SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2794-20

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF DANIEL A. DAVENPORT, PSY.D., LICENSE NO: 35S100401100, TO PRACTICE PSYCHOLOGY IN THE STATE OF NEW JERSEY.

Argued October 31, 2022 - Decided December 20, 2022

Before Judges Currier and Bishop-Thompson.

On appeal from the New Jersey Board of Psychological Examiners, Division of Consumer Affairs, Department of Law and Public Safety.

Michael Confusione argued the cause for appellant Daniel A. Davenport, Psy.D. (Hegge & Confusione, LLC, attorneys; Michael Confusione, of counsel and on the briefs).

David M. Puteska, Deputy Attorney General, argued the cause for respondent New Jersey State Board of Psychological Examiners (Matthew J. Platkin, Attorney General, attorney; Sookie Bae-Park, Assistant Attorney General, of counsel; David M. Puteska, on the brief).

PER CURIAM

Appellant, Daniel Davenport, Psy.D., appeals from the Board of Psychological Examiners' (the Board) final decision revoking his license to practice psychology in the State of New Jersey. Appellant contends his due process rights were violated when the Administrative Law Judge (ALJ) denied his request for an adjournment, and that the Board mistakenly exercised its discretion in revoking his license. We affirm.

I.

In 2016, the Board received a complaint regarding a sexual relationship appellant had with his seventeen-year-old patient, A.S.[1] The Board investigated the allegations and conducted a hearing during which appellant testified. Appellant declined to sign a subsequent consent order offered by the State.

Thereafter, the State filed an amended complaint with the Board alleging the violation of multiple statutes, professional misconduct resulting from the sexual contact with a minor patient, and the failure to cooperate with the Board through deception, dishonesty, and misrepresentation. The State sought the revocation or suspension of appellant's license.

In June 2018, the ALJ held a telephone conference regarding the matter. A conference scheduled for September was adjourned at appellant's request

[1] We use initials to protect the patient's privacy. R. 1:38-3(f)(4).

because he was retaining new counsel. Appellant also requested an adjournment of the October hearing. In October 2018, the court sent out a notice of hearing dates for April 29-May 3, 2019. Those dates were confirmed during a telephone conference in February 2019. One week prior to the scheduled start of the hearing, appellant requested an adjournment because he was going to be on vacation. The ALJ adjourned the hearing for one day, permitting appellant to take his vacation.

A.S. testified on the first day of the hearing—April 30, 2019. She stated she began therapy with appellant in May 2013 when she was seventeen years old. She had eating disorders, specifically anorexia and bulimia. She also explained her parents had recently divorced, a male teacher had sexually assaulted her, her boyfriend had broken up with her, and her father was an alcoholic.

Although A.S. was initially inconsistent with appointments, she had a "crisis" in the fall of 2013. After her long-time friend told A.S. she hated her and "didn't want to know [her] anymore," A.S. took her mother's car, drove to Philadelphia, and texted appellant, seeking help. Although appellant was attending a Philadelphia Eagles game, he left to meet her in the parking lot of a nearby sports bar. A.S. got into appellant's car and told him about the sexual

assault by the male teacher. Appellant consoled her, telling her he "could be the man that [she] could trust." They spent about an hour in the car together. A.S. said she "felt grateful." Thereafter, she looked forward to attending the therapy sessions.

A.S.'s eating disorder continued, and in December 2013 she was vomiting eight to ten times a day due to bulimia. Appellant referred her to the Renfrew Center for intensive outpatient treatment. A.S. said appellant also ended his professional relationship with her "because he wanted to be there for [her] more."

While A.S. was being treated at the Renfrew Center, she and appellant were texting and e-mailing almost every day. They professed their love for each other, and A.S. "thought that she loved him" and that they "were no longer in a . . . professional relationship." She thought of him like a "father figure," and "[s]omething like" "a hero." There had not yet been any intimate or physical contact between them.

While an outpatient at Renfrew, A.S. continued to visit appellant at his office once a week. She said it seemed "more casual" and he wanted to keep seeing her. They continued to develop a relationship, and A.S. said it was "like

free therapy . . . but . . . more casual." She continued to struggle with her eating disorder but was not drinking alcohol.

Appellant messaged A.S. about her eating disorder, stating she was "a little b[e]tter with a little tummy," and that her body needed nutrients. In the messages, he told A.S. he loved her, that her "respect and adoration is like some kind of drug to [him, he] feel[s] like [he] could give [her] everything [he] ha[s] to offer, and be completely joyful in doing so." A.S. said appellant's messages were "validating," "comforting," and they made her "feel better about [her]self."

By January or February 2014, the office visits became more intimate. A.S. said they would sit on the couch together, appellant held her, they cuddled, and she would "lay on top of him." In March, after appellant said he "wondered about how it would feel to kiss [her]," they shared their first kiss.

On another occasion while they were lying on the couch together, and A.S. was talking about her eating disorder, appellant kissed her stomach and told her it "was still flat and tiny." Eventually their relationship progressed and appellant performed oral sex on A.S. She was still seventeen. A.S. said they would spend time together in his office or another vacant office across the hall where appellant would push two couches together with a comforter on top.

In March 2014, appellant took A.S. to Atlantic City where he bought her drinks at a restaurant and in the casino, and then she performed oral sex on him in his car in the parking garage. Later that month, appellant bought A.S. a bottle of Fireball whiskey for a party she was attending. When he arrived to give her the bottle, his children were in the car with him.

A.S. said they discussed abstaining from sexual intercourse until after her eighteenth birthday in May 2014 because she did not want appellant to get into trouble. Nevertheless, they did have intercourse while A.S. was still seventeen, on a couch in appellant's office.

The day after A.S.'s eighteenth birthday, appellant took her to New Hope, Pennsylvania, where they stayed at a bed and breakfast, got drunk at a local tavern, and had sexual intercourse. Thereafter, A.S. testified they had sex "as frequently as possible" in hotel rooms or other places near appellant's office, and she saw him several times a week. A.S. also sent appellant explicit photos of herself. A.S. began to consume excessive amounts of alcohol.

In October 2014, A.S. said her mental health declined, and she drove to the beach with a bottle of vodka and had thoughts of suicide. She described the incident:

> I had gone to the beach, I had driven to the beach by myself, and it was raining and I bought a bottle of

> vodka, and I, because of everything that I was doing with [appellant] and also a bunch of other ways that I was just really mistreating myself and my parents getting divorced, I was so overwhelmed that I decided I wanted to kill myself. And I had that thought and I was already pretty drunk and I told myself I would just drive to the hospital because I didn't want to die but I wanted to die, and then on the way there, I crashed into a parked car.

She subsequently enrolled in an inpatient program in Florida. At the end of the forty-day program, she remained in Florida for some time, receiving outpatient treatment while residing in a sober living home.

While A.S. was living in Florida, she and appellant exchanged letters and phone calls. Her letters stated, "I love you more than life, forever!"; "I miss your smile. I miss your lips. I miss the attention they (and your tongue) give my body. Most of all I miss the way your voice sounds when you say 'I love you'"; "I miss you so much" "[E]ven the tiniest of feats I reach within myself here I am dying to run to you and share them with you." She told him she loved him in many of the letters. She also wrote, "I was so pleased to hear that you miss me too, and that my absence in your life has been prominent . . . [I] [l]oved hearing you're thinking of me."

She expressed the validation she felt with him: "It broke my heart to hear you felt rather empty when I'm not around; at the same time it was also very

telling and meaningful to me, to know I hold that much space in your heart, even when you have a career, kids, a wife . . ." And she also described the hurt he caused her: "I was feeling inadequate, and as though you felt I was undeserving to be your one and only."

A.S. explained in her testimony that she thought she loved him at the time. Although A.S. attempted to end the relationship prior to leaving Florida, appellant picked her up from the airport in January 2015 and took her to a hotel, where they "drank [alcohol] and . . . had sex." She said they were drunk.

The sexual relationship continued into February and March 2015. A.S. began another inpatient rehabilitation program in March 2015 but after she was discharged at the end of two months, they resumed the sexual relationship. In May 2015, A.S. again began to abuse alcohol. On one occasion while she was drunk, A.S. told her aunt about the relationship. During this time, she also went on a two-day binge and drank rubbing alcohol in an attempt to end her life.

After A.S.'s family admitted her into an inpatient program, appellant ended the relationship. When A.S. completed the program, she moved to California.

A year and a half later, appellant contacted her via Facebook, informing her their relationship had been discovered. A.S. found the complaint online and

read appellant's account of their relationship. She testified that "not only were there lies in there, but there was just so much left out and I was like, there's something wrong here if someone is leaving this much out." She called the Deputy Attorney General assigned to the case, and he put her in contact with the investigator.

A.S. testified regarding the impact her relationship with appellant had on her:

> it's very hard for me now to—I mean it kept me from going back to therapy for at least a couple of years. I also thought that—it's really hard to put this into words, I'm sorry but it was a time where I just really needed something and I needed someone and someone that I thought I could trust, they didn't do the right thing for me and now, I try to live with this, but really like in my current relationship I can't trust anyone[.] I don't trust anyone, . . . I just always think that people are going to mentally manipulate me.
>
> I feel bad for my current boyfriend because . . . I always think he's trying to fool me in some way. . . . I don't know along the lines of what you meant but like emotionally that's one way . . . it also put a hold on my life, I never had drinking problems before this event, and it hurt my mom, and I lost all my friends from having to keep the secret of it. Like all my high school friends which is okay, I've let that go but it really stalled me.

On the second hearing date—May 3, 2019—appellant's counsel advised the ALJ that appellant had terminated his services by email following the first

hearing date. Appellant told counsel he wished to represent himself. However, when the parties appeared in person, appellant told the ALJ he wanted counsel to continue to represent him but appellant wanted to give his own testimony.

Appellant advised the ALJ he had only received notice of the hearing thirteen days earlier, despite his counsel getting the notice months earlier. Because appellant had a planned vacation, he had not had the opportunity to meet with counsel.

Appellant's counsel admitted he did not send appellant the hearing date notice until thirteen days before the hearing. However, he had scheduled a meeting with appellant for the prior day to prepare for his testimony, but appellant refused to meet.

Appellant and both counsel agreed to proceed, using a format where appellant would present his direct testimony through a narrative and then the State would cross-examine him.

During his testimony, appellant described his relationship with A.S. He said that while A.S. was his patient, he provided her with his phone number and said this was not uncommon practice.

Appellant recalled the day he left the Philadelphia Eagles game and met A.S. in a parking lot. He thought this was a better plan than calling an

ambulance to transport her to an emergency room. They spoke for an hour in his car, and she called him her hero and hugged him. He said physical contact was "always at her initiation." He told her she could trust him.

During cross-examination, appellant stated he believed A.S "staged" this incident as "part of her pathology of drawing men in in crisis situations and I was all too happy to be the rescuer." Appellant described his conduct as "perfectly appropriate."

Appellant referred A.S. to the out-patient program at Renfrew. Although he said their last session was in December 2013, they maintained contact. He admitted telling A.S. he loved her in a text sent while she was in the program. After A.S. completed the program, they saw each other once or twice a week. Appellant admitted to sitting on the couch next to A.S. in his office but denied cuddling or having her lie on top of him.

Appellant recalled he was first intimate with A.S. in May 2014 on the day after her eighteenth birthday. He denied having sexual intercourse with her before she was eighteen years old.

Although appellant denied ever buying A.S. alcohol, he conceded he gave her money and his credit card. He admitted becoming "possessive and more jealous" by May 2014.

Appellant confirmed he took A.S. to New Hope for her eighteenth birthday, however, he said she bought herself a drink while he left to get the car, and they did not have sex that night, but did engage in "heavy petting" and "fondling" in the hotel room. He believed she knew he "was at a vulnerable point" due to his marriage and health deteriorating.

Appellant admitted to having sexual intercourse with A.S. once or twice a week during the summer of 2014. However, he denied it took place in his office building, stating he reserved a hotel room. Although appellant agreed he met A.S. in Atlantic City that summer, he denied buying her drinks or having oral sex in his car.

Once A.S. went to Florida, they continued communicating via letters, sharing their "love and affection" with each other. He admitted to keeping the letters because he "was concerned about" the consequences of the relationship. He did not recall receiving any naked photos from A.S., although they "were FaceTiming and things became sexualized."

Appellant paid for A.S.'s flight when she returned to New Jersey from Florida. He confirmed picking her up at the airport and having sex in a hotel but denied buying her alcohol.

When A.S. relapsed again in May 2015, appellant told her he could not be involved with her if she was drinking. He said he sent her a letter accepting responsibility for the relationship and apologized. He also ended the relationship, stating he "made dreadful decisions and that [he] was broken in some way that [he] needed to mend." He intended to get therapy.

After appellant's wife found emails between appellant and A.S., appellant and his wife attended therapy together. Neither reported the relationship to the Board. However, after appellant sought therapy on his own with a second therapist and told her about this relationship, she told him she had to report his behavior to the Board.

He subsequently wrote a letter to the Board concerning his misconduct. He expressed his remorse but left out many of the details of the relationship with A.S. Appellant retained counsel and appeared before the Board for a hearing in 2016. As stated, he rejected the consent order proffered by the State. Knowing he would be required to close his practice, he did so in August 2016 and began working at Southwood State Prison.

Appellant retained a new attorney. Shortly thereafter, A.S. learned of the hearing and consent order and contacted the Attorney General's Office. When appellant was apprised of the expanded allegations, he confronted his attorney

who declined to represent him any further. Therefore, appellant hired a third attorney. He soon became dissatisfied with the attorney's services and hired the counsel who represented him during the OAL hearing.

At the close of the hearing, the ALJ permitted appellant to give an oral summation. Both counsel then submitted written summations.

The ALJ issued her initial decision on March 2, 2020. The decision detailed the testimony and appellant's oral summation. The ALJ found A.S.'s testimony was credible because she was "consistent and forthright," the letters and emails admitted into evidence supported her testimony, she "had no interest in the outcome of th[e] matter" because she was unaware of the proceedings until appellant informed her, and she was "distressed" and "upset" while testifying.

In considering appellant's credibility, the ALJ found it "suspect" because he (1) did not self-report his conduct; (2) did not disclose the relationship until after his wife discovered his conduct and he went to a therapist months later; (3) "downplayed" his conduct and initially withheld significant details from the Board; (4) "sought to excuse his behavior" even after acknowledging the extent of his involvement with A.S.; (5) was aware of his misconduct as early as December 2013, "when he ceased to act as [A.S.]'s therapist, but started acting

as a confidante and friend"; and (6) "[appellant] . . . sought to minimize his conduct as merely a boundary violation, and not characterize it as a serious violation of the client relationship."

Therefore, the ALJ accepted A.S.'s testimony regarding her relationship with appellant, including the dates she provided and the facts regarding their intimacy. She "f[ound] as fact that they engaged in sexual activity and intercourse" prior to A.S.'s eighteenth birthday and that appellant ceased being her therapist and became her friend and eventual lover "within a matter of months."

The ALJ further found that appellant and A.S. exchanged "words of love" as early as December 2013 and their relationship "continue[d] for more than [a] year, during which time A.S.'s psychological state can only be described as fragile."

The ALJ concluded that, because appellant was a therapist, he "was aware of the serious nature of A.S.'s psychological problems involving her parents, food, and alcohol," and he "contributed to her emotional issues, and food and alcohol problems" by providing her with what he described as "support." This was demonstrated by the incident in which appellant picked A.S. up from the airport after returning from rehabilitation in Florida and taking her to a hotel

room where they consumed alcohol together and had sexual intercourse. The ALJ concluded that appellant's "effect on [A.S.]'s recovery cannot be discounted." The ALJ found the State proved all three counts of the complaint by a preponderance of the evidence.

In determining the appropriate penalty, the ALJ considered four cases, two from the Board of Medical Examiners and two from the Board of Psychological Examiners, in which the Supreme Court and this court affirmed the revocation of the medical professional's license.

The ALJ denoted the following facts: appellant worked as a well-trained therapist for years, he "encouraged a sexual relationship with A.S. and exploited her trust in him" when she "was emotionally fragile and vulnerable . . . rather than contribute to her recovery." Appellant also "contributed to [A.S.'s] dependencies." In addition to his misconduct with A.S., appellant failed to be "forthcoming" with the Board and was "not candid about the facts until A.S. advised the Board" of the "intensity and duration of the relationship."

In considering appellant's mitigating evidence, the ALJ noted he had made efforts toward rehabilitation and recognized his boundary issues. She also specified that he was dealing with medical and financial issues and was

dependent on his license to make a living. He was also willing to work under supervision.

The ALJ concluded that "the mitigating factors d[id] not outweigh [appellant's] risk to the public's health, safety, and welfare." She stated:

> [Appellant]'s misconduct, engaging in a sexual relationship with A.S., his former patient, within days of terminating the therapeutic relationship, is reprehensible, and represents a gross deviation from professional and ethical standards. [Appellant] took improper advantage of his position as a licensed practitioner to exploit a young woman who was particularly vulnerable. He dishonored himself and his profession.

She found appellant's "misconduct is of a sufficiently serious nature that protection of the public warrants revocation of his license to practice psychology."

II.

Appellant appealed the ALJ's decision to the Board. Although new counsel represented him during the Board hearings, the Board permitted appellant to present his own arguments. After hearing testimony from several character witnesses presented by appellant, the Board adopted the ALJ's findings of fact and conclusions of law and affirmed the revocation of appellant's license. The detailed, written final decision was issued by the Board on May 20, 2021.

In addressing the ALJ's credibility findings, the Board found she "clearly discussed and considered the testimony of [appellant] and A.S., and convincingly explained why she found the testimony offered by A.S. to be credible and the testimony offered by [appellant] to be less so." Therefore, the Board found the ALJ did not act arbitrarily in her credibility findings and adopted them.

The Board found it was "abundantly clear on review of the record that [appellant] purposefully sought to deceive and mislead the Board about his relationship with A.S., by minimizing and omitting details about that relationship on multiple occasions." The Board noted A.S.'s testimony "filled in many gaps" that appellant did not reveal during his testimony to the Board. For example, appellant testified he had intercourse with A.S. only after she turned eighteen. However, A.S.'s credible testimony revealed she had sexual relations with appellant prior to her eighteenth birthday.

A.S also testified she visited appellant's office, not because he hired A.S. to work for him, as he originally testified, but to engage in activities of a sexual nature. It was only from A.S.'s testimony that the Board and ALJ learned of "the true depth and intensity of the sexual relationship between" her and appellant.

The Board concluded that "[t]hese few examples demonstrate [appellant]'s level of dishonesty, misrepresentation and deception regarding the sexual encounters with A.S." Therefore, because the ALJ did not act arbitrarily or capriciously, the Board adopted the ALJ's credibility findings.

The Board also considered appellant's mitigation evidence presented by him as well as from co-workers at the prison: a psychiatrist, a social worker, and a doctor. The Board found that none of the mitigation evidence was

> sufficient to outweigh the harm that [appellant] caused, nor has anything offered on [appellant's] behalf persuaded us that any sanction short of revocation would be appropriate in this case. [Appellant] fundamentally violated all standard ethical precepts that a psychologist must adhere to when he entered into a sexual relationship with a vulnerable minor client and then continued that relationship for more than a year. His subsequent attempts to mislead and deceive this [B]oard of the true extent of his relationship with this client only further accentuate [appellant's] ethical lapses. When considered in their totality, the findings in this case fully support entry of an [o]rder revoking [appellant's] license.

The Board noted in its decision that appellant's citation to other cases, in which licensed psychologists were penalized with lesser measures and monetary penalties, was "inapposite" because "[i]t is axiomatic that each case . . . be judged individually, on its own unique acts and circumstances" and appellant's

"misconduct was at a level that was far more egregious than the conduct that was found in other cases."

III.

Our review of quasi-judicial agency determinations is limited. Allstars Auto. Grp., Inc. v. N.J. Motor Vehicle Comm'n, 234 N.J. 150, 157 (2018) (citing Russo v. Bd. of Trs., Police & Firemen's Ret. Sys., 206 N.J. 14, 27 (2011)).

"An agency's determination on the merits 'will be sustained unless there is a clear showing that it is arbitrary, capricious, or unreasonable, or that it lacks fair support in the record.'" Saccone v. Bd. of Trs., Police & Firemen's Ret. Sys., 219 N.J. 369, 380 (2014) (quoting Russo, 206 N.J. at 27). The party challenging the administrative action bears the burden of making that showing. Lavezzi v. State, 219 N.J. 163, 171 (2014). We also accord "substantial deference to the agency's expertise and superior knowledge of a particular field." In re Herrmann, 192 N.J. 19, 28 (2007); see In re Request to Modify Prison Sentences, 242 N.J. 357, 390 (2020) ("Wide discretion is afforded to administrative decisions because of an agency's specialized knowledge").

A.

On appeal, appellant asserts his right to due process of law was violated because his counsel at the time was ineffective, and the ALJ did not permit an

adjournment to seek new counsel. He further contends the ALJ abused her discretion because she "conducted no [factual] inquiry at all in response to [appellant]'s request for adjournment." We discern no merit to these assertions.

"Administrative hearings in contested cases must 'operate fairly and conform with due process principles.'" In re Kallen, 92 N.J. 14, 25 (1983) (quoting Laba v. Newark Bd. of Educ., 23 N.J. 364, 382 (1957)). Administrative due process requirements have been met "[a]s long as principles of basic fairness are observed and adequate procedural protections [are] afforded." Ibid. (alteration in original) (internal quotations omitted). While an individual facing the suspension or revocation of a license must be afforded those basic principles of fairness, "it is equally clear that the special rules which attach to criminal proceedings do not extend to administrative hearings of this nature." Id. at 26.

The misconduct at issue occurred in 2013. The Board was unaware of the improper relationship until a therapist from whom appellant was receiving treatment reported it in 2016. Appellant retained counsel and testified at a hearing in 2016. He rejected a consent order that permitted him to retain his license and to resume practicing after a period of suspension and probation.

Thereafter, the State filed an amended complaint with the Board. The allegations arose out of the same limited course of events with A.S. that

appellant was confronted with in the prior hearing. Although a hearing was scheduled before the ALJ in October 2018, appellant was granted an adjournment to obtain new counsel—his fourth lawyer. New hearing dates were scheduled for April and May 2019. Appellant adjourned additional conference dates in early 2019.

Appellant asserts he did not learn of the April 29 hearing date until shortly before the date. Because he was leaving on a vacation with his family, he requested counsel seek an adjournment. The ALJ granted the adjournment and the hearing commenced on April 30, 2019, following appellant's return from his trip.

On that date, appellant did not ask the ALJ for additional time or assert he or his counsel had insufficient time to prepare. To the contrary, appellant's counsel gave an opening statement that reflected his familiarity with the issues and facts. In addition, his thorough and effective cross-examination of A.S. encompasses more than sixty transcript pages. A.S. was the only witness on the first day.

Nevertheless, after leaving the hearing, appellant sought to once again delay the proceedings to retain new counsel. When the parties reconvened on May 3, the ALJ spoke directly to appellant, asking whether he wished current

counsel to continue to represent him. He responded that he did. Appellant stated further: "I certainly can use some assistance. I'm perfectly prepared to appear to be cross examined . . . but I can use [counsel's] assistance as well." At appellant's request, the ALJ also permitted appellant to make his own opening statement, present his direct examination in a narrative fashion and give an oral summation.

Appellant's assertions of a deprivation of due process are unfounded. His numerous requests for adjournments were all granted; the allegations concerned a limited time span of events about which appellant first testified in 2016. He had years to prepare as well as two days between A.S.'s testimony and his own in May 2019, and he told the ALJ he was completely ready and prepared. All of appellant's requests were accommodated, even the manner of the presentation of his testimony. Appellant was accorded his full due process rights. The ALJ properly exercised her discretion in denying any further delay of the proceedings.

B.

Appellant also asserts the Board abused its discretion in revoking his license. We disagree.

Our review of disciplinary sanction determinations is limited. Div. of Alcoholic Beverage Control v. Maynards, Inc., 192 N.J. 158, 183 (2007). A court "has no power to act independently as an administrative tribunal or to substitute its judgment for that of the agency. It can interpose its views only where it is satisfied that the agency has mistakenly exercised its discretion or misperceived its own statutory authority." In re License Issued to Zahl, 186 N.J. 341, 354 (2006) (quoting In re Polk License Revocation, 90 N.J. 550, 578 (1982)).

"In light of the deference owed to such determinations, when reviewing administrative sanctions, 'the test . . . is whether such punishment is so disproportionate to the offense, in light of all the circumstances, as to be shocking to one's sense of fairness.'" In re Hendrickson, 235 N.J. 145, 159 (2018) (alteration in original) (quoting Herrmann, 192 N.J. at 28-29).

Appellant cites to several cases in which a psychologist received a sanction less than revocation of their license. He does not address the cases considered by the ALJ in which the Board found revocation of license was necessary to protect the public. The Board reviewed appellant's arguments and proffer of cases and found his "misconduct was at a level that was far more

egregious than the conduct that was found in other cases cited by [appellant], and we thus found his arguments citing to other cases to be inapposite."

The Board considered and accepted the ALJ's findings of fact and conclusions of law and her credibility findings. The Board found no reason to disturb those findings. Nor do we. Appellant had a relationship with an underage patient for over a year that included sexual intercourse. The revocation of his license is in "conformity" with the Board's usual sanctions for misconduct of this severity.

Appellant has not demonstrated the Board's determination was arbitrary capricious or unreasonable nor that it lacks support in the record.

Affirmed.