have "fun together drinking." *Id.* She testified that when Respondent said this she thought she should go to another doctor. *Id.*

Patient J.E. testified that she did not include that in the petition for the EOP. Tr. p. 128. She testified that she was just trying to get some antibiotics or a steroid for her bronchitis or pneumonia. Tr. p. 129. She testified that she did not expect to get "sexually assaulted" just because she let Respondent say inappropriate things to her. Tr. pp. 129-30. She testified that there is nothing in the petition for the EPO regarding Respondent's inappropriate comments during the estimated five visits before June 15. Tr. p. 130.

Patient J.E. testified that a legal advocate helped her prepare the petition for the EOP. Tr. p. 131. She testified that she told the whole story from the beginning of how Respondent acted "with the liquor" but it was not included in the petition. *Id.* She testified that she was not given the option to fill out the petition alone. Tr. p. 132. She testified that there was a three-month time period between the incident on June 15 to when she filed the petition for EPO at the domestic violence shelter in Metropolis, Illinois. Tr. pp. 134-35. She testified that the shelter is five minutes from her residence. Tr. p. 135.

Patient J.E. testified that she did not feel the need to file for an EPO until September because she had "been threatened at that point" by the Facebook messages she received. *Id.* She testified that she did not reach out to anybody until Respondent and Ethan May "took it upon themselves to try to mess with

[her]. [She] was leaving everyone alone." Tr. p. 137. She testified that she indicated in the Facebook messages that she had told "someone in a high capacity position" about Respondent's misconduct even though she had not. Tr. p. 138. She testified that she "wanted to see where he was going"; she lied in the Facebook message to "find out information to protect [herself]." Tr. p. 139. She testified that she did not feel threatened by Ethan May; she sought an EPO against Respondent only. Tr. pp. 139-40.

Patient J.E. testified that she continued to send messages to Ethan because she was "curious and he had information on a very sensitive manner (*sic*) that [she] hadn't told anyone." Tr. p. 141. She testified that the judge included Ethan May in the order; she did not ask for it; she did not feel she needed protection from Ethan. *Id.* She testified as follows:

[S]o it doesn't matter who they came from. It was about Bejgum, and Bejgum was the one I was afraid of at the time. I was very afraid of him. He sexually assaulted me so I didn't know what he was capable of at that time so I was afraid. *Id.*

Patient J.E. testified that she was afraid of Respondent "since he assaulted [her] on June 15<sup>th</sup> of 2018." Tr. p. 142. She testified that she was not afraid of Ethan May; she was afraid of what Respondent would do if she did not go along with what he was asking her through Ethan May. *Id.* She testified that she never asked Respondent if he had any involvement with the messages. *Id.* She testified that she did not go to the police about the messages. *Id.* She testified that the messages from Ethan were what prompted her to seek an EPO. Tr. p. 143. When asked what her "thought process" was for not seeking an EPO for three months, she testified as follows:

I did not go anywhere. I did not seek out the resources I knew where and how to receive, because I did not believe I would be believed. I wasn't raped. At the time, I didn't even really know what had happened to me, what my rights were. Until you have been assaulted, sir, I don't know — there's no way to handle certain situations. I don't know. Tr. p. 144.

Patient J.E. testified that she went to Dr. Patel on two separate occasions after the incident. Tr. p. 145. She testified that she went to Dr. Patel "right after it happened" in June, but "he had no authority, he was on the board, but he could not contact anyone about it. He couldn't say anything." Tr. pp. 146-48. She testified that it was a very brief conversation in an examination room at his office. Tr. p. 148. She

testified that Dr. Patel listened to her and did not recommend anything; he told her to do what she felt she needed to do. *Id.* She testified that she went to Dr. Patel after she got her EPO, and at that time, Dr. Patel told her to go to human resources, and she did. Tr. pp. 148-49.

Patient J.E. testified that she knew Dr. Patel was on the hospital board. Tr. p. 147. She testified that she felt she could go to Dr. Patel because he used to be partners with Respondent, he had been her family's doctor for a long time, and she trusted him. *Id.*

Patient J.E. testified that she felt "in her heart" that she was forced to take protective action and get an EPO because of all the messages she received for Respondent. Tr. p. 149. She testified that since she had already gone through that, she was going to make sure Respondent was held accountable. *Id.* She testified that she was not ready to get an EPO in June because she wanted to move on with her life, and she did not think anyone would believe her. Tr. p. 150.

Patient J.E. testified that it was strange to her that Respondent wanted her to come in every month for prescription refills instead of every three months. Tr. p. 152. She testified that it was hard for her to find a day for the appointments because she worked a lot, but she never brought it up with Respondent. *Id.* She testified that the incident on June 15 was the first time she felt "assaulted". Tr. p. 153.

Patient J.E. testified that she "mischaracterized" the length of the time for the appointment. Tr. p. 153. She testified that it was "shorter than normal" because "obviously things went a little differently." *Id.* She testified that usually she was able to "speak very freely about anything [she] had going on in [her] life"; Respondent was "like a counselor, confidant" but during that time the examination was very brief. Tr. pp. 153-54. She testified that the "rest of the time was done speaking about money and sexual things and sexual actions." Tr. p. 154. She testified that she "froze", she was "scared", Respondent is a "much larger man" than her, "[h]e's a doctor", and "[h]e's in power." Tr. pp. 157-58.

Patient J.E. testified that she felt "uncomfortable" and "kind of out of [her] body at times." Tr. p. 158. She testified that she could not move or yell; she could not do anything; she was frozen. *Id.* She

testified that it is something that happens when a woman is attacked – “you either run or you freeze.” *Id.* She testified that she wishes she had yelled or walked out. Tr. p. 159. She testified that Respondent grabbed her in a bear hug and told her to calm down because she was “shaking and crying.” *Id.*

Patient J.E. testified that her grandfather was a patient of Dr. Patel, and he would see Respondent when Dr. Patel was on vacation. Tr. pp. 159, 162. She testified that her grandfather really liked Respondent, and she did at first because he was especially kind to her grandfather. Tr. p. 162. She testified that she is very, very close to her grandfather; he is like her best friend. Tr. p. 163. She testified that when she told her grandfather that Respondent was making inappropriate comments to her, “he just kept seeing Dr. Patel.” *Id.*

Patient J.E. testified that she had missed a lot of shifts since she had been in the hospital with pneumonia and she needed to know if she had any restrictions and when she could go back to work. Tr. p. 164. She testified that she wanted to go back to work; she had to work. Tr. p. 165.

Patient J.E. was direct, responsive, and consistent during her testimony and had no motive to fabricate. Her demeanor was appropriate given the sensitive nature of her testimony. Thus, this Court finds patient J.E. to be a credible witness.

#### *Johnna Douglas*

Johnna Douglas testified on behalf of the Department. Tr. p. 169. She testified that she is the Director of HR at MMH and has been since August of 2016. Tr. p. 170. She testified that on September 12, 2018, she met with patient J.E. Tr. p. 171. She testified that she received a phone call that was forwarded to her, patient J.E. was on the line, and she said she wanted to speak to someone concerning an incident while she was a patient at the clinic. Tr. p. 173. She testified that patient J.E. did not disclose who was involved in the incident over the phone. Tr. p. 174. She testified that she could tell by her voice that she was “very upset” so she asked her to come in. Tr. p. 173.

Ms. Douglas testified that patient J.E. came into the office about thirty minutes later and spoke to her. Tr. p. 173. She testified that patient J.E. was "visibly upset" and "shaking". *Id.* She testified that patient J.E. told her that she had been to the courthouse earlier that day, she had to go in front of a judge and talk, and it made her "very nervous and anxious" so she "handed her the documents." *Id.*

Ms. Douglas testified that rather than have Patient J.E. tell her the entire story, she read the document, and they discussed what was in the document. Tr. p. 174. She testified that patient J.E. was "still very upset"; "she really just wanted to be heard." Tr. p. 175. She testified that she did not want to upset her anymore so she "just kind of listened" and let her tell her what she wanted to tell her. Tr. p. 176. She testified that at the end of the conversation she told patient J.E. that Respondent was no longer employed by the hospital, and she would pass the information along to the CEO of the hospital and to the appropriate individuals. Tr. p. 178.

Ms. Douglas testified that this was the first time she had become aware of any complaint that patient J.E. had regarding Respondent. Tr. p. 178. She testified that she needed to pass the information on to the CEO because Respondent was their employee at the time the incident took place. Tr. pp. 178-79. She testified that the next day the CEO and their corporate attorney met with the police department to "make them aware of the information" they had received. Tr. p. 179.

Ms. Douglas testified that she prepared notes on September 12, 2018, regarding her conversation with patient J.E. (Exhibit C) so she "could remember what was said and what had transpired." Tr. pp. 179-82. She testified that her note was not made part of the human resource file for Respondent. Tr. p. 181. She testified that she did not sign the note because it was for her own personal use "to remember what had happened during the meeting." *Id.* She testified that the CEO reported the incident to the Medical Disciplinary Board. Tr. p. 187.

Ms. Douglas testified that the next day she spoke to the city police officer about the incident. Tr. p. 188. She testified that she was told the matter would be turned over to the Illinois State Police for them

to investigate, and "at that point", they had "done their due diligence." Tr. p. 188. She testified that she did not receive a copy of the police report. *Id.*

Ms. Douglas testified that Dr. Patel does not work for the hospital. Tr. p. 190. She testified that she was aware that Respondent and Dr. Patel used to work together in a group. Tr. p. 191. She testified that she was not aware the Respondent had been terminated from the group. Tr. p. 192. She testified that Respondent's directorship at the clinic did not create any conflict that she was aware of, and she was not aware of any conflict between Respondent and Dr. Patel. *Id.*

Ms. Douglas professional, direct, responsive, and consistent during her testimony and had no motive to fabricate. Thus, this Court finds Ms. Douglas to be a credible witness.

#### *Respondent*

Respondent was called by the Department as an adverse witness in its case in chief. Tr. p. 193. Respondent testified that he currently works in Mayfield, Kentucky, at Williams Clinic which is affiliated with Jackson Purchase Medical Center. Tr. p. 194. He testified that he does some locum tenens work in Illinois at Union County Hospital in Anna and Marshall Browning Hospital in Du Quoin. Tr. p. 195. He testified that he works for Integrated Emergency Physician. *Id.*

Respondent testified that he went to Maharashtra Institute of Medical Sciences and Research in India for medical school. Tr. p. 196. He testified that he learned about respecting patients' rights in India. Tr. pp. 195-96. He testified that he came to the United States in August of 2006. Tr. p. 196. He testified that he went through a residency program in New Jersey from 2007 to 2010. Tr. p. 202.

Respondent testified that he learned "respect first", and "when the patient comes, listen to them, empathize if they are sad, reassure them." *Id.* He testified that he learned not to touch patients "unnecessarily" and to "respect their privacy." Tr. p. 197. He testified that he learned that he can share certain information with patients including that he has kids, where he is from, and where he graduated from. *Id.* He testified that he would never say "let's get drunk" instead of taking medications for

depression. Tr. p. 198. Respondent testified it is inappropriate to ask patients out, to offer patients money, and to tell a patient that she should be drinking alcohol to relax. *Id.*

Respondent testified that what he learned in medical school about boundaries and patient rights was reinforced during his residency. Tr. pp. 201-202. He testified that he was "one of the best" in the associate program. Tr. p. 202. He testified that proper boundaries include no unnecessary touching and limiting talk "that's not needed." Tr. p. 206. He testified that he is board certified in internal medicine. Tr. p. 206. He testified that he last sat for boards in 2010 and that it has been extended until 2022 due to COVID. *Id.*

Respondent testified that there is a professional responsibility section included in the board exam. Tr. p. 206. He testified that he should give "the best to the patients." Tr. p. 207. He testified that touching a patient's vagina without any clinical necessity is inappropriate, unprofessional and immoral. *Id.*

Respondent testified that he started working for Dr. Patel in October of 2010. Tr. p. 207. He testified that he started working at MMH in June of 2017. Tr. p. 208. He testified that he was "forced to resign" on September 7, 2018. *Id.*

Respondent testified that he started seeing patient J.E. at the end of 2017. Tr. pp. 208-209. He testified that he last saw patient J.E. on June 15, 2018. Tr. p. 209. He testified that he saw patient J.E. when she was admitted to the hospital when she had double pneumonia. *Id.* He testified that patient J.E. came to see him because "she burned her bridges with Dr. Stayton." Tr. p. 210. He testified that patient J.E.'s chief complaint was depression and anxiety. Tr. p. 213. He testified that he saw patient J.E. approximately fifteen to twenty times between the end of 2017 and June 15, 2018. *Id.* He testified that he was treating her with Zoloft and Xanax, and the scope of the visits was medication management. *Id.*

Respondent testified that he did not provide therapy for patient J.E. "just general how to live with depression, anxiety; how to cope with the things, that kind of stuff." Tr. p. 214. He testified that he encouraged patient J.E. "to live a better life" and "be happy." *Id.* He testified that patient J.E. came to

him for depression and anxiety, and "she always wanted her anxiety pills on dot. Like, she was taking three times a day, Xanax, which would be 90 pills a month." Tr. p. 215.

Respondent testified that patient J.E. asked him whether he was married, how many children he has and if he loves his family. Tr. p. 216. He testified that patient J.E. talked to him about her personal problems. *Id.* He testified that patient J.E. was trying to lose weight and was successful. Tr. p. 217. He testified that he encouraged her to lose weight because her BMI was higher. *Id.*

Respondent testified that he did not discuss his alcohol intake or his personal habits with patient J.E. Tr. p. 217. He testified that he did not compliment her about her appearance. Tr. p. 218. He testified that in June of 2018, he admitted patient J.E. to the hospital for pneumonia. Tr. p. 219. He testified that after patient J.E. was discharged, there was a follow-up appointment with him because he was her primary care physician. Tr. p. 220. He testified that patient J.E. was on Public Aid - Medicaid insurance. *Id.* He testified that he is on a special Visa that requires him to see every patient. Tr. p. 221.

Respondent testified that, on average, office visits took twenty to forty minutes "depending on number of complaints she has." Tr. p. 221. He testified that sometimes patient J.E. would tell "her personal stories" but her root complaint was depression and anxiety. *Id.* He testified that on June 15, patient J.E. came to see him to "follow up to go to work." Tr. p. 222. He testified that in order for patient J.E. to go back to work she had to be cleared by him. *Id.*

Respondent testified that the office visit was "15, 20 minutes or even lesser because she came for the clearance of the work." Tr. p. 222. He testified that he did a focused physical examination and listened to her heart and lungs. *Id.* He testified that he examined her legs to make sure they were not swollen because being in the hospital can cause deep vein thrombosis. Tr. p. 223. He testified that patient J.E. "sounded well" so he "was clearing her to go back to work, which she did not like." *Id.* He testified that he issued the return-to-work paper and the nurse gave it to her because "Rochelle took care of her while she was there in the room, yeah." *Id.*



Respondent testified that he issued fifteen days of anxiety pills and three months of depression medication. Tr. p. 224. He testified that the follow-up visit would be early July. *Id.* He testified that patient J.E. did not show up in July or August for a follow-up. Tr. pp. 224-25. He testified that he did not contact patient J.E. when she did not show up in July. Tr. p. 226. He testified that he did not follow-up with patient J.E. when she did not show up; there was no discussion on June 15 about her no longer seeing him. Tr. p. 228. He testified that prior to June 15, patient J.E. had missed a couple of appointments, and she did not follow up within the week of the missed appointment. Tr. p. 229.

Respondent testified that he called patient J.E. in August "because her grandfather was admitted to a different hospital with a heart condition." Tr. p. 230. He testified that the conversation was just two minutes. *Id.* He testified that prior to August he had not called patient J.E. Tr. p. 231. He testified that he did not ask her why she had not been coming to see him. *Id.* He testified that his "intention was just to ask her about her grandfather because of the new finding diagnosis on him." *Id.* He testified that she told him to "leave her the fuck alone" then testified that "she did not exactly use those words." Tr. p. 232. He testified that she said she was taking her grandfather to Dr. Patel. *Id.*

Respondent testified that patient J.E. did not tell him how he made her feel during the June office visit. Tr. p. 232. He testified that during the June 15, 2018, office visit he did not touch her "[o]ther than the routine examination." *Id.* He testified that there was no reason for him to touch her vaginal area. *Id.* He testified that he did not give her a bear hug and did not kiss her. Tr. p. 233. He testified that patient J.E. was "not screaming" but was "upset" that her grandfather had a "new-found problem" during the August 30<sup>th</sup> conversation. *Id.* He testified that was the last time he spoke with patient J.E. *Id.*

Respondent testified that a sheriff served him with an emergency no contact order (Exhibit G) on September 14. Tr. pp. 233-34. He testified that this was the first time he heard that patient J.E. had problems with him and the first time he learned about the Facebook messages. Tr. pp. 234, 245. He testified that he was surprised by her allegations that he inappropriately touched her and was making her

uncomfortable. Tr. p. 235. He testified that he was served with the order at his home in Kentucky by police, and he was "panicked". Tr. p. 241. He testified that the police gave him a copy of the order. Tr. p. 243. He testified that the order prohibited him from being within 500 feet of patient J.E. Tr. p. 238. He testified that prior to receiving the order he was not aware of where patient J.E. worked, and he never drove by her place of employment. Tr. pp. 238-39.

Respondent testified that he was specifically notified not to have Ethan May or Larry May contact patient J.E. on his behalf. Tr. p. 239. He testified that he knows Ethan and Larry May; Larry May used to take care of his properties, and his wife works as a case manager in a hospital where he worked. *Id.* He testified that Ethan May is their son. *Id.* He testified that Larry May worked for him by taking care of his rental properties for approximately two years. Tr. pp. 240-41. He testified that he paid Larry May ten to fifteen percent of the rental income which was approximately \$500 per month. Tr. p. 281.

Respondent testified that he contacted Larry May's wife "probably" within one week to ten days from receiving the EPO. Tr. p. 242. He testified that he understood that violating the order could result in being criminally charged and prosecuted. *Id.* He testified that he spoke to Larry May when Larry came by his home about the order "probably" two or three days after he spoke to his wife about it. Tr. p. 243. He testified he did not talk to Ethan May. Tr. p. 244. He testified that he hired an attorney, Joe Neely (a former patient), within one week to ten days of receiving the order. *Id.* He testified that he received a copy of the petition for the order a week after receiving the EPO (September 21, 2018). *Id.*

Respondent testified that Mr. Neely appeared on his behalf in court on October 3, 2018, and the EPO was continued to December 5, 2018, and the matter was set for February 5, 2018. Tr. pp. 247-49. He testified that there was a finding in the EPO that he was found to be engaged in non-consensual sexual conduct or non-consensual sexual penetration with patient J.E. Tr. p. 249. He testified that he eventually signed the final Civil No Contact Order (Exhibit I) as his "attorney suggested", and he understood that he

had the ability to come to a trial. Tr. p. 250. He testified that he agreed to stay away from patient J.E. and not to communicate with her. *Id.*

Respondent testified that the order was in effect for two years and he agreed not to communicate or go within 500 feet of patient J.E., not to communicate with her through third parties, and that there was a factual basis for entry of the restraining order. Tr. pp. 253-54. He testified that he did not remember "knowing everything from it." Tr. p. 254. When asked what the factual basis was for entering a two-year restraining order, Respondent testified as follows:

My attorney suggested that this is what she wanted, mutual agreement. But not mutual but he say, like, you know, when he talked to her he tell exactly what -- she was crying and she don't want to be in middle of this. She wanted to end it. So there is a reason he said let's just do the way she wants. Tr. p. 256-57.

Respondent testified that he was aware that Patient J.E. showed up in court each time the EPO was before the judge. Tr. p. 257. He testified that he did not go to court because of his schedule. *Id.* He testified that he did not tell his current employer that he had a two-year Civil No Contact Order against him by a patient of his practice. Tr. pp. 257-58. He testified that he told the hospital he is affiliated with currently that he has a complaint pending before the Illinois Medical Disciplinary Board as soon as the Board contacted him; he informed them there was an investigation going on. Tr. p. 258.

Respondent testified that he was contacted by Investigator Dusty Van Brocklin as part of the investigation. Tr. p. 258. He testified that as part of his communication with Investigator Van Brocklin (an email to Investigator Van Brocklin on November 7, 2019, (Exhibit J)), he acknowledged that there was a patient named Jessica and that she "later withdrew the case". Tr. pp. 258-60, 262, 267. He testified that he "misinterpreted the mutual agreement as a withdrawal." Tr. p. 259. He testified that he did not include information about signing the two-year restraining order that he signed in his communications with the Department investigator. Tr. p. 260.

When asked again to provide the factual basis for the restraining order, Respondent testified as follows:

The basis that I should not communicate because someone tried to communicate on behalf for me. I don't know why. But on that basis, they say not to communicate with her so I did not communicate with her. Tr. p. 261.

He testified that Exhibit J is an accurate copy of the email he received from Investigator Van Brocklin on October 23, 2019 and his response to that email on November 7, 2019. Tr. p. 267-68. He testified that patient J.E. never sued him. Tr. p. 270. He testified that he does not have a banker. Tr. p. 272.

Respondent testified that he resigned from the hospital after being told there was a complaint against him but was not told the name of the complainant. Tr. p. 273. He testified that, given his Visa status, if he was terminated, he would have to leave the country within one month. *Id.* He testified that with a resignation he would have two to three months to get a new job. *Id.*

Respondent then testified that patient J.E. was the basis for his resignation, he was told that patient J.E. was the complainant, but he was not given the details. Tr. pp. 274-76, 278. He testified that the first he learned that patient J.E. complained about his inappropriate conduct was on September 7, 2018, when he was resigning when Greg Goins, the hospital CEO, Donna (*sic*) Douglas, the head of HR, and Rick Able, the hospital attorney, told him that patient J.E. made a complaint against him. Tr. pp. 276-78.

Respondent testified that the letter dated September 16, 2019, that he sent to Investigator Van Brocklin (Exhibit K) did not include anything about patient J.E. being the reason that he resigned from the hospital. Tr. pp. 278-79. He testified that he did not mention in the email (dated November 7, 2019) to Investigator Van Brocklin (Exhibit J) that the reason he resigned was because patient J.E. made a complaint against him. Tr. p. 280.

Respondent was non-responsive, inconsistent, and evasive at times during his testimony. Respondent was directly impeached by his prior statements and portions of his own testimony during the formal hearing. Thus, Respondent was not a credible witness.

*John Zander, M.D.*

John Zander testified on behalf of the Department in its case in chief. Tr. p. 301. He testified that he has been a physician for forty years. *Id.* He testified he graduated from Bates College in Lewiston, Maine, in 1966. Tr. p. 302. He testified that he went to medical school at the University of Hawaii for two years and Emory in Atlanta, Georgia, for two years and graduated in 1971. *Id.* He testified that he completed his general surgery residency at the University of South Florida in Tampa and a fellowship at Michigan State University. *Id.* He testified that he is board certified and is licensed to practice medicine in Illinois. Tr. pp. 302-303.

Dr. Zander testified that he is employed as a Deputy Medical Coordinator for the Department and has been in that position for twelve years. Tr. p. 303. He testified that he was Acting Chief Medical Coordinator last year. *Id.* He testified that his duties are to evaluate complaints or mandatory reports, write a synopsis, and present it to the Board so the Board can determine whether a case should be closed or sent to the Prosecutions Unit. Tr. pp. 303-304. He testified that prior to becoming a Deputy Medical Coordinator he practiced at the Springfield Clinic in Springfield, Illinois, for thirty-five years. Tr. p. 304. He testified that he was on the Board of Directors for four years. *Id.* He testified that he was also on various committees like finance, insurance, and building. Tr. p. 305.

Dr. Zander testified that he has reviewed an average of five to six cases per year related to physician professionalism and boundaries. Tr. p. 305. He testified that he has testified before an administrative law judge two or three times and was qualified as an expert. Tr. p. 306. He testified that he has testified before the Director for a summary suspension case and was qualified as an expert. *Id.*

Dr. Zander testified that as part of his duties as Deputy Medical Coordinator he utilizes the AMA Code of Medical Ethics with regard to sexual boundaries, and the Code of Ethics is considered authoritative for physicians for guiding principles expected for medical ethics. Tr. pp. 307-308. Dr. Zander was qualified as an expert in professionalism, ethics, and boundaries expected of physicians in

Illinois. Tr. p. 313. Dr. Zander identified Exhibit E as a correct and accurate copy of his curriculum vitae. Tr. p. 316.

Dr. Zander testified that he reviewed documents in preparation for this case including the admission records for patient J.E. from June 2018, documents relating to the Civil No Contact Order, the complaint filed by the hospital, the memorandum prepared by Ms. Douglas, the statements provided to the Department by Respondent, and the AMA Code of Ethics. Tr. pp. 317-18. He testified that patient J.E. was seeing Respondent for depression and anxiety, and general medical conditions. Tr. p. 318.

Dr. Zander testified that if patient J.E. came to Respondent's office on June 15, 2018, for medical care, Respondent held her down by placing his hands on her upper thighs as she was seated on the examination table, attempted to kiss her, and kissed her neck when patient J.E. turned her head this would constitute a breach of physician responsibility to this patient. Tr. p. 322. He testified that this would be a boundary issue and violates the first principle of the AMA Code of Ethics. *Id.* He testified that maintaining proper boundaries is ethically important due to the superior position of the physician. Tr. pp. 322-23. He testified that if physicians do not maintain proper boundaries they could groom patients for later activities because the relationship is "one of student/teacher." Tr. p. 323.

Dr. Zander testified that a patient suffering from depression and anxiety would be "more vulnerable" to suggestions made by the physician, so the physician is expected to maintain strict boundaries with that patient. Tr. p. 324. He testified that trying to kiss a patient is not behavior expected of a physician in Illinois because it would be considered a sexual advance. Tr. p. 325. He testified that if a patient was being seen for double pneumonia there is no clinical scenario where it would be indicated or proper for a physician to force his hand inside a patient's pants and underwear and touch her vagina. Tr. pp. 325-26.

Dr. Zander testified that "[w]ithout explaining the rationale for such a sexual act, there would never be any indication for that act to occur." Tr. p. 326. He testified that, based on the information that was

available to him, there was no clinical justification for Respondent to touch patient J.E.'s vagina two days after she was discharged from the hospital after a double pneumonia diagnosis. *Id.* He testified that touching patient J.E. who is vulnerable because she is suffering from anxiety and depression could lead to psychological harm, could lead to mistrust of physicians in general, and could be the basis for post-traumatic stress. Tr. pp. 326-27.

Dr. Zander testified that patient J.E. could be "totally taken aback by someone she trusted and believed was totally interested in her as a person but now is interested in her as a sex object." Tr. p. 327. He testified that it would cause patient J.E. some mental anguish. *Id.* He testified that offering to consume alcohol with patient J.E. would not be behavior expected of a physician in Illinois because it is "contrary to sound medical advice and more of an incident of apparent grooming to the patient." Tr. pp. 327-28.

Dr. Zander testified that this behavior would violate physician-patient boundaries. Tr. p. 328. He testified that commenting to patient J.E. about her breasts and telling her she looked "sexy" would violate proper physician boundaries. *Id.* He testified that offering money to patient J.E. during an office visit and telling her he would take care of her would violate physician boundaries and would make "the patient more like a prostitute." Tr. p. 329.

Dr. Zander testified that the fact that Respondent was the subject of a two-year restraining order "just adds to the boundary issue," Tr. p. 331. He testified that the behavior described previously would violate the AMA Code of Ethics by failing to provide competent medical care with compassion and respect for human dignity and rights and would demonstrate "moral indifference." Tr. p. 332, 334. He testified that this type of conduct would violate the physician-patient relationship. Tr. p. 334.

Dr. Zander was professional, direct, responsive, and consistent during his testimony, and he had no motive to fabricate. Thus, this Court finds Dr. Zander to be a credible witness.

*Witness testimony – Respondent's case in chief*

*Respondent*

Respondent testified on his own behalf in his case in chief. Tr. p. 387. He testified that he went to college in India and came to the United States to continue his residency at Raritan Bay Medical Center. Tr. p. 388. He testified that after finishing his residency, he had the option of either leaving the country or working "in an underserved area under H-1B visa, in a category of national interest waiver job." *Id.* He testified that this is how he came to work with Dr. Patel in Metropolis, Illinois. Tr. pp. 388-89. He testified that if he worked in an underserved area, he would eventually be given green card status. Tr. p. 389.

Respondent testified that his first job in Metropolis was to help Dr. Patel with his practice. Tr. p. 389. He testified that Dr. Patel is a cardiologist who has been in the area for thirty years; he is a board member at MMH. Tr. pp. 389-90. He testified that starting in October 2010, he was employed by Dr. Patel "[o]n the basis of general practice" so he saw patients in the office, hospital, and nursing home. Tr. p. 392. He testified that he worked for Dr. Patel until June of 2017 then Respondent moved to MMH as Medical Director. *Id.*

Respondent testified that patient J.E. became his patient MMH. Tr. pp. 392-93. He testified that patient J.E.'s family went to Dr. Patel. Tr. p. 393. He testified that he left Dr. Patel because they "were having problems" because Dr. Patel wanted him to leave town after five years and he did not leave. Tr. p. 394. He testified that Dr. Patel wanted to "kick [him] out of the hospital", and they were "having lots of conflicts." Tr. p. 399. He testified that there were a lot of fights between him and Dr. Patel "because he was thinking that [he] was stealing his patients." Tr. p. 402. He testified that he was "one of the leading doctors" of patient care and hospital admissions which Dr. Patel did not like. Tr. p. 402-403.

Respondent testified that there were multiple occasions when Dr. Patel told him he was taking his patients, and Dr. Patel did not like that. Tr. p. 404. He testified that he was "getting popular at the clinic,



and the patients were following [him]." Tr. pp. 404-405. He testified that he orally reported these issues to the hospital. Tr. pp. 406-407. He testified that he was admitting more patients than Dr. Patel, and the patients were following him to his clinic. Tr. p. 409.

Respondent testified that on June 20, 2018, Respondent emailed Tom Reed and continued to have correspondence with him on June 21, 2018. He testified that between June 15, 2018, and September 7, 2018, he had a "lot of conflict" with Dr. Patel. Tr. p. 410. He testified that he previously had an issue with Dr. Patel where his "scrivices were terminated." Tr. p. 411. He testified as follows:

After finishing my five years for the H-1B visa, Dr. Patel was of the impression that I would leave the community and go somewhere else. But I did not leave because I had a good patient following there, and I thought it was my better option for the growth. During that period, he did not — I face a lot of trouble from him as I was staying there. Tr. p. 413.

Respondent testified that this led to "a break" of his employment. Tr. p. 413. He testified that he approached the hospital and "they were kind enough to provide a job as a medical director." *Id.* He testified that he ended up getting some of Dr. Patel's patients; the conflict between him and Dr. Patel was financial. Tr. p. 414. He testified that since he left, Dr. Patel was not making as much money, and he was making more money. *Id.*

Respondent testified that on June 20, 2018, he sent Thomas Reed an email (Exhibit 4) "regarding the problems that [he] was facing at the clinic." Tr. p. 418. He testified as follows:

I was noting discrepancy how many people can have physician where I was seeing 25 to 30 patients a day, and I had only one nurse to take help. But other physicians were seeing five patients or ten patients, and they also had one nurse. Because of this discrepancy, my patients were having trouble that I was not able to send them to the referrals. There was a lot of pending work. So when I approached the hospital, they said I should cut down my patient numbers. Tr. p. 420.

He testified he put it in writing because he wanted to show that he was having trouble with the board, Dr. Patel, and the hospital during that period, and they "were trying to kick [him] out of the hospital." Tr. p. 421. He testified that he sent an email on June 21, 2018, indicating that he was not given enough help at the clinic to work. Tr. p. 424. He testified that the conflict he was having could have led to his termination. Tr. p. 425.

Respondent testified that patient J.E. was referred to him from "local behavioral health" because the doctor there was not able to come to the town, so patient J.E. was referred to him "to help with her medication." Tr. p. 425. He testified that he was working as a primary care physician and director for the clinic. Tr. p. 426. He testified that patient J.E. had a diagnosis of anxiety and depression. *Id.* He testified that patient J.E. had already been diagnosed and he continued her medication. *Id.* He testified that he saw patient J.E. at the Massac Memorial Health Clinic every thirty to forty-five days from the end of 2017 until June of 2018. Tr. pp. 426-27.

Respondent testified that initially he and patient J.E. did not have any problems. Tr. p. 427. He testified that patient J.E. was on Public Aid which allows her to see other providers; there were four other providers who take Public Aid in Metropolis within a one-mile radius. *Id.* He testified that he and patient J.E. had "frequent arguments about increasing the medication." Tr. p. 430. He testified that on June 15<sup>th</sup>, patient J.E. came in for a work release and "needed some medication again." *Id.*

Respondent testified that patient J.E. had been admitted to the hospital with pneumonia from June 10<sup>th</sup> to the 13<sup>th</sup>, and "she needed to get the release from the primary care provider that she is fit enough to go back to work." Tr. p. 431. He testified that patient J.E. came to his office on June 15<sup>th</sup> to get the work release. *Id.* He testified that he told patient J.E. that she could go back to work "but she did not like it." *Id.* He testified that patient J.E. was "stressed out because she was not able to get the payment from her job because she was sick, and she did not go. And she thought she needed more medication to be given so that she can get through the situation." Tr. p. 432. He testified that he did not increase her medication because she was just in the hospital; she should use the medication that she did not use. *Id.*

Respondent testified that he has a nurse and "front desk crew" (three people) at the office, and he "never" had an office visit when he was alone with patient J.E. Tr. p. 439. He testified that he had "individuals that are in the actual patient room" with him and the patient "because of [his] accent to be

able to be there to interface with the patient." *Id.* He testified that patient J.E. did not complain to him or anybody about his conduct prior to June 15. Tr. p. 440.

Respondent testified that the June 15<sup>th</sup> visit took five to ten minutes and described it as follows:

June 15 visit was very short. She came for the work release. I knew I had to before release her, I check her, and make sure she was fit to go back. So me and Rochelle then while in course of examining her in her physical, I talk with Jessica, and she said that she still feeling not well, she is still coughing, she -- what you call -- she use the words she feel like crap. But her heart rate, blood pressure and oxygen saturation was good. I then listen to her lungs. Her lungs were clear. Her heart rate was normal. So I told her that there is no way I cannot -- no way I cannot -- to keep postponing her work release. She is fit from my point of view so she can go back to work. Tr. pp. 440-41.

He testified that patient J.E.'s diagnosis was recovery from pneumonia, and "she still had some anxiety because she did not make money. She was a little bit stressed out during that day." Tr. p. 441.

Respondent testified that patient J.E. did not leave the room abruptly and did not fight with him. Tr. p. 444. He testified that between June 15<sup>th</sup> and September 7<sup>th</sup> he was "going through lots of stress from the hospital administration and Dr. Patel." *Id.* He testified that he was not given notice regarding patient J.E.'s complaint. Tr. p. 445. He testified that the first time patient J.E.'s complaint was brought to his attention was September 7<sup>th</sup>. *Id.* He testified that he first learned about the Civil No Contact Order on September 14<sup>th</sup>. *Id.* He testified that he never went to a hearing or appeared in court regarding the Civil No Contact Order. *Id.*

Respondent testified as follows when asked whether he agreed to the plenary order:

No, I did not. The attorney called me, my attorney, and said that he talked to the lawyer for Jessica. She was crying, and she told him she don't want to -- all she just wants is to settle it down. So my attorney called saying that she don't want to fight with you. Would you like to sign? She is willing to sign the paper. So that's all.

\* \* \* \* \*

That means like not to communicate with Jessica for two more years which I did not have any problem with. Tr. 447.

Respondent testified that was the first communication with the hospital regarding patient J.E.'s complaint. Tr. p. 448. He testified that his attorney told him "to sign the papers", and he signed it. Tr. p. 459. He testified that he did not agree with the allegations in the June 15<sup>th</sup> paragraph. *Id.*

Respondent testified that he did not touch patient J.E. inappropriately or say anything inappropriate. Tr. p. 460. He testified that when he agreed to the November 15<sup>th</sup> order, he was just agreeing not to communicate with patient J.E. for two years. *Id.* When asked why he did not challenge the Civil No Contact Order, he testified as follows:

One thing was as my attorney suggested that I should do this, and other thing is the hospital had me sign severance package where they clearly said I should not be talking as little as possible. Tr. p. 461.

Respondent testified that he was "forced to resign" on September 7<sup>th</sup>; the meeting was "actually to talk about [his] salary increasing." Tr. p. 461. He testified as follows:

I was told -- I was given option whether to resign or get terminated. If only get terminated, they are going to give me explanation why and who complained. If not, I had to resign. Given the situation if I get terminated, I would be expelled from the country within one week or ten days if I don't get a job. H-1B visa impossible to get a job in one or two weeks, so I resign. And I sign, and I was aware I was still under the hospital severance for three to four months where I can hopefully get new job. Tr. p. 463.

Respondent testified that the "talks" referenced in Exhibit K are talks with the CEO regarding increasing his salary and getting better working conditions. Tr. p. 472. He testified that the "personality conflicts" referenced in Exhibit K were with the CEO and Dr. Patel. Tr. p. 473.

Respondent testified that when he met with hospital administrative staff on September 7<sup>th</sup>, he was not given the name of the patient who complained. Tr. p. 481. He testified that the emails that he sent (Exhibits 4 and 5) do not specifically name Dr. Patel. Tr. p. 482. He testified that when he signed the order on November 15, 2019, he did not have the opportunity to read it; the attorney told him "sign here, and you will be done. That's all [he] did." Tr. p. 483.

Respondent testified that Exhibit K does not specifically mention Dr. Patel, but it was regarding him. Tr. p. 486. Respondent testified that he did not apologize to patient J.E. when he spoke to her on August 30<sup>th</sup>. Tr. p. 489.

Respondent was frequently non-responsive, inconsistent, and evasive which bears directly on his credibility. He contradicted his own testimony multiple times.

Michael Rafati, M.D.

Michael Rafati, M.D., testified on behalf of Respondent in his case in chief. Tr. p. 494. He testified that he has been a physician since 1991. *Id.* He testified that he was an emergency physician at MMH for approximately fourteen years. *Id.* He testified that he met Respondent in 2010 when he was hired by Dr. Patel to be his partner at his cardiology/internal medicine practice. Tr. p. 495. He testified that he has known Dr. Patel for fourteen or fifteen years. *Id.*

Dr. Rafati testified that Dr. Patel is "the main doctor that admits to the hospital." Tr. p. 496. He testified that Dr. Patel is "a very influential physician", and he is on the board of the hospital. *Id.* He testified that in 2017, Dr. Patel "dissolved the contract"; Respondent was the "go-to guy for all of us", he was "current", "very knowledgeable", and "very pleasant to be around." Tr. pp. 497-98.

Dr. Rafati testified that Respondent was Dr. Patel's employee. Tr. p. 498. He testified that Dr. Patel accused Respondent of stealing his patients. Tr. p. 499. He testified that there was a conflict between Dr. Patel and Respondent in 2018. Tr. p. 500. He testified that Respondent was fired because Dr. Patel was "losing patients" to Respondent in the clinic, "and everybody knew it." Tr. p. 504.

Dr. Rafati was professional and responsive during his testimony. Thus, this Court finds him to be a credible witness but notes that his knowledge about matters relevant to the Complaint is limited which bears directly on the weight given to his testimony.

### FINDINGS OF FACT

This Administrative Law Judge makes the following Findings of Fact based on clear and convincing evidence presented at the formal hearing:

1. Respondent is presently the holder of a Certificate of Registration as a Physician and Surgeon, License No. 036.126543, issued by the Department. Said license is currently active. Answer.
2. The Department has jurisdiction to investigate complaints and to bring action pursuant to 225 ILCS2105/2105-15(a)(5) and 225 ILCS Section 60/36. Answer.
3. At all times stated herein, Respondent was employed as a physician at Massac Memorial Hospital (MMH) in Metropolis, Illinois. Answer.
4. At all times stated herein, Respondent engaged in the practice of medicine as a physician and surgeon in the state of Illinois. Answer.
5. Between June 10, 2018 and June 13, 2018, Respondent was providing care, treatment and evaluation for patient J.E. while she was admitted to MMH for pneumonia. Answer; Tr. pp. 52-53.
6. On or about June 15, 2018, Respondent saw patient J.E. at MMH's clinic for a post-hospital follow-up visit. Answer; Tr. p. 54.
7. During the June 15, 2018 office visit, Respondent entered J.E.'s examination room alone and said, "[Patient J.E.], how are you doing? You look sexy today." Tr. p. 60.
8. During the June 15, 2018 office visit, Respondent put his legs on patient J.E.'s thighs and held them down on the table. Tr. p. 62.
9. During the June 15, 2018 office visit, Respondent made the following remarks to patient J.E.:
  - a. Respondent wanted patient J.E. to get drunk;
  - b. Respondent wanted to hang out and get drunk with patient J.E. Tr. pp. 65, 128.

10. During the June 15, 2018 office visit, Respondent held patient J.E. down and tried to kiss her. Tr. pp. 61-62, 152, 156-57.
11. During the June 15, 2018 office visit, Respondent forced his hand into patient J.E.'s underwear and touched patient J.E.'s vagina. Tr. pp. 62, 157, 232.
12. During the June 15, 2018 office visit, Respondent did not have a clinical rationale and/or medical necessity to kiss patient J.E. Tr. pp. 233, 325.
13. During the June 15, 2018 office visit, Respondent did not have a clinical rationale and/or medical necessity to touch patient J.E.'s vagina. Tr. p. 326.
14. Respondent hugged patient J.E. Tr. pp. 63-64, 159.
15. On June 15, 2018, Respondent indicated that he wanted to see patient J.E. over the weekend. Tr. p. 65.
16. On June 15, 2018, Respondent offered patient J.E. money. Tr. pp. 65, 85, 154.
17. On June 15, 2018, Respondent advised patient J.E. that if she needed money, he would take care of her. Tr. p. 65.
18. Patient J.E. did not return to see Respondent as a patient after the June 15, 2018 office visit. Tr. pp. 66, 209.
19. On or about August 30, 2018, Respondent contacted patient J.E. on the phone. Tr. pp. 70, 130.
20. During said August 30, 2018 phone conversation, patient J.E. told Respondent that:
  - a. Respondent took advantage of her;
  - b. Respondent needed to leave patient J.E. alone;
  - c. Respondent should never contact patient J.E. again. Tr. pp. 70-71, 134, 163, 232.
21. On or about September 7, 2018, Respondent resigned from MMH. Answer; Tr. p. 208.

22. On or about September 7, 2018, an individual purporting to be "Ethan May" contacted patient J.E. Exhibit B; Tr. pp. 72, 76, 78.
23. On September 12, 2018, patient J.E. reported Respondent's sexual abuse to MMH. Exhibit C; Tr. pp. 102, 172.
24. On or about September 12, 2018, patient J.E. filed a Petition for Civil No Contact Order against Respondent. Answer; Exhibit B; Tr. pp. 94-95.
25. On or about September 12, 2018, an Emergency Civil No Contact Order (Sexual Conduct and/or Penetration) was issued against Respondent in the Circuit Court of Illinois, First Judicial Circuit, Massac County. Answer; Exhibit G; Tr. p. 97.
26. On or about November 15, 2018, a plenary Civil No Contact Order was entered by agreement in the Circuit Court of Illinois, First Judicial Circuit, Massac County. Answer; Exhibit I; Tr. pp. 107, 447

*Relevant Statutory Provisions*

*225CS 65§22(A) Disciplinary action (in pertinent part)*

(A) The Department may revoke, suspend, place on probation, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action as the Department may deem proper with regard to the license or permit of any person issued under this Act, including imposing fines not to exceed \$10,000 per violation, upon any of the following grounds:

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

(20) Immoral conduct in the commission of any act including, but not limited to commission of an act of sexual misconduct relate to the licensee's practice.

*68 Ill. Admin. Code §1285.240 Standards (in pertinent part)*

a) Dishonorable, Unethical or Unprofessional Conduct

1) In determining what constitutes dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public, the Disciplinary Board shall consider whether the questioned activities:

A) Are violative of ethical standards of the profession (such as safeguard patient confidence and records within the constraints of law; respect the



rights of patients, colleagues and other health professionals; observe laws under the Act and pertaining to any relevant specialty; to provide service with compassion and respect for human dignity);

- B) Constitute a breach of the physician's responsibility to a patient;
  - E) Caused actual harm to any member of the public; or
  - F) Are reasonably likely to cause harm to any member of the public in the future.
- 2) Questionable activities include, but are not limited to:
- E) Committing of any other act or omission that breaches the physician's responsibility to a patient according to accepted medical standards of practice.

b) Immoral Conduct

- 1) Immoral conduct in the commission of any act related to the licensee's practice means conduct that:
- A) Demonstrates moral indifference to the opinions of the good and respectable members of the profession;
  - B) Is inimical to the public welfare;
  - C) Abuses the physician/patient relationship by taking unfair advantage of a patient's vulnerability; and
  - D) Is committed in the course of the practice of medicine.
- 2) In determining immoral conduct in the commission of any act related to the licensee's practice, the Disciplinary Board shall consider, but not be limited to, the following standards:
- A) Taking advantage of a patient's vulnerability by committing an act that violates established codes of professional behavior expected on the part of a physician;
  - B) Unethical conduct with a patient that results in the patient engaging in unwanted personal, financial or sexual relationships with the physician;
  - D) Committing an act, in the practice of persons licensed under the Act, of a flagrant, glaringly obvious nature, that constitutes conduct of such a distasteful nature that accepted codes of behavior or codes of ethics are breached;

- E) Committing an act in a relationship with a patient so as to violate common standards of decency or propriety; or
- F) Any other behavior that violates established codes of physician behavior or that violates established ethical principles commonly associated with the practice of medicine.

*68 Ill. Admin. Code §1110.190 Burden of Proof*

- (a) The burden of proof rests with the Department in all cases instituted by the Department by the filing of a Complaint. A recommendation for discipline may be made by the Committee or hearing officer only where the Department establishes by clear and convincing evidence that the allegations of the Complaint are true.

ANALYSIS

Pursuant to 20 ILCS 2105§2105-10 of the Illinois Civil Administrative Code, the practice of the regulated professions, trades and occupations in Illinois is declared to affect the public health, safety, and welfare of the people of Illinois and, in the public interest, is subject to regulation and control by the Department of Professional Regulation. It is further 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. 20 ILCS 2105§2105-10.

The general purpose of the Act is 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, 856 N.E.2d 422, 435 (Ill. 2006), citing *Ikpoh v. Department of Professional Regulation*, 338 Ill.App.3d 918, 926, 789 N.E.2d 442, 449 (1<sup>st</sup> 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 sets. *Middleton v. Clayton*, 128 Ill. App. 3d 623, 470 N.E.2d 1271 (1<sup>st</sup> Dist., 1984); *Kaplan v. Department of Registration and Ed.*, 46 Ill.App.3d 968, 361 N.E.2d 626 (1<sup>st</sup> Dist., 1977).

The Department established that Respondent engaged in sexual misconduct with patient J.E. by making inappropriate comments, kissing her, and touching her vagina during an office visit. As a result of this misconduct, Patient J.E. obtained a restraining order against Respondent after receiving messages

regarding Respondent's misconduct. Respondent did not contest the restraining orders entered in Massac County and agreed there was a factual basis to enter a plenary order prohibiting him (and others at his behest) from communicating with patient J.E.

Patient J.E. was credible — she had no motive to fabricate and was consistent in her testimony. Her testimony alone was sufficient to establish the allegations in the complaint by clear and convincing evidence. It is sufficient for a conviction if the complaining witness is clear and convincing *or* the testimony is corroborated by some other evidence, fact, or circumstance of the case. (Emphasis added). *People v. Priola*, 203 Ill.App.3d 401, 561 N.E.2d 82 (2d Dist., 1990) citing *People v. Thompson*, 198 Ill.App.3d 417, 555 N.E.2d 1122 (5<sup>th</sup> Dist., 1990); *People v. Daniels*, 164 Ill.App.3d 1055, 518 N.E.2d 669 (2d Dist., 1987). The testimony of the complaining witness need not be uncontradicted, unimpeached, crystal clear, or perfect in order to be considered clear and convincing. *Daniels* at 1078. A complainant's testimony will be considered clear and convincing if it is consistent and any discrepancies do not detract from its reasonableness. *People v. Findlay*, 177 Ill.App.3d 903, 532 N.E.2d 1035 (2d Dist., 1988). These cases pertain to criminal matters; there is a lesser burden of proof for purposes of this administrative proceeding as articulated above.

Patient J.E. stood to gain nothing by testifying, in fact, she was visibly distressed, upset, and cried multiple times during her testimony (e.g., Tr. pp. 32-33, 37, 58, 67) which demonstrates the ongoing harmful effect of Respondent's misconduct. Her testimony was compelling. Patient J.E. had to relive the events of June 15, 2018, by testifying which was very difficult for her as demonstrated below:

I felt kind of like I'm feeling again, very overwhelmed. I had not seen him since the incident occurred, because even though I went through all these court processes, he has not. He has not physically been there. So this is the first time I have seen his face since he assaulted me. So it was very hard to see his face. It is hard to see his face. Tr. p. 37.

Patient J.E. did not seek monetary damages by filing a civil lawsuit and declined Respondent's offer to give her money when she was in the examination room which further supports her testimony that she just wanted to put this traumatic situation behind her. Her reluctance to take formal action is consistent

with her desire not to relive the trauma caused by Respondent's actions and fear that no one would believe her.

While Respondent repeatedly attempted to attack patient J.E.'s credibility because she did not seek a restraining order until September of 2018, patient J.E. testified that she was prompted to obtain a protective order after she received communications regarding Respondent's misconduct on September 7, 2018, via Facebook Messenger, the same date that Respondent was "forced to resign" when he met with MMH administrators.

Respondent was not credible based on his observed demeanor and multiple instances of impeachment and inconsistent testimony, and he has a motive to fabricate. Specifically, in his Answer, Respondent denies calling patient J.E. on August 30, 2018; however, Respondent testified under oath that he did call patient J.E. on that date. Tr. pp. 70, 130. Respondent also denies in his Answer that patient J.E. did not return to see him as a patient after June 15, 2018, but admits it during his testimony. Tr. p. 209. Respondent also testified that when he met with hospital administrative staff on September 7<sup>th</sup> he was not given the name of the patient who complained (Tr. p. 481) but subsequently testified that he was given the name of the patient who complained and stated patient J.E. was the reason he was "forced to resign."

Respondent was also not credible when he testified to the circumstances of his signing the Civil No Contact Order (Exhibit I). He testified that when he signed the order on November 15, 2019, he did not have the opportunity to read it; the attorney told him "sign here, and you will be done. That's all [he] did." Tr. p. 483. This simply does not make sense and begs the question: Why would a physician agree to cease contact with a patient for no reason?

Respondent testified that patient J.E.'s allegations were a "surprise" to him, yet he did not contest the restraining orders entered that specify the basis for the relief sought by patient J.E. In fact, the Massac County Judge specifically found that "[t]he parties stipulate to a factual basis for the issuance of a Civil

No Contact Order." Exhibit I at p. 4. Respondent was asked multiple times to articulate the factual basis for the Civil No Contact Order but was evasive and non-responsive.

Respondent's communications with Department Investigator Van Brocklin also serve as impeachment and undermine his credibility. Respondent failed to disclose any information about the restraining orders or that he was "forced to resign" because of patient J.E.'s complaint. Specifically, Respondent writes a letter to Investigator Van Brocklin on September 16, 2019, (Exhibit K; Tr. pp. 278-79) wherein he states the following:

*Dear Sir,*

*I did receive the letter asking for statement, why I suddenly resigned from my position at Massac Memorial hospital*

*1, I have in talks with hospital CEO for couple months before this all happened about increasing my base salary, which did not go well*

*2, we had personality conflicts with each other and other physicians*

*3, Most importantly, As per the initial contract with hospital, whoever breaks the contract after 1 year, the employee stops working immediately and will be on payroll for the next 3 months and will have to finish the left over work, am sending part of the contract which says the same (copy) When I changed the job, I thought the new employer will update my info with the board, am sorry about that, I did update that information.*

In addition, Investigator Van Brocklin emailed Respondent on October 23, 2019, as follows (Exhibit J; Tr. pp. 267-68):

*Good morning Dr. Bejgun. I have a few more questions about this case. I see you say you left Massac Memorial because of a dispute over money, but can you please answer these questions:*

*Do you remember a patient Miss [J.E.]?  
What went on with this patient?*

To which Respondent replied:

*I know that person, she was my patient  
She filed case against me 9-12-19  
Later she withdrew the case  
It's been more than 1 year now since this happened*

At no point during his communications with Department Investigator Van Brocklin does Respondent disclose any information regarding patient J.E.'s complaint or the multiple restraining orders. This significantly undermines Respondent's credibility.

Respondent also contradicted his own testimony during the formal hearing regarding the basis for his resignation and what he was told. He testified that patient J.E. was the basis for his resignation, he was told that patient J.E. was the complainant, but he was not given the details (Tr. pp. 274-76), in contrast to his earlier testimony when he states he first learned about patient J.E.'s complaint on September 14, 2018.

This Court rejects Respondent's posited theory that individuals at MMH concocted a story regarding Respondent's sexual misconduct with patient J.E. in order to force him to resign. This theory is not supported by the evidence. There may have been a financial disagreement between Respondent and his employer, but this is in no way related to the allegations set forth in the Complaint, the hospital's decision to remove Respondent from its staff, or Mr. Goins' obligation to notify the Department of the complaint made by patient J.E. to HR.

Given all of the evidence presented, this Court concludes that the Department has proven the allegations set forth in the complaint.

#### CONCLUSIONS OF LAW

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

1. The Board has jurisdiction over the subject matter and the parties in this case.
2. The Department proved by clear and convincing evidence that Respondent violated 225 ILCS 60§22(A)(5) as set forth in Count I in the Complaint.
3. The Department proved by clear and convincing evidence that Respondent violated 225 ILCS 60§22(A)(20) as set forth in Count I in the Complaint.

### AGGRAVATING/MITIGATING FACTORS

When making a determination of the appropriate disciplinary sanction to be imposed, the Department shall consider factors in aggravation and mitigation pursuant to 68 Ill. Admin. Code §1130.200 and 20 ILCS 2105§2105-130<sup>2</sup>. This Court finds the following aggravating factors to be present: 20 ILCS 2105§2105-130(b)(1), (4), (5), (6), (7), and (9). This Court finds the following mitigating factor to be present: 20 ILCS 2105§2105-130(c)(1).

Respondent breached a fundamental component of the physician-patient relationship: trust. "The Hippocratic Oath, taken by physicians since time immemorial, states that medical providers must abstain from sexual relations with their patients." *Flores v. Santiago*, 2013 IL App (1st) 122454, 986 N.E.2d 1216 (Ill. App. 2013). It is well established that physician sexual misconduct exploits the physician-patient relationship. This is particularly serious and disturbing when the patient suffers from conditions relating to mental health.

In this case, patient J.E. suffered from anxiety and depression, and Respondent was treating her for these conditions. Respondent exploited an especially vulnerable patient. When asked why she never expressed her discomfort to Respondent regarding his comments, her response was, "I don't know. He was my doctor." Tr. p. 52. This demonstrates the implicit trust the public has towards physicians and the potential for abuse. The impact of Respondent's misconduct on patient J.E. is significant as demonstrated

---

<sup>2</sup> 20 ILCS 2105§2105-130 Determination of disciplinary sanctions.

Aggravating factors: (1) the seriousness of the offense; (2) the presence of multiple offenses; (3) prior disciplinary history; (4) the impact of offenses on any injured party; (5) the vulnerability of any injured party, including, but not limited to, consideration of the injured party's age, disability, or mental illness; (6) the motive for the offenses; (7) the lack of contrition for the offense; (8) financial gain as a result of committing the offenses; and (9) the lack of cooperation with the Department or other investigative authorities.

Mitigating factors: (1) the lack of prior disciplinary action by the Department or by other agencies in this State, by other states or jurisdictions, hospitals, health care facilities, residency programs, employers, insurance providers, or by any of the armed forces of the United States or any state; (2) contrition for the offenses; (3) cooperation with the Department or other investigative authorities; (4) restitution to injured parties; (5) whether the misconduct was self-reported; and (6) any voluntary remedial actions taken.

by her difficulty testifying and her testimony relating to her ongoing struggle when thinking of the trauma she suffered at the hands of a physician she trusted and relied on for mental health treatment.

Respondent's motive for the offense was his own pleasure. Respondent lacked contrition for his actions and failed to apologize when given the opportunity. Tr. pp. 71, 489. Respondent did not cooperate with the Department as evidenced by Exhibits J and K where he not only failed to disclose information sought but provided misleading information when the Department's investigator inquired further. Respondent's testimony during the formal hearing was also inconsistent and frequently evasive or non-responsive which constitutes a lack of cooperation.

Regarding mitigating factors, there is no evidence that Respondent has any prior disciplinary actions taken on his medical license in Illinois or elsewhere.

After fully considering the evidence presented at the formal hearing, the aggravating and mitigating factors, and the applicable law, including the purpose of the Act, this Court determines that the public safety, health, and welfare would be best served by the imposition of indefinite suspension of Respondent's Certificate of Registration as a Physician and Surgeon for a minimum period of time that reflects the aggravating factors present in this case and the imposition of a fine pursuant to 225 ILCS 60/22(A) which allows for up to \$10,000 for each violation. The Department proved by clear and convincing evidence that Respondent violated two provisions of the Act (225 ILCS 60§22(A)(5) and (20). This Court recommends that a \$7500 fine be imposed for each of these violations.

#### RECOMMENDATION

Based on the above Findings of Fact, Conclusions of Law, and Factors in Aggravation and Mitigation, this Administrative Law Judge recommends to the Board that Respondent's Certificate of Registration as a Physician and Surgeon be placed on indefinite suspension for a minimum of four years and the imposition of a fine of \$15,000 payable within six months of the entry of the final order.



Dated: June 7, 2021

Respectfully submitted:

/s/

Laura E. Forester  
Administrative Law Judge

*Pavan Bejgum*  
036.126543  
2018-11061

FILED OF RECORD

COMMONWEALTH OF KENTUCKY  
BOARD OF MEDICAL LICENSURE  
CASE NO. 2044

MAR - 4 2022

K.B.M.L.

IN RE: THE LICENSE TO PRACTICE MEDICINE IN THE COMMONWEALTH OF KENTUCKY HELD BY PAVAN BEJGUM, M.D., LICENSE NO. 52262, 110 SOUTH 9<sup>TH</sup> STREET, MAYFIELD, KENTUCKY 42066

**COMPLAINT**

Comes now the Complainant Waqar A. Saleem, M.D., Chair of the Kentucky Board of Medical Licensure's Inquiry Panel A, and on behalf of the Panel which met on February 17, 2022 states for its Complaint against the licensee, Pavan Bejgum, M.D., as follows:

1. At all relevant times, Pavan Bejgum, M.D. ("the licensee"), was licensed by the Board to practice medicine within the Commonwealth of Kentucky.
2. The licensee's medical specialty is Internal Medicine.
3. The licensee was also licensed by the State of Illinois Department of Financial and Professional Regulation Division of Professional Regulation ("the Illinois Board").
4. On or about March 5, 2020, the Illinois Board filed a Notice of Preliminary Hearing and Complaint, alleging that the licensee engaged in unwanted sexual contact with Patient A during an office visit, offered her money, and subsequently contacted her by phone and through another person on his behalf.
5. The Illinois Board held an administrative hearing regarding its allegations against the licensee on April 29-May 3, 2021.
6. On June 7, 2021, the Administrative Law Judge filed her Report and Recommendation with the Illinois Board.

7. On June 16, 2021, the Illinois Board adopted the ALJ's Findings of Fact and Conclusions of Law and concurred with her recommendation that the licensee be indefinitely suspended for a minimum of four (4) years and be fined \$15,000. The Findings of Fact, Conclusions of Law and Recommendation to the Director and the Administrative Law Judge's Report and Recommendation are attached hereto and incorporated herein.
8. On November 28, 2021, the Illinois Board issued an *Order* that indefinitely suspended the medical license held by the licensee for a minimum of four (4) years and fined the licensee \$15,000 payable within six (6) months of the entry of the *Order*.
9. By his conduct, the licensee has violated KRS 311.595(17). Accordingly, legal grounds exist for disciplinary action against his license to practice medicine in the Commonwealth of Kentucky.
10. The licensee is directed to respond to the allegations delineated in the Complaint within thirty (30) days of service thereof and is further given notice that:
  - (a) His failure to respond may be taken as an admission of the charges;
  - (b) He may appear alone or with counsel, may cross-examine all prosecution witnesses and offer evidence in his defense.
11. NOTICE IS HEREBY GIVEN that a hearing on this Complaint is scheduled for June 21, 2022, at 9:00 a.m., Eastern Standard Time, at the Kentucky Board of Medical Licensure, Hurstbourne Office Park, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222. Said hearing shall be held pursuant to the Rules and Regulations of the Kentucky Board of Medical Licensure and pursuant to KRS

Chapter 13B. This hearing shall proceed as scheduled and the hearing date shall only be modified by leave of the Hearing Officer upon a showing of good cause.


WHEREFORE, Complainant prays that appropriate disciplinary action be taken against the license to practice medicine in the Commonwealth of Kentucky held by PAVAN BEJGUM, M.D.

This 4<sup>th</sup> day of March, 2022.

  
WAQAR A. SALEEM, M.D.  
CHAIR, INQUIRY PANEL A

**CERTIFICATE OF SERVICE**

I certify that the original of this Complaint was delivered to Mr. Michael S. Rodman, Executive Director, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222; a copy was mailed to Keith Hardison, Esq., Hearing Officer, 2616 Bardstown Road, Louisville, Kentucky 40205; and copies were mailed via certified mail return-receipt requested to the licensee, Pavan Bejgum, License no. 52262, 110 South 9<sup>th</sup> Street, Mayfield, Kentucky 42066, and to his counsel, Brian R. Good, Esq., Elder & Good, PLLC, 159 St. Matthews Avenue, Suite 1, Louisville, KY 40207 on this 4<sup>th</sup> day of March, 2022.

  
Sara Farmer  
Assistant General Counsel  
Kentucky Board of Medical Licensure  
310 Whittington Parkway, Suite 1B  
Louisville, Kentucky 40222  
(502) 429-7150

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. 2018-11061
Pavan Bejgum, M.D.,		)	
License No. 036-126543,	Respondent.	)	

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

Now comes the Medical Disciplinary Board (the "Board") of the Department of Financial and Professional Regulation, Division of Professional Regulation of the State of Illinois (the "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:

**FINDINGS OF FACT**

The Board adopts the Findings of Fact contained in the June 7, 2021 Administrative Law Judge's Report and Recommendation of the Administrative Law Judge Laura E. Forester (the "ALJ Report and Recommendation") and incorporates the Findings of Fact herein.

**CONCLUSIONS OF LAW**

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

**RECOMMENDATION TO THE DIRECTOR**

The Medical Disciplinary Board of the Department of Financial and Professional Regulation, Division of Professional Regulation of the State of Illinois, after making the above Findings of Fact and Conclusions of Law, concurs with the recommendation of the Administrative

Law Judge Laura E. Forester. The Medical Disciplinary Board recommends that the Illinois Physician and Surgeon License No. 036-126543 issued to Pavan Bejgum, M.D., be indefinitely suspended for a minimum of four (4) years and the imposition of fine in the amount of \$15,000 (fifteen thousand) payable within 6 (six) months of the entry of the final order.

DATED THIS 11th DAY OF JUNE, 2021.

Sreenivas Reddy  
~~Amy Derick, M.D.~~ CHAIRPERSON  
SREENIVAS REDDY, MD

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

\_\_\_\_\_  
MEMBER

Pavan Bejgum, M.D., License No. 036-126543  
Case No. 2018-11061

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

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION,	)	
	)	
	)	
vs.	)	No. 2018-11061
	)	
PAYAN BEJGUM, M.D.	)	
License No. 036.126543	)	
	)	
Respondent.	)	

ADMINISTRATIVE LAW JUDGE'S REPORT AND RECOMMENDATION

This report is being filed with the Illinois Medical Disciplinary Board (Board) by Administrative Law Judge Laura E. Forester pursuant to 20 ILCS 2105§2105-15(a)(5), 68 Ill. Admin. Code 1110.240, and 225 ILCS 60§35.

BACKGROUND OF CASE

Pavan Bejgum, Respondent, is the holder of a Certificate of Registration as a Physician and Surgeon, License No. 036.126543, issued by the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation (Department), pursuant to the Illinois Medical Practice Act (Act). Said license is currently in active status.

On March 5, 2020, the Department filed a single-count Complaint alleging that Respondent engaged in unprofessional, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public and immoral conduct in the commission of an act of sexual misconduct related to Respondent's practice in violation of 225 ILCS 60§22(A)(5) and (20). Specifically, the Department alleged that Respondent engaged in sexual misconduct including touching a female patient's vagina during an examination without a clinical rationale and/or medical necessity.

This matter proceeded to formal hearing on April 29 and May 3, 2021, before Administrative Law Judge Laura E. Forester. The Department was represented by staff attorney Vladimir Lozovski.

Respondent was present via WebEx along with his attorney, James Goldberg, who appeared in person.  
No Board member was present.

The Administrative Law Judge received the complete record on June 7, 2021.

### SUMMARY OF EVIDENCE

#### *Exhibits*

The following exhibits of the Department were admitted into evidence:

- A: IDFPR Complaint Report submitted by Robert Goins against Respondent dated November 13, 2018
- B: Verified Petition for Civil No Contact Order filed September 12, 2018, in Circuit Court of Illinois, First Judicial Circuit of Massac County, *J.E. v. Pavan Bejgum*, Case Number 2018-OP-80
- C: Memorandum of Johnna Douglas, HR Director of Massac Memorial Hospital
- D: Fax transmittal cover sheet from Massac Memorial Hospital dated July 15, 2019 to Dusty Van Brocklin; Medical Disciplinary Board Subpoena for Records of patient J. E. dated July 3, 2019; Certification of Custodian of Records, Sheila Johnston, dated July 15, 2019; Facsimile Cover Sheet dated July 9, 2018 to Massac Memorial Hospital from Dusty Van Brocklin; Medical records for patient J. E. from Massac Memorial Hospital
- E: Curriculum Vitae of John D. Zander, M.D.
- F: AMA Code of Medical Ethics
- G: Civil No Contact Order filed September 12, 2018, in Circuit Court of Illinois, First Judicial Circuit of Massac County, *J.E. v. Pavan Bejgum*, Case Number 2018-OP-80
- H: Order for Extension and/or Modification of Civil No Contact Order filed October 3, 2018, in Circuit Court of Illinois, First Judicial Circuit of Massac County, *J.E. v. Pavan Bejgum*, Case Number 2018-OP-80
- I: Civil No Contact Order filed November 15, 2018, in Circuit Court of Illinois, First Judicial Circuit of Massac County, *J.E. v. Pavan Bejgum*, Case Number 2018-OP-80
- J: Email from Dusty Van Brocklin to Respondent dated October 23, 2019; Email from Respondent to Dusty Van Brocklin dated November 7, 2019

The following exhibits of Respondent were admitted into evidence:

- 1: Curriculum Vitae of Respondent
- 4: Emails between Respondent and Thomas Reed dated June 20, 2018



5: Emails between Respondent and Thomas Reed dated June 20, 2018 and June 21, 2018

*Witnesses*

The following witnesses testified on behalf of the Department:

Patient J.E.

Johnna Douglas

Respondent (as an adverse witness)

John Zander, M.D.

The following witnesses testified on behalf of Respondent:

Respondent

Michael Rafati, M.D.

*Witness testimony – Department's case in chief*

*Patient J.E.*

Patient J.E. testified on behalf of the Department. Tr. p. 32. She testified that she is 33 years old, divorced and has two children (ages 6 and 6 months old). Tr. p. 35. She testified that she has an associate's degree, and she is currently taking classes at Southern Illinois University towards a bachelor's degree in mental health counseling and psychology. *Id.* She testified that she is currently employed as a server. *Id.*

Patient J.E. testified that she started seeing Respondent in September or October of 2017 for anxiety and depression. Tr. p. 38, 119. She testified as follows regarding why she started seeing Respondent:

[W]hen I first started seeing him it was because I was having a lot of anxiety attacks and issues with anxiety and depression and I had really no idea how to cope with them back then, other than medication. I hadn't learned the skills that I have now. And I was having a lot of trouble after getting divorced and losing the good insurance that I had and being put on Illinois medical card, which is very rough in my area, in my small town, to find anyone who will listen to you, help you, whatever. Dr. Bejgum was amazing the first time that I met him and it was because I was having anxiety issues. Tr. p. 38.

She testified that Respondent was aware of her anxiety issues and depression. Tr. p. 39.

Patient J.E. testified as follows:

[Respondent] was amazing because at that time I felt like nobody was listening to me, nobody would help me. I was struggling so much just to work. My anxiety was crippling. It was horrible. He did listen incidentally. He listened a lot, and he made me feel valid. He made me feel heard. He made me feel understood. He made me feel like he really cared. So to me, he was amazing at that time. Tr. p. 39.

She testified that "in the beginning" Respondent was someone who listened to her about "various things" going on in her life. Tr. p. 40. She testified that she was trying to lose weight "back then", and Respondent was her "cheerleader" in "a way a good doctor would do" about her "health and such." *Id.*

Patient J.E. testified that Respondent "turned it into a different level" of her body and not her health. Tr. p. 40. She testified that Respondent made it more about how her legs looked "in a pair of shorts" and "especially [her] breasts. He really liked to speak about [her] breasts." *Id.* She testified that the first comment Respondent made was when he asked if her breasts were real in front of her three-year-old son. *Id.* She testified that Respondent said, "women would pay a lot of money for those kinds of breasts" and he liked them. Tr. p. 41. She testified that she felt like she "wanted to die because [her] child was there"; she never took her child to another visit with Respondent. *Id.* She testified that up to that point she felt "pretty comfortable with him." *Id.*

Patient J.E. testified that up until January or February of 2018 Respondent was "very appropriate." Tr. p. 41. She testified that some of the things he said were "not things a typical doctor would say" but she did not find them offensive. Tr. pp. 41-42. She testified that she thought that Respondent was just being "especially nice" to her." Tr. p. 42. She testified that his remarks changed a few months after she started to see Respondent, and she continued to see him because there was "nowhere else" to get her medication. *Id.* She testified that at that time she felt she could not function or provide for her child without her anxiety and depression medications that Respondent prescribed for her. Tr. pp. 42-43.

Patient J.E. testified that there was never a chaperone present during her examinations with Respondent. Tr. p. 43. She testified that she continued to see Respondent even though she felt uncomfortable. Tr. pp. 43-44. She testified as follows:

Which after that time, he didn't see me as frequently and he didn't spend the time with me as far as, like, asking about my problems, asking things like that. Because at that point I didn't want to talk to him like that, and I think he's smart enough to know that. But he did continue to speak to me in a different way, which was about drinking, a lot about drinking. Apparently he really likes bourbon.

And he kept telling me I didn't need Xanax. I really just need to drink. I'm not a drinker. And you should never, as a doctor -- in my opinion this means nothing, but I wouldn't want my doctor to tell me to drink alcohol in solution to serious mental illness problems. Tr. p. 44.

Patient J.E. testified that she was aware "from the very beginning" that Respondent "was a drinker." Tr. pp. 46-47. She testified that Respondent would offhandedly make comments about how he would unwind, and she did not find it offensive. Tr. p. 47. She testified that she was offended when Respondent mentioned her breasts in front of her son. *Id.* She testified that from February of 2018 through June of 2018, Respondent would make "a lot of remarks about coming around [her] work after [she] got off work" so they could "meet" and "drink bourbon." Tr. p. 47.

Patient J.E. testified that Respondent told her that he had been outside of her work at times, but she had always been with people outside when he saw her. *Id.*

When Patient J.E. was asked why she continued to see Respondent, she testified as follows:

Why did I keep seeing him? Yeah, I'm really not proud of that. I'm not proud of my management of my anxiety at that time. I have since learned. I'm not on medication and I have since learned to cope and learn how to deal with things. But at that time, I just knew I had to work. I had to provide and I was really struggling. And I felt like I couldn't do it without that medication, and I'm really embarrassed about that. Tr. pp. 48-49.

When asked why she never expressed her discomfort to Respondent regarding his comments, her response was, "I don't know. He was my doctor." Tr. p. 52.

Patient J.E. testified that in June of 2018, she got double pneumonia. Tr. p. 50. She testified that she had to go to the hospital. Tr. p. 50. She testified before she was admitted to the hospital for double

pneumonia, she was very sick and went to see Respondent; he did not examine her properly; he gave her a prescription but did not listen to her. *Id.* She testified that Respondent did not listen to her chest, he did not take her seriously, and he was "obsessed" with how she looked more than anything else. *Id.* She testified that a few days later, she "almost collapsed" because she had double pneumonia and was still working. *Id.* She testified that she was taken to the emergency room at that time. *Id.*

Patient J.E. testified that Respondent came to the emergency room when she was there. Tr. p. 52. She testified that she was admitted to the hospital and was there for three days. Tr. p. 53. She testified that she was discharged without any instruction but had a follow-up appointment. *Id.* She testified that she needed to know when she could get back to work because she had missed over a week of work, and as a single mom who lives "day to day" it was "very hard." *Id.*

Patient J.E. testified that she went to see Respondent two days after she was discharged from the hospital which was June 15. Tr. p. 54. She testified that she felt "absolutely horrible." *Id.* She testified that she was by herself. Tr. p. 55. She testified that a nurse named Rochelle Holley brought her into the examination room, took her vitals, asked how she was feeling, and left the room. Tr. pp. 59, 121. She testified that she was in one of the waiting chairs. *Id.*

Patient J.E. testified that Respondent came into the examination room five or ten minutes later and told her that she looked "very sexy" that day." Tr. pp. 59-60. She testified that the door to the examination room was closed. Tr. p. 122. She testified as follows:

He was looking at me like I wasn't even a human being really. He was looking at me very inappropriately and he made me feel very uncomfortable, and I already felt really sick. He asked me to get on the table and so I got on the table. And he started his, I guess you would say exam. Tr. p. 60.

She testified that she was alone in the examination room with Respondent and was wearing a t-shirt and shorts. *Id.* She testified that Respondent did not ask her to change into a gown. *Id.* She testified that Respondent asked her to get on the examination table; she usually sat in the chair not the examination table. *Id.* She testified that Respondent would usually sit in the other chair and comfort her. *Id.*

Patient J.E. testified as follows:

I was trying to ask him questions about when I could go back to work, when I could start running again. When I was going to feel normal again because I still felt like I should have been in the hospital. I was really sick. He didn't seem to really want to talk about any of that. He blew off all my questions. He started to use his stethoscope to listen to my chest, but instead he was saying stuff to me about how attractive I looked, how good I looked, how much weight I'd lost, things like that. And then he stood back and put his stethoscope around his neck and then he tried to kiss me. And I turned my head just kind of out of instinct, and he kissed down my neck.

\* \* \* \* \*

I just kind of moved around. I was obviously very uncomfortable. I was shaking. I didn't really know how to feel, but I didn't scream. I didn't yell. I didn't kick him. I didn't try to run. I just tried to let him know I didn't want him to touch me.

He had -- he had backed up at that point. Well, I had acted like he was making me uncomfortable. He put his legs on my thighs and he held them down on the table. And his grip was tight in a way that let me know he was not really joking around with me, that he didn't want me to create much of a disturbance or problem, was how I felt. I felt like I needed to be still and just be still.

Q. He put his hands on your thighs, what did you do as a reaction?

A. Nothing. I let him. I stayed still.

Q. Did he touch you anywhere else?

A. Yeah. After that he moved one of his hands, his right hand, up my shorts and he made contact. I don't know how many fingers. I couldn't tell you which finger, I don't know. But his fingers, finger, made contact with my vagina, very briefly. And I immediately pushed away and he allowed that. He did not fight. He didn't even necessarily physically hurt me. He traumatized me, but he didn't actually physically -- but he inappropriately touched me. Tr. pp. 61-63.

Patient J.E. testified that Respondent kissed her neck down to her collarbone. Tr. p. 62. She testified that Respondent was not wearing gloves. Tr. p. 63. She testified as follows:

I will never forget the way he looked, how it looked, how it felt, all of it. The side of my shorts he was on. I don't wear shorts to this day. I wear leggings or jeans almost every single day. I'm screwed up about it. I'm screwed up about my body. Tr. p. 63.

She testified that it made her feel "gross", "scared", "disgusted", "disgusting", and "horrible." *Id.* She testified that Respondent "obviously" picked up on how she felt, and "he didn't force himself on [her] anymore." She testified that he removed his hands, and she was able to get up off the table. *Id.*

Patient J.E. testified that Respondent then put her in a "bear hug" and hugged her for "a really long time and then he shushed [her] like a baby." Tr. pp. 63-64. She testified that Respondent told her she was "okay", she was shaking and needed to calm down, and Respondent was trying to "comfort" her. Tr. p. 64. She testified no one came in the room. *Id.* She testified that Respondent kept telling her she was fine. *Id.* She testified that they were standing about six or seven feet from the door which was closed. *Id.*

Patient J.E. testified that she asked Respondent to give her the release to go back to work and her prescriptions because she did not feel well and wanted to go home. Tr. p. 64. She testified that Respondent asked her if she needed money, and she could not believe he asked her that. Tr. p. 65. She testified that she told him "no", and Respondent said to let him know if she ever needed anything because "he would always take care of [her]." Tr. p. 65. She testified that she felt like a "prostitute, not a patient who just had double pneumonia." *Id.* She testified that she told Respondent that she "really, really didn't feel well", she just wanted her meds and her release, and she wanted to go. *Id.*

Patient J.E. testified that Respondent said he wanted to see her that weekend because she could not go back to work just yet. Tr. p. 65. She testified that she had to wait a few days before she went back to work. *Id.* She testified that Respondent knew that her son was with her father on the weekends, and Respondent asked her if she wanted to get drunk. *Id.* She testified that Respondent said they should drink because that would make her feel better. *Id.*

Patient J.E. testified that she did not respond to Respondent's offer; she said nothing, but she was visibly crying and uncomfortable. Tr. p. 66. She testified that Respondent told her that he was having "bad thoughts" about her "while licking his top lip and biting his lip." *Id.* She testified that Respondent left the room to get the release and to get the prescriptions written. *Id.* She testified that when Respondent left, she left the room and went to the lobby to wait for the nurse to bring her the release and prescriptions. *Id.* She testified that Ms. Holley came out to the lobby and gave her the work release and prescriptions. Tr. p. 122. She testified that she never went back after that. Tr. p. 66.

Patient J.E. testified that she did not tell anybody in the lobby what had happened, and she "pretended like it didn't happen", and she was in shock. Tr. p. 67. She testified that she received her prescriptions and work release, and that was the last time she saw Respondent. Tr. p. 68. She testified that after she left the office, she told her best friend what happened. Tr. p. 70.

Patient J.E. testified that the next time she had any communication with Respondent was August 30, 2018, when he called her. Tr. p. 70. She testified that it was a Thursday afternoon; Respondent knew she was off on Thursdays. *Id.* She testified that Respondent called her sometimes on Thursday afternoons. She testified that Respondent called her to "check" on her and ask why she had not been in to get her refills. *Id.* She testified that she told Respondent that he knew why she had not been in. *Id.* She testified as follows: "He had taken advantage of me and I, to phrase myself, told him to leave me the fuck alone and never contact me again." *Id.*

Patient J.E. testified that the conversation lasted three minutes or less, and Respondent said, "I'm sorry that you felt that way, but that was not my intention." Tr. p. 71. She testified that she told Respondent never to contact her again, to leave her alone, and she hung up. *Id.* She testified that it made her feel "sick" to hear Respondent's voice again, and it "brought up a lot of things that [she] was really trying to bury at that time." *Id.* She testified that she was trying to get off Xanax and handle her anxiety in different ways, coping, and. going to therapy. *Id.* She testified that she has thought about Respondent a lot for "a lot of days and a lot of years." Tr. p. 72.

Patient J.E. testified that on September 7, 2018, at 6:56 p.m., she received a message through Facebook Messenger from Ethan May. Tr. p. 72. She testified that she knew Ethan May from high school, he was a couple of years younger than her, they were not friends on Facebook or "in real life", but she was not suspicious of him. *Id.* She testified that he is somebody she knew in the town; it is a small town. *Id.*

Patient J.E. testified that she had never had communication with Ethan May through Facebook prior to September 7, 2018. *Id.* She testified that it was "scary" for her because of the subject matter, and it was "horrible" because she did not "want to deal with any of that." Tr. p. 73. She testified that she was trying to become a better person and "just move on" with her life. *Id.*

Patient J.E. identified Exhibit B as the Petition for Civil No Contact Order that included the Facebook messages she received on September 7, 2018. Tr. pp. 72-73, 78, 95-96. She testified that she was working at Steak 'n Shake as a server when she received these messages. Tr. p. 76. She testified that she responded to the message out of curiosity because the message indicated that Respondent "quit and you had something to do with it. Way to go girl. Getting a doctor to quit, what's your secret? LOL." Tr. pp. 76-77. She testified that she responded by asking how he knew that; she was feeling bad for months for not saying anything, so if Respondent had gotten fired, she wanted to know what was going on. Tr. p. 77.

Patient J.E. testified that she had not gone to the hospital to complain about Respondent because she did not believe that anybody would believe her. Tr. p. 77. She testified that she still does not believe anybody will believe her because "women are not believed. [She] has seen it a thousand times." *Id.* She testified that she just wanted to get on with her life and do better for herself and her child. *Id.*

Patient J.E. testified as follows regarding the Facebook messages she received on September 7, 2018:

Ethan came to me and said he thought it was crazy because he had heard his elderly neighbor saw on Facebook that Dr. Bejgum had got fired. He then turned the conversation completely around and said, my name is Ethan May and I know Dr. Bejgum. I am sorry for deceiving you, but I had to be sure before I could say anything else. And then the conversation completely turned from him thinking Dr. Bejgum was incompetent because he had misdiagnosed him, because that's how he deceived me to begin with, to Dr. Bejgum having young children and there being a strong chance that I could settle this privately out of court if I were to take away any formal statements I had made, which I had not even made. Tr. p. 82.



She testified that after receiving these messages she went to court to get a protective order against Respondent, but not on that date. Tr. p. 84. She testified that after she received the message relating to settling out of court, she responded as follows:

You gave me hope that someone was going to stop that man and he couldn't hurt any more women. You lied. I feel even worse than before and now you want to talk about money. I have a job. I work hard and make my money honestly. I don't care about his money. I care about what he's done to me and has done to others.

There are no words he can say to undo what he did. Tr. pp. 84-85.

Patient J.E. testified that she tried to "find out exactly who he was, his capacity as to why he was speaking to [her] in this manner for Dr. Bejgum, if it was Dr. Bejgum." Tr. p. 85. She testified that the message indicated that she should speak to a "mediator" of Respondent's and that he had a "banker". *Id.* She testified that the message indicated that she could "save a lot of emotional trauma" and she "wouldn't have to say [she] lied"; she would just have to say it was "a huge, huge misunderstanding". *Id.* She testified that it was her understanding that if she said these things, he would give her money. *Id.*

Patient J.E. testified that she is "not that kind of person." Tr. p. 85. She testified that she was scared after receiving all these messages, so she went to a domestic violence shelter in her town because she knows a lot of women that work there and they would know what to do. *Id.*

Patient J.E. testified that she was still at work when she received these messages. Tr. p. 86. She testified that at 11:25 p.m. on September 7, 2018, she had finished her shift and she responded to the messages as follows:

Don't communicate with me then. He should have thought about his young children and the privilege to be a doctor in this country before he did what he knows he did. He doesn't deserve to be called a doctor, let alone the right to practice medicine here or in any country. He's a predator who uses his position of power to abuse and take advantage of women. No sympathy whatsoever from me, the one he took advantage of. He picked the wrong girl. I'm not weak and I'm not stupid and I don't give a damn about money. Money can't buy what he has done to me. Tr. p. 87.

Patient J.E. testified that she received additional Facebook messages the following morning at 11:10 a.m. She testified that these messages involved going to the police and seemed to try to disparage

her character. Tr. p. 89. She testified that she did not respond further because it was "threatening", and she had to work that day. Tr. p. 90. She testified that she received an additional message indicating that Respondent's "banker" can work something out with her and a message that said, "so what's it going to take?" Tr. p. 91.

Patient J.E. testified that she received a message that indicated the following:

So let's chat, so what's it going to take? The police are not involved nor are they investigating him, which makes this much more sensitive. So let's be realistic and talk about what is going to make you feel better." Tr. p. 92.

She testified that she responded, "Leave me alone" and blocked him. *Id.* She testified that the last two pages of the Facebook messages are from "Ethan" to Lea Adams, her best friend. *Id.*

Patient J.E. testified that on Monday she confirmed that Respondent was gone from the clinic and that "scared" her. Tr. p. 93. She testified that she went to the women's shelter in town and spoke with Rita Gower, her "legal advocate through this whole process". *Id.* She testified that Ms. Gower helped her get in front of a judge and to get an emergency protection order (EPO) because she was feeling "very uncomfortable about the way he was speaking to [her] about money, about – just all of it." *Id.* She testified that she had a young child, it was just her and him, and she was "very scared." Tr. pp. 93-94.

Patient J.E. testified that another legal advocate, Amanda Kirby, typed up the petition based on exactly what she said. Tr. pp. 111-112, 132. She testified that it took a "very long time" because it was a "very sensitive subject matter to talk about." Tr. p. 112. She testified that she "was so emotionally distraught at the time", and she was "getting off Xanax after being prescribed it for two years, trying to change [her] medications. It was a very, very hard time." *Id.*

Patient J.E. testified that the verified petition (Exhibit B) was presented to a judge on September 12, 2018, in Massac County, Illinois, and, as a result, she obtained an EPO against Respondent. Tr. pp. 96-97. She testified that she spoke to police on September 12, 2018, regarding delivery of the EPO. Tr.

p. 98. She testified that she took the EPO to the Human Resources Board at the hospital because she felt "they should know" even though Respondent did not work for them anymore. Tr. pp. 98-99.

Patient J.E. testified that three to five days after she got the protective order, she went to Massac Memorial Hospital (MMH<sup>1</sup>) and stated that it was a "really sensitive matter" since the doctor had just recently stopped working at the hospital. Tr. pp. 102-103, 136. She testified that she was sent to the head of the department and spoke to the Director of Human Resources. She testified that she let the Director of HR read the petition (where she "painstakingly described what happened" to her) for herself so she did not have to say it out loud. Tr. p. 104. She testified that she went to MMH so they would know what Respondent did, and they could "send it to the proper people." *Id.*

Patient J.E. testified that she spoke with Dr. Patel around September 10<sup>th</sup>. Tr. p. 106, 138. She testified that she spoke to Dr. Patel because he treated "literally everybody" in her family for her "whole life." *Id.* She testified that Dr. Patel is her "grandpa's doctor"; he is a "small-town doctor" that used to be partners with Respondent. *Id.* She testified that she asked Dr. Patel if she should report the incident to the hospital. *Id.* She testified that she spoke with Dr. Patel after Respondent had left the hospital. Tr. p. 107.

Patient J.E. testified that Respondent did not come to court for matters relating to the EPO; he sent a lawyer to represent him. Tr. p. 107. She testified that in November of 2018 she received the final protective order (Exhibit D) in court which was effective for two years. *Id.* She testified that the order prohibited Respondent from contacting her directly or contacting her through other parties. Tr. p. 108.

Patient J.E. testified that the order specified that "Respondent is not to have Ethan May or Larry May call or message Petitioner on his behalf." Tr. p. 109. She testified that the judge included that in the

---

<sup>1</sup> Massac Memorial Hospital was referenced in multiple ways during the formal hearing including "Massac County Hospital" and "Massac Community Hospital". It will be referenced as MMH for purposes of this Report.

order. *Id.* She testified that Larry May is Ethan May's father, and he owns real estate including laundromats in town; "[p]retty much everybody knows who he is." Tr. p. 110.

Patient J.E. testified that she contacted the Director of Human Resources because she was concerned for "all women" that Respondent would be treating. Tr. p. 114. She testified that HR at the hospital sent her EPO to the State police. Tr. p. 115. She testified that the police came to her home "probably about two weeks after" she got the EPO, and she declined to press charges because she "just couldn't deal with it." *Id.* She testified as follows:

So I said, you know, they gave me their information. I knew how to contact them, did whatever I needed to do from that point on. But I, personally, after speaking to the women at the domestic violence shelter and just thinking about myself, I didn't want to take it further. I didn't think anybody would believe me. I still don't think anybody will believe me, and I think that he -- I knew nothing would come of it except for traumatic stress for myself. And I was already not very mentally well. I was having a very hard time obviously. My anxiety was not well, and so it just wasn't a good time. And then until your Department contacted me, I thought nothing of reaching out to anyone about this. Tr. p. 116.

Patient J.E. testified that she thinks it is "really important" that Respondent not be a doctor anymore and that he "never be given the power over women and the authority over women when he clearly wants to use it to his advantage." Tr. p. 116-17. She testified that she "could not live with [herself] if [she] did not speak [her] truth." Tr. p. 117.

Patient J.E. testified that her insurance is an Illinois medical card. Tr. p. 117. She testified that the Illinois medical card allowed her to see providers other than Respondent, but there are not a lot of options for medical care where she lives. Tr. p. 118. She testified that she had a vehicle that "would not let her drive that far" which limited her options. *Id.*

Patient J.E. testified that she had seen Respondent an estimate of twenty times before June 15, 2018, and Respondent made an improper comment during "probably the last five or six" visits. Tr. p. 123. She testified that she did not complain about Respondent's comments "given the situation" she was in; she felt like she would have to keep seeing Respondent to get her medications, and "no one would believe [her] anyway." Tr. pp. 123-24. She testified that there were one or two other doctors in town that took a

medical card, it is "very hard" to find providers, most places only take private insurance, and she had to go through Massac Mental Health. Tr. p. 125. She testified that after trying she was finally able to see a new doctor; she does not know how many other doctors were in town. Tr. p. 126.

Patient J.E. testified that Respondent said he did not know how he would deal with his life or "do anything in his life", and he'd have depression and anxiety too if he didn't drink every night, which he did. She testified that Respondent told her that "he drank every single night, and he said if [she] drank every single night [she] would feel better, too." Tr. p. 128. She testified that Respondent said that they could have "fun together drinking." *Id.* She testified that when Respondent said this she thought she should go to another doctor. *Id.*

Patient J.E. testified that she did not include that in the petition for the EOP. Tr. p. 128. She testified that she was just trying to get some antibiotics or a steroid for her bronchitis or pneumonia. Tr. p. 129. She testified that she did not expect to get "sexually assaulted" just because she let Respondent say inappropriate things to her. Tr. pp. 129-30. She testified that there is nothing in the petition for the EPO regarding Respondent's inappropriate comments during the estimated five visits before June 15. Tr. p. 130.

Patient J.E. testified that a legal advocate helped her prepare the petition for the EOP. Tr. p. 131. She testified that she told the whole story from the beginning of how Respondent acted "with the liquor" but it was not included in the petition. *Id.* She testified that she was not given the option to fill out the petition alone. Tr. p. 132. She testified that there was a three-month time period between the incident on June 15 to when she filed the petition for EPO at the domestic violence shelter in Metropolis, Illinois. Tr. pp. 134-35. She testified that the shelter is five minutes from her residence. Tr. p. 135.

Patient J.E. testified that she did not feel the need to file for an EPO until September because she had "been threatened at that point" by the Facebook messages she received. *Id.* She testified that she did not reach out to anybody until Respondent and Ethan May "took it upon themselves to try to mess with

[her]. [She] was leaving everyone alone.” Tr. p. 137. She testified that she indicated in the Facebook messages that she had told “someone in a high capacity position” about Respondent’s misconduct even though she had not. Tr. p. 138. She testified that she “wanted to see where he was going”; she lied in the Facebook message to “find out information to protect [herself].” Tr. p. 139. She testified that she did not feel threatened by Ethan May; she sought an EPO against Respondent only. Tr. pp. 139-40.

Patient J.E. testified that she continued to send messages to Ethan because she was “curious and he had information on a very sensitive manner (*sic*) that [she] hadn’t told anyone.” Tr. p. 141. She testified that the judge included Ethan May in the order; she did not ask for it; she did not feel she needed protection from Ethan. *Id.* She testified as follows:

[S]o it doesn't matter who they came from. It was about Bejgum, and Bejgum was the one I was afraid of at the time. I was very afraid of him. He sexually assaulted me so I didn't know what he was capable of at that time so I was afraid. *Id.*

Patient J.E. testified that she was afraid of Respondent “since he assaulted [her] on June 15<sup>th</sup> of 2018.” Tr. p. 142. She testified that she was not afraid of Ethan May; she was afraid of what Respondent would do if she did not go along with what he was asking her through Ethan May. *Id.* She testified that she never asked Respondent if he had any involvement with the messages. *Id.* She testified that she did not go to the police about the messages. *Id.* She testified that the messages from Ethan were what prompted her to seek an EPO. Tr. p. 143. When asked what her “thought process” was for not seeking an EPO for three months, she testified as follows:

I did not go anywhere. I did not seek out the resources I knew where and how to receive, because I did not believe I would be believed. I wasn’t raped. At the time, I didn’t even really know what had happened to me, what my rights were. Until you have been assaulted, sir, I don’t know — there’s no way to handle certain situations. I don’t know. Tr. p. 144.

Patient J.E. testified that she went to Dr. Patel on two separate occasions after the incident. Tr. p. 145. She testified that she went to Dr. Patel “right after it happened” in June, but “he had no authority, he was on the board, but he could not contact anyone about it. He couldn’t say anything.” Tr. pp. 146-48. She testified that it was a very brief conversation in an examination room at his office. Tr. p. 148. She

testified that Dr. Patel listened to her and did not recommend anything; he told her to do what she felt she needed to do. *Id.* She testified that she went to Dr. Patel after she got her EPO, and at that time, Dr. Patel told her to go to human resources, and she did. Tr. pp. 148-49.

Patient J.E. testified that she knew Dr. Patel was on the hospital board. Tr. p. 147. She testified that she felt she could go to Dr. Patel because he used to be partners with Respondent, he had been her family's doctor for a long time, and she trusted him. *Id.*

Patient J.E. testified that she felt "in her heart" that she was forced to take protective action and get an EPO because of all the messages she received for Respondent. Tr. p. 149. She testified that since she had already gone through that, she was going to make sure Respondent was held accountable. *Id.* She testified that she was not ready to get an EPO in June because she wanted to move on with her life, and she did not think anyone would believe her. Tr. p. 150.

Patient J.E. testified that it was strange to her that Respondent wanted her to come in every month for prescription refills instead of every three months. Tr. p. 152. She testified that it was hard for her to find a day for the appointments because she worked a lot, but she never brought it up with Respondent. *Id.* She testified that the incident on June 15 was the first time she felt "assaulted". Tr. p. 153.

Patient J.E. testified that she "mischaracterized" the length of the time for the appointment. Tr. p. 153. She testified that it was "shorter than normal" because "obviously things went a little differently." *Id.* She testified that usually she was able to "speak very freely about anything [she] had going on in [her] life"; Respondent was "like a counselor, confidant" but during that time the examination was very brief. Tr. pp. 153-54. She testified that the "rest of the time was done speaking about money and sexual things and sexual actions." Tr. p. 154. She testified that she "froze", she was "scared", Respondent is a "much larger man" than her, "[h]e's a doctor", and "[h]e's in power." Tr. pp. 157-58.

Patient J.E. testified that she felt "uncomfortable" and "kind of out of [her] body at times." Tr. p. 158. She testified that she could not move or yell; she could not do anything; she was frozen. *Id.* She

testified that it is something that happens when a woman is attacked – “you either run or you freeze.” *Id.* She testified that she wishes she had yelled or walked out. Tr. p. 159. She testified that Respondent grabbed her in a bear hug and told her to calm down because she was “shaking and crying.” *Id.*

Patient J.E. testified that her grandfather was a patient of Dr. Patel, and he would see Respondent when Dr. Patel was on vacation. Tr. pp. 159, 162. She testified that her grandfather really liked Respondent, and she did at first because he was especially kind to her grandfather. Tr. p. 162. She testified that she is very, very close to her grandfather; he is like her best friend. Tr. p. 163. She testified that when she told her grandfather that Respondent was making inappropriate comments to her, “he just kept seeing Dr. Patel.” *Id.*

Patient J.E. testified that she had missed a lot of shifts since she had been in the hospital with pneumonia and she needed to know if she had any restrictions and when she could go back to work. Tr. p. 164. She testified that she wanted to go back to work; she had to work. Tr. p. 165.

Patient J.E. was direct, responsive, and consistent during her testimony and had no motive to fabricate. Her demeanor was appropriate given the sensitive nature of her testimony. Thus, this Court finds patient J.E. to be a credible witness.

#### *Johnna Douglas*

Johnna Douglas testified on behalf of the Department. Tr. p. 169. She testified that she is the Director of HR at MMH and has been since August of 2016. Tr. p. 170. She testified that on September 12, 2018, she met with patient J.E. Tr. p. 171. She testified that she received a phone call that was forwarded to her, patient J.E. was on the line, and she said she wanted to speak to someone concerning an incident while she was a patient at the clinic. Tr. p. 173. She testified that patient J.E. did not disclose who was involved in the incident over the phone. Tr. p. 174. She testified that she could tell by her voice that she was “very upset” so she asked her to come in. Tr. p. 173.



Ms. Douglas testified that patient J.E. came into the office about thirty minutes later and spoke to her. Tr. p. 173. She testified that patient J.E. was "visibly upset" and "shaking". *Id.* She testified that patient J.E. told her that she had been to the courthouse earlier that day, she had to go in front of a judge and talk, and it made her "very nervous and anxious" so she "handed her the documents." *Id.*

Ms. Douglas testified that rather than have Patient J.E. tell her the entire story, she read the document, and they discussed what was in the document. Tr. p. 174. She testified that patient J.E. was "still very upset"; "she really just wanted to be heard." Tr. p. 175. She testified that she did not want to upset her anymore so she "just kind of listened" and let her tell her what she wanted to tell her. Tr. p. 176. She testified that at the end of the conversation she told patient J.E. that Respondent was no longer employed by the hospital, and she would pass the information along to the CEO of the hospital and to the appropriate individuals. Tr. p. 178.

Ms. Douglas testified that this was the first time she had become aware of any complaint that patient J.E. had regarding Respondent. Tr. p. 178. She testified that she needed to pass the information on to the CEO because Respondent was their employee at the time the incident took place. Tr. pp. 178-79. She testified that the next day the CEO and their corporate attorney met with the police department to "make them aware of the information" they had received. Tr. p. 179.

Ms. Douglas testified that she prepared notes on September 12, 2018, regarding her conversation with patient J.E. (Exhibit C) so she "could remember what was said and what had transpired." Tr. pp. 179-82. She testified that her note was not made part of the human resource file for Respondent. Tr. p. 181. She testified that she did not sign the note because it was for her own personal use "to remember what had happened during the meeting." *Id.* She testified that the CEO reported the incident to the Medical Disciplinary Board. Tr. p. 187.

Ms. Douglas testified that the next day she spoke to the city police officer about the incident. Tr. p. 188. She testified that she was told the matter would be turned over to the Illinois State Police for them

to investigate, and "at that point", they had "done their due diligence." Tr. p. 188. She testified that she did not receive a copy of the police report. *Id.*

Ms. Douglas testified that Dr. Patel does not work for the hospital. Tr. p. 190. She testified that she was aware that Respondent and Dr. Patel used to work together in a group. Tr. p. 191. She testified that she was not aware the Respondent had been terminated from the group. Tr. p. 192. She testified that Respondent's directorship at the clinic did not create any conflict that she was aware of, and she was not aware of any conflict between Respondent and Dr. Patel. *Id.*

Ms. Douglas professional, direct, responsive, and consistent during her testimony and had no motive to fabricate. Thus, this Court finds Ms. Douglas to be a credible witness.

*Respondent*

Respondent was called by the Department as an adverse witness in its case in chief. Tr. p. 193. Respondent testified that he currently works in Mayfield, Kentucky, at Williams Clinic which is affiliated with Jackson Purchase Medical Center. Tr. p. 194. He testified that he does some locum tenens work in Illinois at Union County Hospital in Anna and Marshall Browning Hospital in Du Quoin. Tr. p. 195. He testified that he works for Integrated Emergency Physician. *Id.*

Respondent testified that he went to Maharashtra Institute of Medical Sciences and Research in India for medical school. Tr. p. 196. He testified that he learned about respecting patients' rights in India. Tr. pp. 195-96. He testified that he came to the United States in August of 2006. Tr. p. 196. He testified that he went through a residency program in New Jersey from 2007 to 2010. Tr. p. 202.

Respondent testified that he learned "respect first", and "when the patient comes, listen to them, empathize if they are sad, reassure them." *Id.* He testified that he learned not to touch patients "unnecessarily" and to "respect their privacy." Tr. p. 197. He testified that he learned that he can share certain information with patients including that he has kids, where he is from, and where he graduated from. *Id.* He testified that he would never say "let's get drunk" instead of taking medications for

depression. Tr. p. 198. Respondent testified it is inappropriate to ask patients out, to offer patients money, and to tell a patient that she should be drinking alcohol to relax. *Id.*

Respondent testified that what he learned in medical school about boundaries and patient rights was reinforced during his residency. Tr. pp. 201-202. He testified that he was "one of the best" in the associate program. Tr. p. 202. He testified that proper boundaries include no unnecessary touching and limiting talk "that's not needed." Tr. p. 206. He testified that he is board certified in internal medicine. Tr. p. 206. He testified that he last sat for boards in 2010 and that it has been extended until 2022 due to COVID. *Id.*

Respondent testified that there is a professional responsibility section included in the board exam. Tr. p. 206. He testified that he should give "the best to the patients." Tr. p. 207. He testified that touching a patient's vagina without any clinical necessity is inappropriate, unprofessional and immoral. *Id.*

Respondent testified that he started working for Dr. Patel in October of 2010. Tr. p. 207. He testified that he started working at MMH in June of 2017. Tr. p. 208. He testified that he was "forced to resign" on September 7, 2018. *Id.*

Respondent testified that he started seeing patient J.E. at the end of 2017. Tr. pp. 208-209. He testified that he last saw patient J.E. on June 15, 2018. Tr. p. 209. He testified that he saw patient J.E. when she was admitted to the hospital when she had double pneumonia. *Id.* He testified that patient J.E. came to see him because "she burned her bridges with Dr. Stayton." Tr. p. 210. He testified that patient J.E.'s chief complaint was depression and anxiety. Tr. p. 213. He testified that he saw patient J.E. approximately fifteen to twenty times between the end of 2017 and June 15, 2018. *Id.* He testified that he was treating her with Zoloft and Xanax, and the scope of the visits was medication management. *Id.*

Respondent testified that he did not provide therapy for patient J.E. "just general how to live with depression, anxiety; how to cope with the things, that kind of stuff." Tr. p. 214. He testified that he encouraged patient J.E. "to live a better life" and "be happy." *Id.* He testified that patient J.E. came to

him for depression and anxiety, and "she always wanted her anxiety pills on dot. Like, she was taking three times a day, Xanax, which would be 90 pills a month." Tr. p. 215.

Respondent testified that patient J.E. asked him whether he was married, how many children he has and if he loves his family. Tr. p. 216. He testified that patient J.E. talked to him about her personal problems. *Id.* He testified that patient J.E. was trying to lose weight and was successful. Tr. p. 217. He testified that he encouraged her to lose weight because her BMI was higher. *Id.*

Respondent testified that he did not discuss his alcohol intake or his personal habits with patient J.E. Tr. p. 217. He testified that he did not compliment her about her appearance. Tr. p. 218. He testified that in June of 2018, he admitted patient J.E. to the hospital for pneumonia. Tr. p. 219. He testified that after patient J.E. was discharged, there was a follow-up appointment with him because he was her primary care physician. Tr. p. 220. He testified that patient J.E. was on Public Aid - Medicaid insurance. *Id.* He testified that he is on a special Visa that requires him to see every patient. Tr. p. 221.

Respondent testified that, on average, office visits took twenty to forty minutes "depending on number of complaints she has." Tr. p. 221. He testified that sometimes patient J.E. would tell "her personal stories" but her root complaint was depression and anxiety. *Id.* He testified that on June 15, patient J.E. came to see him to "follow up to go to work." Tr. p. 222. He testified that in order for patient J.E. to go back to work she had to be cleared by him. *Id.*

Respondent testified that the office visit was "15, 20 minutes or even lesser because she came for the clearance of the work." Tr. p. 222. He testified that he did a focused physical examination and listened to her heart and lungs. *Id.* He testified that he examined her legs to make sure they were not swollen because being in the hospital can cause deep vein thrombosis. Tr. p. 223. He testified that patient J.E. "sounded well" so he "was clearing her to go back to work, which she did not like." *Id.* He testified that he issued the return-to-work paper and the nurse gave it to her because "Rochelle took care of her while she was there in the room, yeah." *Id.*

Respondent testified that he issued fifteen days of anxiety pills and three months of depression medication. Tr. p. 224. He testified that the follow-up visit would be early July. *Id.* He testified that patient J.E. did not show up in July or August for a follow-up. Tr. pp. 224-25. He testified that he did not contact patient J.E. when she did not show up in July. Tr. p. 226. He testified that he did not follow-up with patient J.E. when she did not show up; there was no discussion on June 15 about her no longer seeing him. Tr. p. 228. He testified that prior to June 15, patient J.E. had missed a couple of appointments, and she did not follow up within the week of the missed appointment. Tr. p. 229.

Respondent testified that he called patient J.E. in August "because her grandfather was admitted to a different hospital with a heart condition." Tr. p. 230. He testified that the conversation was just two minutes. *Id.* He testified that prior to August he had not called patient J.E. Tr. p. 231. He testified that he did not ask her why she had not been coming to see him. *Id.* He testified that his "intention was just to ask her about her grandfather because of the new finding diagnosis on him." *Id.* He testified that she told him to "leave her the fuck alone" then testified that "she did not exactly use those words." Tr. p. 232. He testified that she said she was taking her grandfather to Dr. Patel. *Id.*

Respondent testified that patient J.E. did not tell him how he made her feel during the June office visit. Tr. p. 232. He testified that during the June 15, 2018, office visit he did not touch her "[o]ther than the routine examination." *Id.* He testified that there was no reason for him to touch her vaginal area. *Id.* He testified that he did not give her a bear hug and did not kiss her. Tr. p. 233. He testified that patient J.E. was "not screaming" but was "upset" that her grandfather had a "new-found problem" during the August 30<sup>th</sup> conversation. *Id.* He testified that was the last time he spoke with patient J.E. *Id.*

Respondent testified that a sheriff served him with an emergency no contact order (Exhibit G) on September 14. Tr. pp. 233-34. He testified that this was the first time he heard that patient J.E. had problems with him and the first time he learned about the Facebook messages. Tr. pp. 234, 245. He testified that he was surprised by her allegations that he inappropriately touched her and was making her

uncomfortable. Tr. p. 235. He testified that he was served with the order at his home in Kentucky by police, and he was "panicked". Tr. p. 241. He testified that the police gave him a copy of the order. Tr. p. 243. He testified that the order prohibited him from being within 500 feet of patient J.E. Tr. p. 238. He testified that prior to receiving the order he was not aware of where patient J.E. worked, and he never drove by her place of employment. Tr. pp. 238-39.

Respondent testified that he was specifically notified not to have Ethan May or Larry May contact patient J.E. on his behalf. Tr. p. 239. He testified that he knows Ethan and Larry May; Larry May used to take care of his properties, and his wife works as a case manager in a hospital where he worked. *Id.* He testified that Ethan May is their son. *Id.* He testified that Larry May worked for him by taking care of his rental properties for approximately two years. Tr. pp. 240-41. He testified that he paid Larry May ten to fifteen percent of the rental income which was approximately \$500 per month. Tr. p. 281.

Respondent testified that he contacted Larry May's wife "probably" within one week to ten days from receiving the EPO. Tr. p. 242. He testified that he understood that violating the order could result in being criminally charged and prosecuted. *Id.* He testified that he spoke to Larry May when Larry came by his home about the order "probably" two or three days after he spoke to his wife about it. Tr. p. 243. He testified he did not talk to Ethan May. Tr. p. 244. He testified that he hired an attorney, Joe Neely (a former patient), within one week to ten days of receiving the order. *Id.* He testified that he received a copy of the petition for the order a week after receiving the EPO (September 21, 2018). *Id.*

Respondent testified that Mr. Neely appeared on his behalf in court on October 3, 2018, and the EPO was continued to December 5, 2018, and the matter was set for February 5, 2018. Tr. pp. 247-49. He testified that there was a finding in the EPO that he was found to be engaged in non-consensual sexual conduct or non-consensual sexual penetration with patient J.E. Tr. p. 249. He testified that he eventually signed the final Civil No Contact Order (Exhibit I) as his "attorney suggested", and he understood that he

had the ability to come to a trial. Tr. p. 250. He testified that he agreed to stay away from patient J.E. and not to communicate with her. *Id.*

Respondent testified that the order was in effect for two years and he agreed not to communicate or go within 500 feet of patient J.E., not to communicate with her through third parties, and that there was a factual basis for entry of the restraining order. Tr. pp. 253-54. He testified that he did not remember "knowing everything from it." Tr. p. 254. When asked what the factual basis was for entering a two-year restraining order, Respondent testified as follows:

My attorney suggested that this is what she wanted, mutual agreement. But not mutual but he say, like, you know, when he talked to her he tell exactly what -- she was crying and she don't want to be in middle of this. She wanted to end it. So there is a reason he said let's just do the way she wants. Tr. p. 256-57.

Respondent testified that he was aware that Patient J.E. showed up in court each time the EPO was before the judge. Tr. p. 257. He testified that he did not go to court because of his schedule. *Id.* He testified that he did not tell his current employer that he had a two-year Civil No Contact Order against him by a patient of his practice. Tr. pp. 257-58. He testified that he told the hospital he is affiliated with currently that he has a complaint pending before the Illinois Medical Disciplinary Board as soon as the Board contacted him; he informed them there was an investigation going on. Tr. p. 258.

Respondent testified that he was contacted by Investigator Dusty Van Brocklin as part of the investigation. Tr. p. 258. He testified that as part of his communication with Investigator Van Brocklin (an email to Investigator Van Brocklin on November 7, 2019, (Exhibit J)), he acknowledged that there was a patient named Jessica and that she "later withdrew the case". Tr. pp. 258-60, 262, 267. He testified that he "misinterpreted the mutual agreement as a withdrawal." Tr. p. 259. He testified that he did not include information about signing the two-year restraining order that he signed in his communications with the Department investigator. Tr. p. 260.

When asked again to provide the factual basis for the restraining order, Respondent testified as follows:

The basis that I should not communicate because someone tried to communicate on behalf for me. I don't know why. But on that basis, they say not to communicate with her so I did not communicate with her. Tr. p. 261.

He testified that Exhibit J is an accurate copy of the email he received from Investigator Van Brocklin on October 23, 2019 and his response to that email on November 7, 2019. Tr. p. 267-68. He testified that patient J.E. never sued him. Tr. p. 270. He testified that he does not have a banker. Tr. p. 272.

Respondent testified that he resigned from the hospital after being told there was a complaint against him but was not told the name of the complainant. Tr. p. 273. He testified that, given his Visa status, if he was terminated, he would have to leave the country within one month. *Id.* He testified that with a resignation he would have two to three months to get a new job. *Id.*

Respondent then testified that patient J.E. was the basis for his resignation, he was told that patient J.E. was the complainant, but he was not given the details. Tr. pp. 274-76, 278. He testified that the first he learned that patient J.E. complained about his inappropriate conduct was on September 7, 2018, when he was resigning when Greg Goins, the hospital CEO, Donna (*sic*) Douglas, the head of HR, and Rick Able, the hospital attorney, told him that patient J.E. made a complaint against him. Tr. pp. 276-78.

Respondent testified that the letter dated September 16, 2019, that he sent to Investigator Van Brocklin (Exhibit K) did not include anything about patient J.E. being the reason that he resigned from the hospital. Tr. pp. 278-79. He testified that he did not mention in the email (dated November 7, 2019) to Investigator Van Brocklin (Exhibit J) that the reason he resigned was because patient J.E. made a complaint against him. Tr. p. 280.

Respondent was non-responsive, inconsistent, and evasive at times during his testimony. Respondent was directly impeached by his prior statements and portions of his own testimony during the formal hearing. Thus, Respondent was not a credible witness.

*John Zander, M.D.*



John Zander testified on behalf of the Department in its case in chief. Tr. p. 301. He testified that he has been a physician for forty years. *Id.* He testified he graduated from Bates College in Lewiston, Maine, in 1966. Tr. p. 302. He testified that he went to medical school at the University of Hawaii for two years and Emory in Atlanta, Georgia, for two years and graduated in 1971. *Id.* He testified that he completed his general surgery residency at the University of South Florida in Tampa and a fellowship at Michigan State University. *Id.* He testified that he is board certified and is licensed to practice medicine in Illinois. Tr. pp. 302-303.

Dr. Zander testified that he is employed as a Deputy Medical Coordinator for the Department and has been in that position for twelve years. Tr. p. 303. He testified that he was Acting Chief Medical Coordinator last year. *Id.* He testified that his duties are to evaluate complaints or mandatory reports, write a synopsis, and present it to the Board so the Board can determine whether a case should be closed or sent to the Prosecutions Unit. Tr. pp. 303-304. He testified that prior to becoming a Deputy Medical Coordinator he practiced at the Springfield Clinic in Springfield, Illinois, for thirty-five years. Tr. p. 304. He testified that he was on the Board of Directors for four years. *Id.* He testified that he was also on various committees like finance, insurance, and building. Tr. p. 305.

Dr. Zander testified that he has reviewed an average of five to six cases per year related to physician professionalism and boundaries. Tr. p. 305. He testified that he has testified before an administrative law judge two or three times and was qualified as an expert. Tr. p. 306. He testified that he has testified before the Director for a summary suspension case and was qualified as an expert. *Id.*

Dr. Zander testified that as part of his duties as Deputy Medical Coordinator he utilizes the AMA Code of Medical Ethics with regard to sexual boundaries, and the Code of Ethics is considered authoritative for physicians for guiding principles expected for medical ethics. Tr. pp. 307-308. Dr. Zander was qualified as an expert in professionalism, ethics, and boundaries expected of physicians in

Illinois. Tr. p. 313. Dr. Zander identified Exhibit E as a correct and accurate copy of his curriculum vitae. Tr. p. 316.

Dr. Zander testified that he reviewed documents in preparation for this case including the admission records for patient J.E. from June 2018, documents relating to the Civil No Contact Order, the complaint filed by the hospital, the memorandum prepared by Ms. Douglas, the statements provided to the Department by Respondent, and the AMA Code of Ethics. Tr. pp. 317-18. He testified that patient J.E. was seeing Respondent for depression and anxiety, and general medical conditions. Tr. p. 318.

Dr. Zander testified that if patient J.E. came to Respondent's office on June 15, 2018, for medical care, Respondent held her down by placing his hands on her upper thighs as she was seated on the examination table, attempted to kiss her, and kissed her neck when patient J.E. turned her head this would constitute a breach of physician responsibility to this patient. Tr. p. 322. He testified that this would be a boundary issue and violates the first principle of the AMA Code of Ethics. *Id.* He testified that maintaining proper boundaries is ethically important due to the superior position of the physician. Tr. pp. 322-23. He testified that if physicians do not maintain proper boundaries they could groom patients for later activities because the relationship is "one of student/teacher." Tr. p. 323.

Dr. Zander testified that a patient suffering from depression and anxiety would be "more vulnerable" to suggestions made by the physician, so the physician is expected to maintain strict boundaries with that patient. Tr. p. 324. He testified that trying to kiss a patient is not behavior expected of a physician in Illinois because it would be considered a sexual advance. Tr. p. 325. He testified that if a patient was being seen for double pneumonia there is no clinical scenario where it would be indicated or proper for a physician to force his hand inside a patient's pants and underwear and touch her vagina. Tr. pp. 325-26.

Dr. Zander testified that "[w]ithout explaining the rationale for such a sexual act, there would never be any indication for that act to occur." Tr. p. 326. He testified that, based on the information that was

available to him, there was no clinical justification for Respondent to touch patient J.E.'s vagina two days after she was discharged from the hospital after a double pneumonia diagnosis. *Id.* He testified that touching patient J.E. who is vulnerable because she is suffering from anxiety and depression could lead to psychological harm, could lead to mistrust of physicians in general, and could be the basis for post-traumatic stress. Tr. pp. 326-27.

Dr. Zander testified that patient J.E. could be "totally taken aback by someone she trusted and believed was totally interested in her as a person but now is interested in her as a sex object." Tr. p. 327. He testified that it would cause patient J.E. some mental anguish. *Id.* He testified that offering to consume alcohol with patient J.E. would not be behavior expected of a physician in Illinois because it is "contrary to sound medical advice and more of an incident of apparent grooming to the patient." Tr. pp. 327-28.

Dr. Zander testified that this behavior would violate physician-patient boundaries. Tr. p. 328. He testified that commenting to patient J.E. about her breasts and telling her she looked "sexy" would violate proper physician boundaries. *Id.* He testified that offering money to patient J.E. during an office visit and telling her he would take care of her would violate physician boundaries and would make "the patient more like a prostitute." Tr. p. 329.

Dr. Zander testified that the fact that Respondent was the subject of a two-year restraining order "just adds to the boundary issue," Tr. p. 331. He testified that the behavior described previously would violate the AMA Code of Ethics by failing to provide competent medical care with compassion and respect for human dignity and rights and would demonstrate "moral indifference." Tr. p. 332, 334. He testified that this type of conduct would violate the physician-patient relationship. Tr. p. 334.

Dr. Zander was professional, direct, responsive, and consistent during his testimony, and he had no motive to fabricate. Thus, this Court finds Dr. Zander to be a credible witness.

*Witness testimony – Respondent's case in chief*

*Respondent*

Respondent testified on his own behalf in his case in chief. Tr. p. 387. He testified that he went to college in India and came to the United States to continue his residency at Raritan Bay Medical Center. Tr. p. 388. He testified that after finishing his residency, he had the option of either leaving the country or working "in an underserved area under H-1B visa, in a category of national interest waiver job." *Id.* He testified that this is how he came to work with Dr. Patel in Metropolis, Illinois. Tr. pp. 388-89. He testified that if he worked in an underserved area, he would eventually be given green card status. Tr. p. 389.

Respondent testified that his first job in Metropolis was to help Dr. Patel with his practice. Tr. p. 389. He testified that Dr. Patel is a cardiologist who has been in the area for thirty years; he is a board member at MMH. Tr. pp. 389-90. He testified that starting in October 2010, he was employed by Dr. Patel "[o]n the basis of general practice" so he saw patients in the office, hospital, and nursing home. Tr. p. 392. He testified that he worked for Dr. Patel until June of 2017 then Respondent moved to MMH as Medical Director. *Id.*

Respondent testified that patient J.E. became his patient MMH. Tr. pp. 392-93. He testified that patient J.E.'s family went to Dr. Patel. Tr. p. 393. He testified that he left Dr. Patel because they "were having problems" because Dr. Patel wanted him to leave town after five years and he did not leave. Tr. p. 394. He testified that Dr. Patel wanted to "kick [him] out of the hospital", and they were "having lots of conflicts." Tr. p. 399. He testified that there were a lot of fights between him and Dr. Patel "because he was thinking that [he] was stealing his patients." Tr. p. 402. He testified that he was "one of the leading doctors" of patient care and hospital admissions which Dr. Patel did not like. Tr. p. 402-403.

Respondent testified that there were multiple occasions when Dr. Patel told him he was taking his patients, and Dr. Patel did not like that. Tr. p. 404. He testified that he was "getting popular at the clinic,

and the patients were following [him]." Tr. pp. 404-405. He testified that he orally reported these issues to the hospital. Tr. pp. 406-407. He testified that he was admitting more patients than Dr. Patel, and the patients were following him to his clinic. Tr. p. 409.

Respondent testified that on June 20, 2018, Respondent emailed Tom Reed and continued to have correspondence with him on June 21, 2018. He testified that between June 15, 2018, and September 7, 2018, he had a "lot of conflict" with Dr. Patel. Tr. p. 410. He testified that he previously had an issue with Dr. Patel where his "services were terminated." Tr. p. 411. He testified as follows:

After finishing my five years for the H-1B visa, Dr. Patel was of the impression that I would leave the community and go somewhere else. But I did not leave because I had a good patient following there, and I thought it was my better option for the growth. During that period, he did not — I face a lot of trouble from him as I was staying there. Tr. p. 413.

Respondent testified that this led to "a break" of his employment. Tr. p. 413. He testified that he approached the hospital and "they were kind enough to provide a job as a medical director." *Id.* He testified that he ended up getting some of Dr. Patel's patients; the conflict between him and Dr. Patel was financial. Tr. p. 414. He testified that since he left, Dr. Patel was not making as much money, and he was making more money. *Id.*

Respondent testified that on June 20, 2018, he sent Thomas Reed an email (Exhibit 4) "regarding the problems that [he] was facing at the clinic." Tr. p. 418. He testified as follows:

I was noting discrepancy how many people can have physician where I was seeing 25 to 30 patients a day, and I had only one nurse to take help. But other physicians were seeing five patients or ten patients, and they also had one nurse. Because of this discrepancy, my patients were having trouble that I was not able to send them to the referrals. There was a lot of pending work. So when I approached the hospital, they said I should cut down my patient numbers. Tr. p. 420.

He testified he put it in writing because he wanted to show that he was having trouble with the board, Dr. Patel, and the hospital during that period, and they "were trying to kick [him] out of the hospital." Tr. p. 421. He testified that he sent an email on June 21, 2018, indicating that he was not given enough help at the clinic to work. Tr. p. 424. He testified that the conflict he was having could have led to his termination. Tr. p. 425.

Respondent testified that patient J.E. was referred to him from "local behavioral health" because the doctor there was not able to come to the town, so patient J.E. was referred to him "to help with her medication." Tr. p. 425. He testified that he was working as a primary care physician and director for the clinic. Tr. p. 426. He testified that patient J.E. had a diagnosis of anxiety and depression. *Id.* He testified that patient J.E. had already been diagnosed and he continued her medication. *Id.* He testified that he saw patient J.E. at the Massac Memorial Health Clinic every thirty to forty-five days from the end of 2017 until June of 2018. Tr. pp. 426-27.

Respondent testified that initially he and patient J.E. did not have any problems. Tr. p. 427. He testified that patient J.E. was on Public Aid which allows her to see other providers; there were four other providers who take Public Aid in Metropolis within a one-mile radius. *Id.* He testified that he and patient J.E. had "frequent arguments about increasing the medication." Tr. p. 430. He testified that on June 15<sup>th</sup>, patient J.E. came in for a work release and "needed some medication again." *Id.*

Respondent testified that patient J.E. had been admitted to the hospital with pneumonia from June 10<sup>th</sup> to the 13<sup>th</sup>, and "she needed to get the release from the primary care provider that she is fit enough to go back to work." Tr. p. 431. He testified that patient J.E. came to his office on June 15<sup>th</sup> to get the work release. *Id.* He testified that he told patient J.E. that she could go back to work "but she did not like it." *Id.* He testified that patient J.E. was "stressed out because she was not able to get the payment from her job because she was sick, and she did not go. And she thought she needed more medication to be given so that she can get through the situation." Tr. p. 432. He testified that he did not increase her medication because she was just in the hospital; she should use the medication that she did not use. *Id.*

Respondent testified that he has a nurse and "front desk crew" (three people) at the office, and he "never" had an office visit when he was alone with patient J.E. Tr. p. 439. He testified that he had "individuals that are in the actual patient room" with him and the patient "because of [his] accent to be

able to be there to interface with the patient." *Id.* He testified that patient J.E. did not complain to him or anybody about his conduct prior to June 15. Tr. p. 440.

Respondent testified that the June 15<sup>th</sup> visit took five to ten minutes and described it as follows:

June 15 visit was very short. She came for the work release. I knew I had to before release her, I check her, and make sure she was fit to go back. So me and Rochelle then while in course of examining her in her physical, I talk with Jessica, and she said that she still feeling not well, she is still coughing, she -- what you call -- she use the words she feel like crap. But her heart rate, blood pressure and oxygen saturation was good. I then listen to her lungs. Her lungs were clear. Her heart rate was normal. So I told her that there is no way I cannot -- no way I cannot -- to keep postponing her work release. She is fit from my point of view so she can go back to work. Tr. pp. 440-41.

He testified that patient J.E.'s diagnosis was recovery from pneumonia, and "she still had some anxiety because she did not make money. She was a little bit stressed out during that day." Tr. p. 441.

Respondent testified that patient J.E. did not leave the room abruptly and did not fight with him. Tr. p. 444. He testified that between June 15<sup>th</sup> and September 7<sup>th</sup> he was "going through lots of stress from the hospital administration and Dr. Patel." *Id.* He testified that he was not given notice regarding patient J.E.'s complaint. Tr. p. 445. He testified that the first time patient J.E.'s complaint was brought to his attention was September 7<sup>th</sup>. *Id.* He testified that he first learned about the Civil No Contact Order on September 14<sup>th</sup>. *Id.* He testified that he never went to a hearing or appeared in court regarding the Civil No Contact Order. *Id.*

Respondent testified as follows when asked whether he agreed to the plenary order:

No, I did not. The attorney called me, my attorney, and said that he talked to the lawyer for Jessica. She was crying, and she told him she don't want to -- all she just wants is to settle it down. So my attorney called saying that she don't want to fight with you. Would you like to sign? She is willing to sign the paper. So that's all.

\* \* \* \* \*

That means like not to communicate with Jessica for two more years which I did not have any problem with. Tr. 447.

Respondent testified that was the first communication with the hospital regarding patient J.E.'s complaint. Tr. p. 448. He testified that his attorney told him "to sign the papers", and he signed it. Tr. p. 459. He testified that he did not agree with the allegations in the June 15<sup>th</sup> paragraph. *Id.*

Respondent testified that he did not touch patient J.E. inappropriately or say anything inappropriate. Tr. p. 460. He testified that when he agreed to the November 15<sup>th</sup> order, he was just agreeing not to communicate with patient J.E. for two years. *Id.* When asked why he did not challenge the Civil No Contact Order, he testified as follows:

One thing was as my attorney suggested that I should do this, and other thing is the hospital had me sign severance package where they clearly said I should not be talking as little as possible. Tr. p. 461.

Respondent testified that he was "forced to resign" on September 7<sup>th</sup>; the meeting was "actually to talk about [his] salary increasing." Tr. p. 461. He testified as follows:

I was told -- I was given option whether to resign or get terminated. If only get terminated, they are going to give me explanation why and who complained. If not, I had to resign. Given the situation if I get terminated, I would be expelled from the country within one week or ten days if I don't get a job. H-1B visa impossible to get a job in one or two weeks, so I resign. And I sign, and I was aware I was still under the hospital severance for three to four months where I can hopefully get new job. Tr. p. 463.

Respondent testified that the "talks" referenced in Exhibit K are talks with the CEO regarding increasing his salary and getting better working conditions. Tr. p. 472. He testified that the "personality conflicts" referenced in Exhibit K were with the CEO and Dr. Patel. Tr. p. 473.

Respondent testified that when he met with hospital administrative staff on September 7<sup>th</sup>, he was not given the name of the patient who complained. Tr. p. 481. He testified that the emails that he sent (Exhibits 4 and 5) do not specifically name Dr. Patel. Tr. p. 482. He testified that when he signed the order on November 15, 2019, he did not have the opportunity to read it; the attorney told him "sign here, and you will be done. That's all [he] did." Tr. p. 483.



Respondent testified that Exhibit K does not specifically mention Dr. Patel, but it was regarding him. Tr. p. 486. Respondent testified that he did not apologize to patient J.E. when he spoke to her on August 30<sup>th</sup>. Tr. p. 489.

Respondent was frequently non-responsive, inconsistent, and evasive which bears directly on his credibility. He contradicted his own testimony multiple times.

Michael Rafati, M.D.

Michael Rafati, M.D., testified on behalf of Respondent in his case in chief. Tr. p. 494. He testified that he has been a physician since 1991. *Id.* He testified that he was an emergency physician at MMH for approximately fourteen years. *Id.* He testified that he met Respondent in 2010 when he was hired by Dr. Patel to be his partner at his cardiology/internal medicine practice. Tr. p. 495. He testified that he has known Dr. Patel for fourteen or fifteen years. *Id.*

Dr. Rafati testified that Dr. Patel is "the main doctor that admits to the hospital." Tr. p. 496. He testified that Dr. Patel is "a very influential physician", and he is on the board of the hospital. *Id.* He testified that in 2017, Dr. Patel "dissolved the contract"; Respondent was the "go-to guy for all of us", he was "current", "very knowledgeable", and "very pleasant to be around." Tr. pp. 497-98.

Dr. Rafati testified that Respondent was Dr. Patel's employee. Tr. p. 498. He testified that Dr. Patel accused Respondent of stealing his patients. Tr. p. 499. He testified that there was a conflict between Dr. Patel and Respondent in 2018. Tr. p. 500. He testified that Respondent was fired because Dr. Patel was "losing patients" to Respondent in the clinic, "and everybody knew it." Tr. p. 504.

Dr. Rafati was professional and responsive during his testimony. Thus, this Court finds him to be a credible witness but notes that his knowledge about matters relevant to the Complaint is limited which bears directly on the weight given to his testimony.

### FINDINGS OF FACT

This Administrative Law Judge makes the following Findings of Fact based on clear and convincing evidence presented at the formal hearing:

1. Respondent is presently the holder of a Certificate of Registration as a Physician and Surgeon, License No. 036.126543, issued by the Department. Said license is currently active. Answer.
2. The Department has jurisdiction to investigate complaints and to bring action pursuant to 225 ILCS 2105/2105-15(a)(5) and 225 ILCS Section 60/36. Answer.
3. At all times stated herein, Respondent was employed as a physician at Massac Memorial Hospital (MMH) in Metropolis, Illinois. Answer.
4. At all times stated herein, Respondent engaged in the practice of medicine as a physician and surgeon in the state of Illinois. Answer.
5. Between June 10, 2018 and June 13, 2018, Respondent was providing care, treatment and evaluation for patient J.E. while she was admitted to MMH for pneumonia. Answer; Tr. pp. 52-53.
6. On or about June 15, 2018, Respondent saw patient J.E. at MMH's clinic for a post-hospital follow-up visit. Answer; Tr. p. 54.
7. During the June 15, 2018 office visit, Respondent entered J.E.'s examination room alone and said, "[Patient J.E.], how are you doing? You look sexy today." Tr. p. 60.
8. During the June 15, 2018 office visit, Respondent put his legs on patient J.E.'s thighs and held them down on the table. Tr. p. 62.
9. During the June 15, 2018 office visit, Respondent made the following remarks to patient J.E.:
  - a. Respondent wanted patient J.E. to get drunk;
  - b. Respondent wanted to hang out and get drunk with patient J.E. Tr. pp. 65, 128.

10. During the June 15, 2018 office visit, Respondent held patient J.E. down and tried to kiss her. Tr. pp. 61-62, 152, 156-57.
11. During the June 15, 2018 office visit, Respondent forced his hand into patient J.E.'s underwear and touched patient J.E.'s vagina. Tr. pp. 62, 157, 232.
12. During the June 15, 2018 office visit, Respondent did not have a clinical rationale and/or medical necessity to kiss patient J.E. Tr. pp. 233, 325.
13. During the June 15, 2018 office visit, Respondent did not have a clinical rationale and/or medical necessity to touch patient J.E.'s vagina. Tr. p. 326.
14. Respondent hugged patient J.E. Tr. pp. 63-64, 159.
15. On June 15, 2018, Respondent indicated that he wanted to see patient J.E. over the weekend. Tr. p. 65.
16. On June 15, 2018, Respondent offered patient J.E. money. Tr. pp. 65, 85, 154.
17. On June 15, 2018, Respondent advised patient J.E. that if she needed money, he would take care of her. Tr. p. 65.
18. Patient J.E. did not return to see Respondent as a patient after the June 15, 2018 office visit. Tr. pp. 66, 209.
19. On or about August 30, 2018, Respondent contacted patient J.E. on the phone. Tr. pp. 70, 130.
20. During said August 30, 2018 phone conversation, patient J.E. told Respondent that:
  - a. Respondent took advantage of her;
  - b. Respondent needed to leave patient J.E. alone;
  - c. Respondent should never contact patient J.E. again. Tr. pp. 70-71, 134, 163, 232.
21. On or about September 7, 2018, Respondent resigned from MMH. Answer; Tr. p. 208.

22. On or about September 7, 2018, an individual purporting to be "Ethan May" contacted patient J.E. Exhibit B; Tr. pp. 72, 76, 78.
23. On September 12, 2018, patient J.E. reported Respondent's sexual abuse to MMH. Exhibit C; Tr. pp. 102, 172.
24. On or about September 12, 2018, patient J.E. filed a Petition for Civil No Contact Order against Respondent. Answer; Exhibit B; Tr. pp. 94-95.
25. On or about September 12, 2018, an Emergency Civil No Contact Order (Sexual Conduct and/or Penetration) was issued against Respondent in the Circuit Court of Illinois, First Judicial Circuit, Massac County. Answer; Exhibit G; Tr. p. 97.
26. On or about November 15, 2018, a plenary Civil No Contact Order was entered by agreement in the Circuit Court of Illinois, First Judicial Circuit, Massac County. Answer; Exhibit I; Tr. pp. 107, 447

*Relevant Statutory Provisions*

*225CS 65§22(A) Disciplinary action (in pertinent part)*

(A) The Department may revoke, suspend, place on probation, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action as the Department may deem proper with regard to the license or permit of any person issued under this Act, including imposing fines not to exceed \$10,000 per violation, upon any of the following grounds:

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

(20) Immoral conduct in the commission of any act including, but not limited to commission of an act of sexual misconduct relate to the licensee's practice.

*68 Ill. Admin. Code §1285.240 Standards (in pertinent part)*

a) Dishonorable, Unethical or Unprofessional Conduct

1) In determining what constitutes dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public, the Disciplinary Board shall consider whether the questioned activities:

A) Are violative of ethical standards of the profession (such as safeguard patient confidence and records within the constraints of law; respect the

rights of patients, colleagues and other health professionals; observe laws under the Act and pertaining to any relevant specialty; to provide service with compassion and respect for human dignity);

- B) Constitute a breach of the physician's responsibility to a patient;
  - E) Caused actual harm to any member of the public; or
  - F) Are reasonably likely to cause harm to any member of the public in the future.
- 2) Questionable activities include, but are not limited to:
- E) Committing of any other act or omission that breaches the physician's responsibility to a patient according to accepted medical standards of practice.

b) Immoral Conduct

- 1) Immoral conduct in the commission of any act related to the licensee's practice means conduct that:
- A) Demonstrates moral indifference to the opinions of the good and respectable members of the profession;
  - B) Is inimical to the public welfare;
  - C) Abuses the physician/patient relationship by taking unfair advantage of a patient's vulnerability; and
  - D) Is committed in the course of the practice of medicine.
- 2) In determining immoral conduct in the commission of any act related to the licensee's practice, the Disciplinary Board shall consider, but not be limited to, the following standards:
- A) Taking advantage of a patient's vulnerability by committing an act that violates established codes of professional behavior expected on the part of a physician;
  - B) Unethical conduct with a patient that results in the patient engaging in unwanted personal, financial or sexual relationships with the physician;
  - D) Committing an act, in the practice of persons licensed under the Act, of a flagrant, glaringly obvious nature, that constitutes conduct of such a distasteful nature that accepted codes of behavior or codes of ethics are breached;

- E) Committing an act in a relationship with a patient so as to violate common standards of decency or propriety; or
- F) Any other behavior that violates established codes of physician behavior or that violates established ethical principles commonly associated with the practice of medicine.

**68 Ill. Admin. Code §1110.190 Burden of Proof**

- (a) The burden of proof rests with the Department in all cases instituted by the Department by the filing of a Complaint. A recommendation for discipline may be made by the Committee or hearing officer only where the Department establishes by clear and convincing evidence that the allegations of the Complaint are true.

**ANALYSIS**

Pursuant to 20 ILCS 2105§2105-10 of the Illinois Civil Administrative Code, the practice of the regulated professions, trades and occupations in Illinois is declared to affect the public health, safety, and welfare of the people of Illinois and, in the public interest, is subject to regulation and control by the Department of Professional Regulation. It is further 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. 20 ILCS 2105§2105-10.

The general purpose of the Act is 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, 856 N.E.2d 422, 435 (Ill. 2006), citing *Ikpoh v. Department of Professional Regulation*, 338 Ill.App.3d 918, 926, 789 N.E.2d 442, 449 (1<sup>st</sup> 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 sets. *Middleton v. Clayton*, 128 Ill. App. 3d 623, 470 N.E.2d 1271 (1<sup>st</sup> Dist., 1984); *Kaplan v. Department of Registration and Ed.*, 46 Ill.App.3d 968, 361 N.E.2d 626 (1<sup>st</sup> Dist., 1977).

The Department established that Respondent engaged in sexual misconduct with patient J.E. by making inappropriate comments, kissing her, and touching her vagina during an office visit. As a result of this misconduct, Patient J.E. obtained a restraining order against Respondent after receiving messages

regarding Respondent's misconduct. Respondent did not contest the restraining orders entered in Massac County and agreed there was a factual basis to enter a plenary order prohibiting him (and others at his behest) from communicating with patient J.E.

Patient J.E. was credible — she had no motive to fabricate and was consistent in her testimony. Her testimony alone was sufficient to establish the allegations in the complaint by clear and convincing evidence. It is sufficient for a conviction if the complaining witness is clear and convincing *or* the testimony is corroborated by some other evidence, fact, or circumstance of the case. (Emphasis added). *People v. Priola*, 203 Ill.App.3d 401, 561 N.E.2d 82 (2d Dist., 1990) citing *People v. Thompson*, 198 Ill.App.3d 417, 555 N.E.2d 1122 (5<sup>th</sup> Dist., 1990); *People v. Daniels*, 164 Ill.App.3d 1055, 518 N.E.2d 669 (2d Dist., 1987). The testimony of the complaining witness need not be uncontradicted, unimpeached, crystal clear, or perfect in order to be considered clear and convincing. *Daniels* at 1078. A complainant's testimony will be considered clear and convincing if it is consistent and any discrepancies do not detract from its reasonableness. *People v. Findlay*, 177 Ill.App.3d 903, 532 N.E.2d 1035 (2d Dist., 1988). These cases pertain to criminal matters; there is a lesser burden of proof for purposes of this administrative proceeding as articulated above.

Patient J.E. stood to gain nothing by testifying, in fact, she was visibly distressed, upset, and cried multiple times during her testimony (e.g., Tr. pp. 32-33, 37, 58, 67) which demonstrates the ongoing harmful effect of Respondent's misconduct. Her testimony was compelling. Patient J.E. had to relive the events of June 15, 2018, by testifying which was very difficult for her as demonstrated below:

I felt kind of like I'm feeling again, very overwhelmed. I had not seen him since the incident occurred, because even though I went through all these court processes, he has not. He has not physically been there. So this is the first time I have seen his face since he assaulted me. So it was very hard to see his face. It is hard to see his face. Tr. p. 37.

Patient J.E. did not seek monetary damages by filing a civil lawsuit and declined Respondent's offer to give her money when she was in the examination room which further supports her testimony that she just wanted to put this traumatic situation behind her. Her reluctance to take formal action is consistent

with her desire not to relive the trauma caused by Respondent's actions and fear that no one would believe her.

While Respondent repeatedly attempted to attack patient J.E.'s credibility because she did not seek a restraining order until September of 2018, patient J.E. testified that she was prompted to obtain a protective order after she received communications regarding Respondent's misconduct on September 7, 2018, via Facebook Messenger, the same date that Respondent was "forced to resign" when he met with MMH administrators.

Respondent was not credible based on his observed demeanor and multiple instances of impeachment and inconsistent testimony, and he has a motive to fabricate. Specifically, in his Answer, Respondent denies calling patient J.E. on August 30, 2018; however, Respondent testified under oath that he did call patient J.E. on that date. Tr. pp. 70, 130. Respondent also denies in his Answer that patient J.E. did not return to see him as a patient after June 15, 2018, but admits it during his testimony. Tr. p. 209. Respondent also testified that when he met with hospital administrative staff on September 7<sup>th</sup> he was not given the name of the patient who complained (Tr. p. 481) but subsequently testified that he was given the name of the patient who complained and stated patient J.E. was the reason he was "forced to resign."

Respondent was also not credible when he testified to the circumstances of his signing the Civil No Contact Order (Exhibit I). He testified that when he signed the order on November 15, 2019, he did not have the opportunity to read it; the attorney told him "sign here, and you will be done. That's all [he] did." Tr. p. 483. This simply does not make sense and begs the question: Why would a physician agree to cease contact with a patient for no reason?

Respondent testified that patient J.E.'s allegations were a "surprise" to him, yet he did not contest the restraining orders entered that specify the basis for the relief sought by patient J.E. In fact, the Massac County Judge specifically found that "[t]he parties stipulate to a factual basis for the issuance of a Civil



No Contact Order." Exhibit I at p. 4. Respondent was asked multiple times to articulate the factual basis for the Civil No Contact Order but was evasive and non-responsive.

Respondent's communications with Department Investigator Van Brocklin also serve as impeachment and undermine his credibility. Respondent failed to disclose any information about the restraining orders or that he was "forced to resign" because of patient J.E.'s complaint. Specifically, Respondent writes a letter to Investigator Van Brocklin on September 16, 2019, (Exhibit K; Tr. pp. 278-79) wherein he states the following:

*Dear Sir,*

*I did receive the letter asking for statement, why I suddenly resigned from my position at Massac Memorial hospital*

*1, I have in talks with hospital CEO for couple months before this all happened about increasing my base salary, which did not go well*

*2, we had personality conflicts with each other and other physicians*

*3, Most importantly, As per the initial contract with hospital, whoever breaks the contract after 1 year, the employee stops working immediately and will be on payroll for the next 3 months and will have to finish the left over work, am sending part of the contract which says the same (copy) When I changed the job, I thought the new employer will update my info with the board, am sorry about that, I did update that information.*

In addition, Investigator Van Brocklin emailed Respondent on October 23, 2019, as follows (Exhibit J; Tr. pp. 267-68):

*Good morning Dr. Bejgum. I have a few more questions about this case. I see you say you left Massac Memorial because of a dispute over money, but can you please answer these questions:*

*Do you remember a patient Miss [J.E.]?  
What went on with this patient?*

To which Respondent replied:

*I know that person, she was my patient  
She filed case against me 9-12-19  
Later she withdrew the case  
It's been more than 1 year now since this happened*

At no point during his communications with Department Investigator Van Brocklin does Respondent disclose any information regarding patient J.E.'s complaint or the multiple restraining orders. This significantly undermines Respondent's credibility.

Respondent also contradicted his own testimony during the formal hearing regarding the basis for his resignation and what he was told. He testified that patient J.E. was the basis for his resignation, he was told that patient J.E. was the complainant, but he was not given the details (Tr. pp. 274-76), in contrast to his earlier testimony when he states he first learned about patient J.E.'s complaint on September 14, 2018.

This Court rejects Respondent's posited theory that individuals at MMH concocted a story regarding Respondent's sexual misconduct with patient J.E. in order to force him to resign. This theory is not supported by the evidence. There may have been a financial disagreement between Respondent and his employer, but this is in no way related to the allegations set forth in the Complaint, the hospital's decision to remove Respondent from its staff, or Mr. Goins' obligation to notify the Department of the complaint made by patient J.E. to HR.

Given all of the evidence presented, this Court concludes that the Department has proven the allegations set forth in the complaint.

#### CONCLUSIONS OF LAW

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

1. The Board has jurisdiction over the subject matter and the parties in this case.
2. The Department proved by clear and convincing evidence that Respondent violated 225 ILCS 60§22(A)(5) as set forth in Count I in the Complaint.
3. The Department proved by clear and convincing evidence that Respondent violated 225 ILCS 60§22(A)(20) as set forth in Count I in the Complaint.

### AGGRAVATING/MITIGATING FACTORS

When making a determination of the appropriate disciplinary sanction to be imposed, the Department shall consider factors in aggravation and mitigation pursuant to 68 Ill. Admin. Code §1130.200 and 20 ILCS 2105§2105-130<sup>2</sup>. This Court finds the following aggravating factors to be present: 20 ILCS 2105§2105-130(b)(1), (4), (5), (6), (7), and (9). This Court finds the following mitigating factor to be present: 20 ILCS 2105§2105-130(c)(1).

Respondent breached a fundamental component of the physician-patient relationship: trust. "The Hippocratic Oath, taken by physicians since time immemorial, states that medical providers must abstain from sexual relations with their patients." *Flores v. Santiago*, 2013 IL App (1st) 122454, 986 N.E.2d 1216 (Ill. App. 2013). It is well established that physician sexual misconduct exploits the physician-patient relationship. This is particularly serious and disturbing when the patient suffers from conditions relating to mental health.

In this case, patient J.E. suffered from anxiety and depression, and Respondent was treating her for these conditions. Respondent exploited an especially vulnerable patient. When asked why she never expressed her discomfort to Respondent regarding his comments, her response was, "I don't know. He was my doctor." Tr. p. 52. This demonstrates the implicit trust the public has towards physicians and the potential for abuse. The impact of Respondent's misconduct on patient J.E. is significant as demonstrated

---

<sup>2</sup> 20 ILCS 2105§2105-130 Determination of disciplinary sanctions.

Aggravating factors: (1) the seriousness of the offense; (2) the presence of multiple offenses; (3) prior disciplinary history; (4) the impact of offenses on any injured party; (5) the vulnerability of any injured party, including, but not limited to, consideration of the injured party's age, disability, or mental illness; (6) the motive for the offenses; (7) the lack of contrition for the offense; (8) financial gain as a result of committing the offenses; and (9) the lack of cooperation with the Department or other investigative authorities.

Mitigating factors: (1) the lack of prior disciplinary action by the Department or by other agencies in this State, by other states or jurisdictions, hospitals, health care facilities, residency programs, employers, insurance providers, or by any of the armed forces of the United States or any state; (2) contrition for the offenses; (3) cooperation with the Department or other investigative authorities; (4) restitution to injured parties; (5) whether the misconduct was self-reported; and (6) any voluntary remedial actions taken.

by her difficulty testifying and her testimony relating to her ongoing struggle when thinking of the trauma she suffered at the hands of a physician she trusted and relied on for mental health treatment.

Respondent's motive for the offense was his own pleasure. Respondent lacked contrition for his actions and failed to apologize when given the opportunity. Tr. pp. 71, 489. Respondent did not cooperate with the Department as evidenced by Exhibits J and K where he not only failed to disclose information sought but provided misleading information when the Department's investigator inquired further. Respondent's testimony during the formal hearing was also inconsistent and frequently evasive or non-responsive which constitutes a lack of cooperation.

Regarding mitigating factors, there is no evidence that Respondent has any prior disciplinary actions taken on his medical license in Illinois or elsewhere.

After fully considering the evidence presented at the formal hearing, the aggravating and mitigating factors, and the applicable law, including the purpose of the Act, this Court determines that the public safety, health, and welfare would be best served by the imposition of indefinite suspension of Respondent's Certificate of Registration as a Physician and Surgeon for a minimum period of time that reflects the aggravating factors present in this case and the imposition of a fine pursuant to 225 ILCS 60/22(A) which allows for up to \$10,000 for each violation. The Department proved by clear and convincing evidence that Respondent violated two provisions of the Act (225 ILCS 60§22(A)(5) and (20). This Court recommends that a \$7500 fine be imposed for each of these violations.

#### RECOMMENDATION

Based on the above Findings of Fact, Conclusions of Law, and Factors in Aggravation and Mitigation, this Administrative Law Judge recommends to the Board that Respondent's Certificate of Registration as a Physician and Surgeon be placed on indefinite suspension for a minimum of four years and the imposition of a fine of \$15,000 payable within six months of the entry of the final order.

Dated: June 7, 2021

*Pavan Bejgum*  
036.126543  
2018-11061

Respectfully submitted:

\_\_\_\_\_/s/\_\_\_\_\_  
Laura E. Forester  
Administrative Law Judge