

Weinberg's claim to be "groundless." Weinberg also wrote a letter to the Board of Medicine, "threatening criminal prosecution if Pt. A testified against him at the hearing."

By final decision and order dated October 30, 2002, the Board of Medicine revoked Weinberg's license to practice medicine in the Commonwealth of Massachusetts for a period of five years, finding that, "[b]y virtue of having engaged in sexual activity with a current patient, [Robert Weinberg] is guilty of conduct which undermines public confidence in the integrity of the medical profession and conduct which shows lack of good moral character." This decision was affirmed by the Supreme Judicial Court of Massachusetts. *Weinberg v. Bd. of Registration in Med.*, 824 N.E.2d 38 (Mass. 2005). Although Weinberg has been eligible to seek reinstatement of his Massachusetts medical license since 2005, he has not yet done so.

In March 2004, Weinberg's New York medical license was also revoked. This revocation occurred not only because of the revocation of Weinberg's Massachusetts medical license, but also for independent, improper conduct committed by Weinberg in New York. Specifically, in 2000 and 2001, Weinberg applied for locum tenens appointments at Jones Memorial Hospital in Wellsville, New York. In both instances, he affirmatively and falsely asserted that there were no disciplinary charges pending against him. In testimony before a committee of the New York Board for Professional Medical Conduct, Weinberg explained that he answered falsely on the applications to Jones Memorial Hospital because he had lost jobs at other facilities when he truthfully admitted that he had disciplinary charges pending against him.

In addition to his medical licensure problems, Weinberg has had myriad additional problems between 2003 and the present. He failed to make car payments and Ford Motor Credit Company filed an action to repossess the vehicle in 2003 and an action to recover the deficiency between the amount for which the vehicle was sold and the value of the vehicle in 2004. He failed to pay rent to The United Company and in 2003 a judgment in the amount of \$11,176.25 was entered against him in the Boston Housing Court. In 2005, Weinberg initiated a Chapter 13 bankruptcy proceeding in the U.S. Bankruptcy Court for the District of Maine. The proceedings converted to Chapter 7, and he was granted a discharge in November of 2007.

In 2006, a foreclosure action was commenced in Oxford County Superior Court against Weinberg, which was dismissed without prejudice in October 2007. A second foreclosure action was commenced in Rumford District Court in January of 2010, which action is still pending.

In 2007, Weinberg had a series of problems with his landlord, Jain Zhou. He failed to pay rent to Zhou, who filed an eviction complaint against him. In response, Weinberg filed a 10-count counterclaim and propounded more than 120 interrogatories to Zhou. Judgment was entered for Zhou against Weinberg in March 2008. He was also charged criminally for allegedly assaulting Zhou, but was found not guilty following a jury trial. Zhou also filed a complaint seeking a restraining order against Weinberg and, in reply, Weinberg filed a 19-count counterclaim. Judgment was entered against Weinberg when he failed to appear at the hearing in August 2009.

Weinberg was also charged criminally for allegedly assaulting his wife in December 2007. As his criminal defense attorney explained, the “problem with the case was that [Weinberg’s wife] refused to testify for the prosecution.” A finding of not guilty was then entered by the Massachusetts court.

Weinberg submitted an application to sit for the Maine bar on May 20, 2010 (hereinafter referred to as “Bar Application”). As permitted by Maine Bar Admission Rule 9, the Chair of this Board determined that a hearing was necessary to resolve doubt regarding Weinberg’s good moral character. A full-day hearing was held on July 25, 2011, before seven members of this Board at which Weinberg testified and presented additional witnesses. Participating Board members were Nathaniel M. Rosenblatt, Esq. (Chair), Jennifer A. Archer, Esq., C. Donald Briggs, III, Esq., Ann M. Courtney, Esq., Alfred H. Fuchs, Ph.D. (Public Representative), Paul M. Mills, Esq., and Jeffrey M. Silverstein, Esq.¹ Weinberg was represented by Peter J. DeTroy, Esq., and the Board was represented by Assistant Attorney General William R. Fisher, Esq.

At the hearing, Weinberg contended that either he had shown sufficient moral character to be admitted to the Maine bar or that he was an appropriate candidate for conditional admission pursuant to Maine Bar Admission Rule 9A. As explained more fully below, this Board concludes that Weinberg has not established that he possesses good moral character as required by Maine Bar Admission Rule 9. Further, because this Board concludes that he does not meet the criteria for conditional admission, it declines to exercise its discretion to permit admission pursuant to Maine Bar Admission Rule 9A.

¹ All participating Board members join in this decision.

DISCUSSION

Maine Bar Admission Rule 9 requires each applicant to produce evidence of his or her good moral character. M. Bar Admission R. 9(a). “The attributes of character that are relevant to this determination are those pertinent to the trust placed in lawyers by the public and clients as well as to the requirement that lawyers in this state comply with the Maine Bar Rules.” *Id.* In the situation in which “doubt remains concerning the applicant’s good moral character,” the Board is required to conduct a hearing to determine whether the applicant does, in fact, possess good moral character. *Id.* 9(d)(1). The applicant bears the burden to establish his or her good moral character, which burden remains upon the applicant throughout the proceedings. *See id.* 9(a), (d)(5)(H). *See also Nicholson v. Bd. of Bar Exam’rs*, BAR-07-01 at 9 (Dec. 6, 2007) (Levy, J.).

“‘Good moral character’ entails honesty, integrity, respect for the law, and respect for the rights of others.” *Id.* (quoting ABA CODE OF RECOMMENDED STANDARDS FOR BAR EXAMINERS, COMPREHENSIVE GUIDE TO BAR ADMISSION REQUIREMENTS (2007)).

When reviewing an applicant’s prior bad conduct, the following factors are considered:

(1) the applicant’s age at the time of the conduct; (2) the frequency and recency of the conduct; (3) the seriousness of the conduct; (4) the evidence of rehabilitation; (5) the applicant’s candor in the admission process; (6) the materiality of any omissions or misrepresentations; (7) the cumulative effect of conduct or information; and (8) the applicant’s current attitude regarding the conduct. . . . Additional factors that may bear on the determination of a candidate’s good moral character includes the applicant’s positive social contributions since the conduct, the opinions of character witnesses as to the applicant’s current moral fitness, and any other evidence relevant to the applicant’s current honesty, diligence, or reliability.

Id. at 10.

Weinberg has not established satisfactory evidence of good moral character as required by Maine Bar Admission Rule 9(a). When he was 39 years old, Weinberg engaged in sexual relations with Patient A, a highly vulnerable individual whom he knew to have a history of sexual abuse and whom he had previously committed to a psychiatric facility. Although it is undisputed that he was her treating physician at the time he wrongfully engaged in a sexual relationship with Patient A, Weinberg spent \$244,000 defending the licensure action against the Board of Medicine because he felt the Board of Medicine was not taking his claim seriously that he had terminated the physician-patient relationship for a brief period of time immediately before commencing a sexual relationship with Patient A.

At the hearing before this Board, Weinberg continued to focus on the brief interruption of his professional relationship with Patient A, stating that he “followed the [ethics] rule” by terminating the relationship but then acknowledged that he violated the rule by “taking her back.” The fact that Weinberg terminated the physician-patient relationship for a short period of time before commencing an inappropriate and unethical sexual relationship with a patient is inconsequential and does not ameliorate the impact of his subsequent wrongful conduct. Weinberg’s continued need to prove that he somehow followed the rules by briefly terminating his professional relationship with Patient A is reflective of his inability to fully accept wrongdoing and negates his claim of rehabilitation.

Time after time in the years since his inappropriate and wrongful conduct with Patient A, Weinberg has attempted to hide his past by omitting or deliberately misrepresenting his conduct to employers and individuals, including this Board. He represented on his Bar Application that his medical license was revoked in New York, in part, because he “omitted information about ongoing adjudicatory proceedings . . . when [he] completed an employment application at Jones Memorial Hospital.” In fact, as discovered at the hearing before this Board, Weinberg did not “omit” information but instead deliberately misrepresented the status of the Massachusetts disciplinary proceedings to Jones Memorial Hospital.

Weinberg indicated on his Bar Application that his former landlord, Zhou, failed to prosecute her action to obtain a restraining order when, in reality, Weinberg failed to appear at the hearing in August 2009 and judgment was entered against him. Weinberg explained to this Board that he did not receive notice of the hearing because he failed to notify the Massachusetts court of his change of address and “forgot about” the restraining order action and his 19-count counterclaim. Weinberg admitted at the hearing before this Board that, despite knowing for several weeks before the hearing that his statements in the Bar Application regarding the disposition of the restraining order action were incorrect, he made no attempt to correct the misstatements with the Board. His inability to keep track of deadlines and follow through with commitments is an additional, separate concern to the Board.²

² As Weinberg described at the hearing:

Weinberg also failed to list the October 24, 2003, \$11,136 judgment against him in Boston Housing Court in his Bar Application. Instead, he listed only the subsequent Boston Municipal Court action in which the plaintiff attempted to execute on the underlying 2003 Boston Housing Court judgment. As that subsequent action was dismissed, it appears that Weinberg's failure to disclose the underlying Housing Court judgment was again an attempt to mislead this Board.

In addition to his omissions or misrepresentations to this Board, Weinberg also did not disclose his professional disciplinary history to either his current employer, MIT, or to two of the individuals he chose to serve as references to this Board. He testified at the hearing before this Board that MIT recently learned of his history from an unknown source, not Weinberg, in June of 2011, and then initiated an "inquiry." Weinberg admitted that he did not disclose his past wrongdoings to his past employers, including two of the individuals he chose to serve as references to this Board.

Weinberg has an extremely litigious recent past. While participation in litigation does not, *per se*, give rise to the conclusion that an applicant lacks good moral character, the substance and type of Weinberg's litigation tactics are symptomatic of unnecessarily going to war against those he deems to be an enemy and weigh against his claim that he

And in terms of several of you had questions about my ability to function as a lawyer and I think you have hit a nail on the head in that when it comes to keeping track of certain deadlines, either docket deadlines, statute of limitation, there are multiple kinds of deadlines that I know I will need someone to keep track of these dates for me because it's one of my weaknesses and that it is a problem with this court case that was decided without me receiving notice because I didn't follow up on it and that is a problem that I'm going to have to be vigilant about; but I think if I have the right legal aide or legal receptionist, they can say okay, Monday this brief is due in court, Wednesday you have this meeting, Friday you have to do this."

This position on his future practice of law only bolsters the conclusion that Weinberg has significant difficulty accepting responsibility for his actions, which difficulty will continue into his practice.

is rehabilitated. *Cf. In re Feingold*, 296 A.2d 492, 499-50 (Me. 1972) (examining the applicant's "propensity to engage in improper personal attacks on the court or opposing counsel" and noting that "[t]urbulent, intemperate or irresponsible behavior is a proper basis for the denial of admission to the bar"). For example, he threatened criminal prosecution against the Board of Medicine; he brought suit against Patient A when she appropriately complied with a subpoena; he filed a 10-count counterclaim and propounded more than 120 interrogatories to his landlord in response to an eviction complaint; and he filed a 19-count counterclaim against his landlord in response to her complaint for a restraining order and then failed to monitor its status and follow it to conclusion, sustaining a default judgment.

Weinberg's view that those who oppose him are enemies upon whom he must wage war has carried over and influenced his attitude regarding his past wrongful conduct. He clearly still harbors ill feelings toward other physicians due to the 2002 license revocation by the Board of Medicine, describing his affection for medical malpractice law to this Board as follows:

I probably shouldn't be saying this but a little part of me feels like I'm getting even with some of the doctors I'm suing because even though they were not the ones to sit on the Board, I can't say I don't get a little bit of satisfaction of you don't want me practicing medicine, well, look what I can do to you when I'm not.

This statement, combined with his recent history, exposes his true feelings and attitude regarding his past conduct.

Finally, at the hearing before this Board, Weinberg testified that his "shame and guilt" kept him "hiding under a rock" until December of 2010, when he had some type of

revelation and was able to see the true error in his ways. Both the way and the number of times the phrase “shame and guilt” was recited by Weinberg throughout the hearing gave the impression that it was not genuine and that it was merely an excuse for his past wrongdoing.

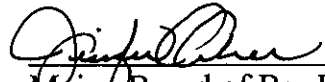
The Board appreciates the efforts that Weinberg has undertaken to seek counseling, which he believes has helped him to understand his wrongdoing. However, after considering his long and serious history through the lens of the ABA Code of Recommended Standards for Bar Examiners as outlined in *Nicholson v. Board of Bar Examiners*, this Board concludes that Weinberg has not produced satisfactory evidence that he possesses good moral character as necessary to be admitted to the Maine bar. Further, in light of the totality and recency of his wrongful conduct, this Board cannot conclude that “the conditions that led to the determination that [Weinberg] has not produced satisfactory evidence of good moral character are in the past and are not likely to recur.”³ M. Bar Admission R. 9A(a)(1). Accordingly, this Board declines to exercise its discretion to grant Weinberg conditional admission.

³ It bears note that Weinberg has not applied for reinstatement of his Massachusetts medical license, despite having been eligible since 2005. Maine Bar Rule 9A provides that “a lawyer who has been disbarred or suspended from the practice of law or has resigned from the practice of law in another jurisdiction, and has not been reinstated to the practice of law in that other jurisdiction shall be ineligible for conditional admission.” M. Bar Admission R. 9A(a). While the plain language of the Conditional Admission rule is limited to attorneys, this Board is cognizant of the underlying policy for requiring reinstatement. Accordingly, the suspension or revocation of other professional licenses without reinstatement or even an attempt at reinstatement gives this Board pause when analyzing the propriety of conditional admission.

CONCLUSION

In light of the foregoing, the Maine Board of Bar Examiners hereby denies Robert P. Weinberg's application for admission to the Maine bar.

Date: August 23, 2011



Maine Board of Bar Examiners
By: Jennifer A. Archer, Esq.