

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In Re: Stanley Dwayne Roberts, M.D.)	
)	DECISION AND ORDER
Complaint No. CR16-260)	

I. PROCEDURAL HISTORY

Pursuant to the authority found in 10 M.R.S. Section 8003(5) and 32 M.R.S. Sections 3269 and 3282-A, the Maine Board of Licensure in Medicine (“Board”) met in public session at its offices in Augusta, Maine, on October 10, 2017. The purpose of the meeting was to determine whether to impose discipline upon the medical license of Stanley Dwayne Roberts, M.D.

By letter dated July 28, 2017, the Licensee was notified that the hearing in this matter would be held on October 10, 2017. The Licensee did not respond to email and phone requests to hold a telephonic prehearing conference. On October 4, 2017 a Scheduling Order was issued. The State bears the burden to prove by a preponderance of the evidence any violation that would form the basis of discipline.

A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Louisa Barnhart, M.D.; Susan Dench, Public Member; David Dumont, M.D.; Christopher Ross, P.A.-C.; Peter Sacchetti, M.D.; Michael Sullivan, M.D.; Brad Waddell, M.D.; and Maroulla Gleaton, M.D., Chair. On the day of the hearing, the Licensee requested to participate in the hearing telephonically. The State did not object. The Licensee’s request to participate in the hearing telephonically was granted. Michael Miller, Esq., Assistant Attorney General, represented the State of Maine. Rebekah Smith, Esq., served as Hearing Officer. The hearing was held in accordance with the requirements of the Maine Administrative Procedure Act, 5 M.R.S. Section 9051 to Section 9064.

State Exhibits #1 to #21 were admitted without objection. The admitted exhibits are identified as follows:

- State Exhibit #1: Notice of Hearing dated July 28, 2017
- State Exhibit #2: ALMS Licensing Information
- State Exhibit #3: Uniform Application for Physician State Licensure filed January 14, 2014
- State Exhibit #4: Utah Department of Commerce Division of Occupational and Professional Licensing (“UDOPL”) Investigative Information - CONFIDENTIAL
- State Exhibit #5: February 3, 2016, UDOPL Stipulation and Order
- State Exhibit #6: May 31, 2016, UDOPL Order of Suspension
- State Exhibit #7: January 4, 2017, Notice of Complaint
- State Exhibit #8: January 4, 2017, Notice of Complaint Resent on January 13, 2017
- State Exhibit #9: USPS Tracking Results Resent Notice of Complaint
- State Exhibit #10: February 24, 2017, Email from Katie Feliciano, Investigative Secretary for the Board, to Licensee
- State Exhibit #11: March 27, 2017, Memo to Board Members from Julie Best, Complaint Coordinator for the Board
- State Exhibit #12: March 27, 2017, Email from Katie Feliciano to Licensee
- State Exhibit #13: March 27, 2017, Memo to Board Members from Katie Feliciano
- State Exhibit #14: April 10, 2017, Emails between Michael Miller, Esq., Assistant Attorney General, and Katie Feliciano
- State Exhibit #15: June 28, 2017, Memo to File from Katie Feliciano
- State Exhibit #16: June 30, 2017, Memo to File from Katie Feliciano
- State Exhibit #17: July 6, 2017, Memo to File from Katie Feliciano
- State Exhibit #18: July 28, 2017, Email from Katie Feliciano to Licensee
- State Exhibit #19: 32 M.R.S. Section 3282-A
- State Exhibit #20: 10 M.R.S. Section 8003
- State Exhibit #21: American Medical Association Code of Ethics

The Board took notice of its statutes and rules and confirmed that no participating member had any conflict of interest or bias that would prevent him or her from rendering an impartial decision in this matter. Each party presented an opening statement. The State presented the following witnesses: Margaret Duhamel, M.D., Medical Director for the Board; Katie Feliciano, Investigative Secretary for the Board; and the Licensee. The Licensee did not present any additional witnesses. Each party made a closing argument. The Board then deliberated and made the following findings of fact and conclusions of law by a preponderance of the credible evidence regarding the allegations against the Licensee.

II. FINDINGS OF FACTS

1. The Licensee was first licensed as a medical doctor in Maine in December 2015. (State Exh. #2.) His current license expired on September 30, 2017. (State Exh. #2.)
2. On January 14, 2014, the Licensee submitted a Uniform Application for Physician State Licensure to the Board. (State Exh. #3.) The Licensee answered “No” to the following question: “Have you EVER been notified of the existence of allegations involving you, filed with or by ANY licensing authority (INCLUDING MAINE), which allegations remain open as of the date of this application?” (State Exh. #3.)
3. On January 15, 2014, the Board received the Licensee’s Affidavit and Authorization for Release of Information as part of his application. (State Exh. #3.) The Affidavit stated as follows: “I will immediately notify the Board in writing of any changes to the answers to any of the questions contained in this application if such a change occurs at any time prior to a license to practice medicine being granted to me by the Board.” (State Exh. #3.)
4. On November 6, 2015, an anonymous complaint was made against the Licensee with the Utah Department of Commerce’s Division of Occupational and Professional Licensing (“UDOPL”). (State Exh. #4.) The complaint alleged that the Licensee was treating family members and prescribing controlled substances to several family members outside the normal course of medical practice, some of which they would give back to him for his personal use, and was not keeping records properly. (State Exh. #4.) On November 10, 2015, the Licensee was informed by UDOPL of the complaint and interviewed. (State Exh. #4.)
5. On February 1, 2016, a UDOPL investigator issued a report stating that the Licensee had admitted during an interview that for approximately two years he had been treating and prescribing controlled substances to numerous family members including his sons, daughter-

- in-law, spouse, and daughter. (State Exh. #4.) The report indicated that the Licensee also acknowledged that he took some of the controlled substances he prescribed for family members. (State Exh. #4.)
6. Effective February 5, 2016, the Licensee entered into a Stipulation and Order with UDPOL and the Attorney General of Utah in which he acknowledged that between January 2014 and November 2015, on multiple occasions, he prescribed Adderall in the name of some of his family members and that other family members filled these Adderall prescriptions and either used the medication to replace their own medication which had been stolen or provided Adderall to the Licensee for his own therapeutic use. (State Exh. #5.) The Licensee also admitted that he treated one of his relatives for chronic back pain without following the requisite national policies for the treatment of chronic pain with opioids. (State Exh. #5.) The Licensee acknowledged that he failed to keep adequate records of his treatment of family members. (State Exh. #5.) Finally, the Licensee admitted that his actions constituted unprofessional conduct. (State Exh. #5.)
 7. As a sanction, the Licensee's Utah licenses to practice as a physician and to administer and prescribe controlled substances were revoked although the revocation was stayed, his controlled substance license was suspended, and both licenses were subjected to a four year term of probation. (State Exh. #5) Among other requirements, the Licensee was required to complete mental health, substance use disorder, and physical evaluations. (State Exh. #5.)
 8. On May 31, 2016, because the Licensee had not submitted the required evaluations to UDOPL, his license to practice as a physician in Utah was suspended until he submitted the required evaluations. (State Exh. #6.)

9. On October 13, 2016, the Board received notification from the Federation of State Medical Boards that the Licensee had been excluded from Medicare and Medicaid due to the discipline he had received from UDOPL. (Testimony of Duhamel.)
10. By letter dated January 4, 2017, the Board informed the Licensee that it had voted to initiate a complaint against him based on discipline imposed on his Utah license and his failure to inform the Board of the discipline. (State Exh. #7.) The letter informed the Licensee that he was required by statute to respond to the complaint in writing within 30 days. (State Exh. #7.) The copy of the notice sent certified mail was returned to the Board because no signature had been obtained. (State Exh. #14.) The Board updated the Licensee's address based on information on the returned letter. (State Exh. #14.)
11. On January 13, 2017, the Board resent the January 4, 2017, notice of complaint to the Licensee by certified mail to his updated address. (State Exhs. #8 & #14.) It was delivered on January 20, 2017. (State Exhs. #9 & #14.)
12. On February 24, 2017, Ms. Feliciano spoke with the Licensee by phone and forwarded him by email the January 4, 2017, notice of complaint. (State Exh. #10).
13. On March 27, 2017, Ms. Feliciano emailed the Licensee, providing the notice of complaint again, and reminded him that he had not filed a written response to the complaint. (State Exh. #12.)
14. As of March 27, 2017, Board staff had provided the Licensee the complaint twice by certified mail and twice by email and had left three voicemails requesting that he contact the Board but he had not responded to the complaint. (State Exh. #11.)
15. On June 28, 2017, Ms. Feliciano tried to contact the Licensee by phone. (State Exh. #15.) The Licensee's wife answered and asked Ms. Feliciano to call back in ten minutes, which

- she did, but no one answered. (State Exh. #15.) Ms. Feliciano left a message asking the Licensee to return her call. (State Exh. #15.)
16. On June 30, 2017, Ms. Feliciano reached the Licensee by phone. (State Exh. #16.) He stated that he did not realize that he had been granted a license in Maine. (State Exh. #16.) He provided Ms. Feliciano with a new updated address. (State Exh. #16.)
17. On July 28, 2017, Ms. Feliciano emailed the Licensee the Notice of Hearing, which was also mailed first class and certified mail that day. (State Exhs. #1 & #18.)
18. As of the day of hearing, the Licensee continued to communicate using the same email address to which the Board had sent correspondence throughout the proceeding. (Testimony of Feliciano.)
19. At hearing, the Licensee disputed UDOPL's conclusion that he had not complied with the Stipulation and Order by not obtaining the required evaluations. (Testimony of Licensee.) The Licensee indicated that he did not intend to practice medicine in Maine in the future. (Testimony of Licensee.)

III. GOVERNING STATUTES AND RULES

1. The Board may refuse to issue, modify, restrict, suspend, revoke, or refuse to renew a license if the licensee engaged in the practice of fraud, deceit, or misrepresentation in obtaining a license or in connection with service rendered within the scope of the license issued. 32 M.R.S. § 3282-A(2)(A).
2. The Board may refuse to issue, modify, restrict, suspend, revoke, or refuse to renew a license if the licensee engaged in misuse of alcohol, drugs, or other substances that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients. 32 M.R.S. § 3282-A(2)(B).

3. The Board may refuse to issue, modify, restrict, suspend, revoke, or refuse to renew a license if the licensee engaged in unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if he or she violated a standard of professional behavior that has been established in the practice for which the licensee is licensed. 32 M.R.S. § 3282-A(2)(F).
4. The Board may refuse to issue, modify, restrict, suspend, revoke, or refuse to renew a license if the licensee was subjected to revocation, suspension, or restriction of a license to practice medicine by another state for conduct that would constitute grounds for discipline under Maine laws if committed in the State of Maine. 32 M.R.S. § 3282-A(2)(M).
5. The Board may refuse to issue, modify, restrict, suspend, revoke, or refuse to renew a license if the licensee fails to timely respond to a complaint notification send by the Board. 32 M.R.S. § 3282-A(2)(R).
6. A licensee must respond to a notice of complaint within 30 days. 32 M.R.S. § 3282-A(1).
7. The American Medical Association Code of Medical Ethics states that, in general, physicians should not treat themselves or family members unless in an emergency or isolated setting or for short-term, minor problems. When treating oneself or a family member, a physician must document treatment or care provided and convey relevant information to the patient's primary care physician. American Medical Association Code of Medical Ethics 1.2.1.
8. A licensee may petition for reinstatement of his license within five years of the license lapsing. 32 M.R.S. § 3280-A.

IV. CONCLUSIONS OF LAW

The Board, considering the above facts and those alluded to in the record but not referred to herein, concluded that it had jurisdiction over Stanley Dwayne Roberts, M.D., and found that the

Licensee committed the following statutory violations:¹

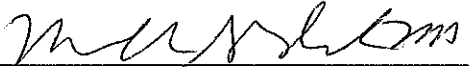
1. By a vote of five to three, the Licensee engaged in misrepresentation in obtaining his license by not informing the Board of the investigation of his actions by UDOPL, of which he was informed on November 10, 2015, despite committing to immediately notify the Board of any allegations he became aware of prior to his license being granted in his application for Maine licensure, subjecting him to discipline pursuant to 32 M.R.S. Section 3282-A(2)(A).
2. By unanimous vote, the Licensee engaged in the use of substances that could have resulted in his performing services in a manner that endangered the health or safety of patients, subjecting him to discipline pursuant to 32 M.R.S. Section 3282-A(2)(B).
3. By unanimous vote, the Licensee engaged in unprofessional conduct by violating a standard of professional behavior that has been established in the practice for which he is licensed by violating the American Medical Association Code of Medical Ethics Section 1.2.1 by treating members of his family in a non-emergency and non-isolated setting without documenting the treatment provided, subjecting him to discipline pursuant to 32 M.R.S. Section 3282-A(2)(F).
4. By unanimous vote, the Licensee was subjected to discipline in Utah for his conduct of prescribing controlled substances in the name of family members, some of which he used himself, treating a relative for chronic back pain with opioids without following appropriate protocols, and failing to keep adequate records of his treatment of family members, which constituted conduct that would have provided grounds for discipline if committed in Maine, subjecting him to discipline pursuant to 32 M.R.S. Section 3282-A(2)(M).

¹ The Board voted seven to one that the State had not proven by a preponderance of the evidence that the Licensee prescribed controlled substances for other than therapeutic purposes, which would have been a violation of 32 M.R.S. Section 3282-A(2)(J).

5. By unanimous vote, the Licensee failed to timely respond to the complaint notification sent to him by mail on January 4 and January 13, 2017, and by email on February 24 and February 27, 2017, by not responding within 30 days as required by 32 M.R.S. Section 3282-A(1), subjecting him to discipline pursuant to 32 M.R.S. Section 3282-A(2)(R).

The Board unanimously revoked the Licensee's license as a sanction.

Dated: 11/20 _____, 2017



Maroulla S. Gleaton, M.D., Chair
State of Maine Board of Licensure in Medicine

V. APPEAL RIGHTS

Pursuant to the provisions of 10 M.R.S. Section 8003(5) and 5 M.R.S. Section 11002(3), any party that appeals this Decision and Order must file a Petition for Review in the District Court within 30 days of receipt of this Order. The petition shall specify the person seeking review, the manner in which they are aggrieved, and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought, and a demand for relief. Copies of the Petition for Review shall be served by certified mail, return receipt requested, upon the State of Maine Board of Licensure in Medicine, all parties to the agency proceedings, and the Attorney General.