

**STATE OF CONNECTICUT  
CONNECTICUT MEDICAL EXAMINING BOARD**

Jeremy August, M.D.  
License No.: 021725

Petition No. 2007-0226-001-029

**MEMORANDUM OF DECISION**

*Procedural Background*

On May 1, 2007, the Department of Public Health (“the Department”) presented a Statement of Charges (“the Charges”) and Motion for Summary Suspension to the Connecticut Medical Examining Board (“the Board”) against Connecticut medical license number 021725 of Jeremy August (“respondent”). Board Exh. 1. The Charges allege that respondent’s license is subject to disciplinary action pursuant to the Connecticut General Statutes §20-13c(4). The Motion for Summary Suspension was based on the Department’s information and belief that respondent’s continued practice represented a clear and immediate danger to the public health and safety. Board Exh. 1.

Pursuant to the authority of Conn. Gen. Stat. §§4-182(c) and 19a-17(c), on May 15, 2007, the Board granted the Department’s motion and summarily suspended respondent’s license pending the Board’s final determination on the allegations contained in the Charges. The Board set the hearing date for May 29, 2007.

The Department served the Motion for Summary Suspension, Charges, Summary Suspension Order and Notice of Hearing via certified mail, return receipt requested on May 17, 2007. The Notice of Hearing directed respondent to appear before a duly authorized panel of the Board on May 29, 2007, for a formal hearing on the allegations contained in the Charges. The panel consisted of George Terranova, M.D., Elliot Alter, O.D., and Steven Hanks, M.D. Board Exh. 1.

Respondent did not provide an Answer to the Statement of Charges.

On May 29, 2007, the Board, through its duly authorized panel, held an administrative hearing to adjudicate respondent’s case. Attorney Richard C. Tynan, represented respondent; Attorney Roberta Swafford represented the Department.

The Panel conducted the hearing in accordance with Connecticut General Statutes Chapter 54 (the Uniform Administrative Procedure Act). Both parties had the opportunity to present evidence, conduct cross-examination, and provide argument on all issues.

All Panel members involved in this decision received copies of the entire record and attest that they either heard the case or read the record in its entirety. The Board reviewed the panel's proposed final decision in accordance with the provisions of the General Statutes §4-179. The Board considered whether respondent poses a threat, in the practice of medicine, to the health and safety of any person. This decision is based entirely on the record and the specialized professional knowledge of the Panel in evaluating the evidence.

### *Allegations*

#### Count One

1. In paragraph 1 of the Charges, the Department alleges that respondent is, and has been at all times referenced in this Statement of Charges, the holder of Connecticut medicine and surgery license number 021725.
  2. In paragraph 2 of the Charges, the Department alleges that at all times referenced in the Charges, respondent has practiced psychiatry.
  3. In paragraph 3 of the Charges, the Department alleges that between at least July 7, 1999 and June 11, 2002, AC was respondent's patient.
  4. In paragraph 4 of the Charges, the Department alleges that in approximately May or June of 2002, AC had an appointment with respondent. At that time respondent was observed embracing and kissing AC.
  5. In paragraph 5 of the Charges, the Department alleges that in or about June of 2002, AC moved to Illinois. From that time to the present, respondent has spoken with AC by phone numerous times, often several times a day.
  6. In paragraph 6 of the Charges, the Department alleges that on or about April 13, 2007, the Department notified respondent that it had opened a petition against him based on a complaint filed by relatives of AC.
  7. In paragraph 7 of the Charges, the Department alleges that on or after April 13, 2007, respondent revealed to AC that her relatives had filed a complaint against him with the Department despite the fact that respondent knew or should have known that this information may be detrimental to AC's emotional state.
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8. In paragraph 8 of the Charges, the Department alleges that allegations numbered 1 through 7 constitute grounds for disciplinary action pursuant to section 20-13c of the General Statutes, including but not limited to §20-13c(4)

**Count Two**

9. In paragraph 10 of the Charges, the Department alleges that between at least January 30, 2001 and April 1, 2004, RA was respondent's patient.
10. In paragraph 11 of the Charges, the Department alleges that from approximately June 2001 and through September 2001, respondent had RA perform work on a house that respondent owned in Prospect, Connecticut.
11. In paragraph 12 of the Charges, the Department alleges that on or about September 21, 2004, respondent called RA to testify at a hearing before the Medical Examining Board in Petition No. 2001-1128-001-180, which related to the house referenced in paragraph 11 above.
12. In paragraph 13 of the Charges, the Department alleges that at no time did respondent disclose that RA had been his patient.
13. In paragraph 14 of the Charges, the Department alleges that allegations numbered 10 through 13 constitute grounds for disciplinary action pursuant to section 20-13c of the General Statutes of Connecticut, including but not limited to §20-13c(4).

***Findings of Fact***

1. Respondent is the holder of Connecticut physician and surgeon license number 021725. Board Exh. A; Dept. Exh. 1.
  2. At all relevant times, respondent practiced psychiatry. Tr., p. 143.
  3. Between at least July 7, 1999 and June 11, 2002, AC was respondent's patient. Tr. 5/29/07, pp. 50-56, 68-73, 110, 112, 144, 172-209.
  4. AC was diagnosed with bipolar affective disorder, borderline personality disorder, and recurrent major depression. Dept. Exhs. 2, 6, 8 Tr., p. 144
  5. In approximately May or June of 2002, AC had an appointment with respondent. At that time respondent embraced and kissed AC, and was observed doing so by AC's sister. Dept. Exh. 4; Tr., pp. 84, 96-98, 121, 124, 125, 151, 158, 159.
  6. Prior to the time AC moved to Illinois in June 2002, respondent made a commitment to AC that he would continue to "try and help her" after she moved from Connecticut. Tr., p. 152.
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7. After AC moved to Illinois in June 2002, and continuing to 2007, respondent and AC had numerous communications by telephone in which AC sought, and respondent provided, advice concerning AC's mental health-related issues. Dept. Exhs. 3, 4, 5, 6; Tr., pp. 50-56, 68, 69, 80-88, 101-103, 152-156, 188-189, 190.
8. On or about April 13, 2007, the Department notified respondent that it opened a petition against him based on a complaint filed by AC's relatives. Dept. Exh. 7; Tr., pp. 56-59, 105.
9. Respondent subsequently informed AC about the complaint against him despite his knowledge that the information may have a detrimental effect on AC's emotional state. Tr., pp. 160, 161
10. Between January 30, 2001 and April 1, 2004, RA was respondent's patient. Tr., pp. 164, 167, 168, 209-211.
11. From June 2001 through September 2001, respondent had RA perform work on a house that respondent owned in Prospect, Connecticut. Tr., 162, 167-170.
12. During the time RA performed work on respondent's house, respondent was prescribing medication for RA. Tr., pp. 167, 168.
13. On September 21, 2004, respondent called RA to testify at a hearing before the Medical Examining Board in Petition No. 2001-1128-001-180, which related to the house owned by respondent in Prospect, Connecticut. Dept. Exhs. 10, 11; Tr., pp. 162, 165.
14. At no time did respondent disclose that RA had been his patient. Dept. Exhs. 10, 11; Tr., p. 165, 167.

### ***Discussion and Conclusions of Law***

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S.Ct. 999, *reh'g denied*, 451 U.S. 933 (1981); *Swiller v. Commissioner of Public Health*, CV 970573367, Superior Court, J.D. Hartford/New Britain at Hartford, February 19, 1998.

Section 19a-10 of the Connecticut General Statutes provides in pertinent part, "[Boards] may conduct hearings on any matter within their statutory jurisdiction. Such hearings shall be conducted in accordance with Chapter 54 and the regulations established by the Commissioner of Public Health."

Pursuant to Connecticut General Statutes §20-13c(4) “the board is authorized to restrict, suspend, or revoke the license or limit the right to practice of a physician or take any other action in accordance with section 19a-17, for . . . illegal, incompetent or negligent conduct in the practice of medicine.” The board finds that the Department met its burden of proof with respect to allegations 1 through 14 of the Charges.

With respect to paragraphs 1, 2, and 3 of the Charges, the evidence establishes that respondent is a licensed physician in the State of Connecticut, who practices psychiatry, and AC was his patient from July 7, 1999 through June 11, 2002. FF. 1-4.

With respect to paragraph 4 of the Charges, the Board finds that the Department met its burden of proof that respondent embraced and kissed AC during an appointment. AC’s sister was eyewitness to respondent’s misconduct. Respondent does not deny the allegation, but claims to lack any independent recollection of said incident. He stated, however, that “if [he] kissed her that was wrong.” He further testified that AC’s sister provided “convincing testimony and [he’ll] take it as the truth,” thereby amounting to a quasi-admission of his misconduct. FF. 5. The Board concludes that this misconduct is a clear and serious violation of the physician-patient boundary and constitutes “illegal, incompetent or negligent conduct in the practice of medicine.”

With respect to paragraph 5 of the Charges, the Department proved by a preponderance of the evidence that after AC moved to Illinois in June 2002, and continuing to 2007, respondent and AC had numerous communications by telephone. FF. 7. Prior to AC’s move from Connecticut, respondent had made a commitment to AC that he would continue to try and help her after she moved to Illinois. FF. 6. Consistent with that commitment, respondent and AC had numerous telephone conversations after AC’s move to Illinois in which AC sought, and respondent provided, advice concerning AC’s mental health-related issues. FF. 7.

Although respondent characterized his communications with AC about her mental health issues as “strategy” for dealing with her problems, the Board concludes that these communications constituted medical advice by a physician, i.e., treatment. By respondent’s own admission, “you’re not supposed to give medical advice over the telephone.” Tr., p. 173. The Board concludes that it was inappropriate for respondent to have treated AC over the phone, and that such inappropriate treatment constitutes “illegal, incompetent or negligent conduct in the practice of medicine.”

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Respondent admits that he failed to document his numerous communications with AC. While there is no allegation that respondent's medical records were incomplete, and the Board does not find any violation on the basis of record-keeping, the Board expresses concern that the phone calls, even while AC was still in Connecticut, were not properly documented by respondent.

The Department produced sufficient evidence establishing that on or about April 13, 2007, the Department notified respondent that the Department had opened a petition against him based on a complaint filed by relatives of AC, as alleged in paragraph 6 of the Charges. FF. 8.

With respect to paragraph 7 of the Charges, the Department proved that on or after April 13, 2007, respondent revealed to AC that her relatives filed a complaint against him with the Department despite the fact that respondent knew or should have known that this information may be detrimental to AC's emotional state. The Board finds that respondent should not have called AC at all regarding the complaint because AC was his patient. Respondent contends that he simply informed AC that he could no longer call her because of the complaint. However, as a psychiatrist, respondent failed to exercise due care and good judgment when he should have reasonably known that such information could be detrimental to AC, particularly since AC was a very dependent patient. FF. 9. The Board concludes that taking this action, which respondent knew or should have known might be detrimental to AC's emotional state, constituted "illegal, incompetent or negligent conduct in the practice of medicine."

With respect to paragraphs 10 and 11 of the Charges, respondent admits that RA was his patient from January 30, 2001 through April 1, 2004, and that from June 2001 through September 2001, RA worked on respondent's house in Prospect, Connecticut. FF. 10-12. Respondent further admitted that it was a boundary violation for RA, a patient of the respondent, to be doing work on respondent's house. Tr., p. 167. The Board concludes that respondent having his patient, RA, perform work on respondent's house constituted "illegal, incompetent or negligent conduct in the practice of medicine."

With respect to paragraphs 12 and 13 of the Charges, while the Department did prove the facts alleged in those paragraphs, the Board does not find a violation on the basis of those facts.

The Board has determined that the violations it has found as to both counts alleged in the Charges merit disciplinary action. Further, the Board reviewed three previous Memoranda of Decision issued by the Board regarding respondent's previous misconduct. The Board finds that

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the misconduct it has found as to the current Charges, together with the misconduct determined in the previous Memoranda of Decision, establish a pattern of predatory behavior and repeated boundary violations that pose a real and current danger to psychiatric patients in the State of Connecticut. As such, respondent's license is subject to disciplinary action as prescribed in Connecticut General Statutes §19a-17(a).

**Order**

Based upon the record in this case, including consideration of the previous Memoranda of Decision concerning respondent, and the above findings of fact and conclusions of law, and pursuant to the authority vested in it by Conn. Gen. Stat. §19a-17 and §20-13c, the Board orders that in Petition No. 2007-0226-001-029, license number 021725 of Jeremy August, M.D. to practice medicine and surgery is hereby revoked.

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Date

Dennis G. O'Neill, M.D.  
By: Dennis G. O'Neill, M.D., Chairperson  
Connecticut Medical Examining Board