

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2022-040

In the Matter of

SIDNEY CHARLES RUBENSTEIN, M.D.

CONSENT ORDER

Pursuant to G.L. c. 30A, § 10, Sidney Charles Rubenstein, M.D. ("Respondent") and the Board of Registration in Medicine ("Board") (hereinafter referred to jointly as the "Parties") agree that the Board may issue this Consent Order to resolve the above-captioned adjudicatory proceeding. The Parties further agree that this Consent Order will have all the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact specified below and agrees that the Board may make the conclusions of law and impose the sanction set forth below in resolution of investigative Docket No. 18-260.

Findings of Fact

1. The Respondent graduated from Harvard Medical School in 1989. He has been licensed to practice medicine in Massachusetts under certificate number 73086 since 1990. He is board-certified in urology and specializes in urology and urological surgery. He holds additional medical licenses in Kansas, Missouri, North Dakota, and New Mexico. The Respondent had privileges at Mount Auburn Hospital until he resigned in March 2020.

2. In November 2017, an attending physician at Mount Auburn Hospital instructed her third-year resident to call the Respondent who was the on-call urologist and ask him to come

into the hospital to insert a foley catheter in a case involving a female patient who suffered minor pelvic trauma and had blood in her urine.

3. The Respondent initially refused to come in and told the resident the case was not urgent, and it would take him approximately an hour to drive to the hospital.

4. Later in the day, the resident called the Respondent a second time and renewed the request to have the Respondent, in his capacity as the on-call urologist, assist given the heightened risk of injury to the female patient.

5. During the second telephone call the Respondent berated the third-year resident for not being able to insert a catheter into a woman. The Respondent eventually agreed to come in but ended the call by asking that the resident remain at the hospital so he could learn the procedure.

6. The resident felt very uncomfortable and left the hospital at the end of his shift before the Respondent arrived.

7. In March 2018, the Respondent was preparing to take a teenage patient to surgery who suffered from testicular torsion.

8. Upon learning that another physician was about to use the same operating room for non-urgent orthopedic surgery on a different patient, the Respondent went to that physician and argued vigorously in front of staff and the orthopedic patient, whom he incorrectly believed to be unconscious, that his patient's surgery was an emergency and he should get the operating room first.

9. The orthopedic patient was awake, heard the exchange, and was offended. The two physicians subsequently moved their conversation to someplace private and ultimately resolved their operating room scheduling conflict.

10. In December 2019, the Respondent completed a yearlong longitudinal program through Acumen Institute for coaching and education on conflict resolution.

11. The Respondent resigned his privileges at Mount Auburn Hospital in March 2020 after another staff complaint of disruptive behavior.

12. Board Policy Number 01-01 on Disruptive Physician Behavior states "Behaviors such as foul language; rude, loud or offensive comments; and intimidation of staff, patients and family members are now recognized as detrimental to patient care."

13. In 2008, the Board reprimanded the Respondent for engaging in disruptive behavior. *In the Matter of Sidney Rubenstein*, Board of Registration in Medicine, Adjudicatory Case No. 2008-034 (September 17, 2008, Consent Order) (while in the Melrose-Wakefield operating room the Respondent said he hated everyone at the hospital and when he retired, he was going to come back with a machine gun and kill everyone).

Conclusions of Law

A. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession. *See Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982).

B. The Respondent has violated G.L. c. 112, § 5, eighth par. (h) and 243 CMR 1.03(5)(a)11 by violating a rule or regulation of the Board. Specifically, the Respondent engaged in disruptive behavior contrary to Board Policy 01-01 Disruptive Physician Behavior (Adopted June 13, 2001).

Sanction and Order

The Respondent's license is hereby Reprimanded. This sanction is imposed for each violation of law listed in the Conclusion section and not a combination of any or all of them.

Execution of this Consent Order

Complaint Counsel and the Respondent agree that the approval of this Consent Order is left to the discretion of the Board. The signature of Complaint Counsel, the Respondent, and the Respondent's counsel are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order in whole or in part, then the entire document shall be null and void; thereafter, neither of the parties nor anyone else may rely on these stipulations in this proceeding.

As to any matter in this Consent Order left to the discretion of the Board, neither the Respondent, nor anyone acting on his behalf, has received any promises or representations regarding the same.

The Respondent waives any right of appeal that he may have resulting from the Board's acceptance of this Consent Order.

The Respondent shall provide a complete copy of this Consent Order with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which the Respondent practices medicine; any in- or out-of-state health maintenance organization with whom the Respondent has privileges or any other kind of association; any state agency, in- or out-of-state, with which the Respondent has a provider contract; any in- or out-of-state medical employer, whether or not the Respondent practices medicine there; the state licensing boards of all states in which the Respondent has any kind of license to practice medicine; the Drug Enforcement Administration Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Program. The Respondent shall also provide this notification to any such

designated entities with which the Respondent becomes associated in the year following the date of imposition of this reprimand. The Respondent is further directed to certify to the Board within ten (10) days that the Respondent has complied with this directive.

The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.



Sidney Charles Rubenstein, M.D.
Licensee

September 20, 2022

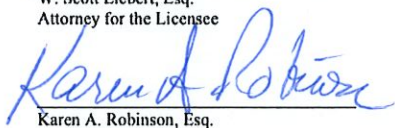
Date



W. Scott Liebert, Esq.
Attorney for the Licensee

9/21/22

Date



Karen A. Robinson, Esq.
Complaint Counsel

9/21/22

Date

20~~22~~ So ORDERED by the Board of Registration in Medicine this 6th day of October



Julian N. Robinson, M.D.
Board Chair