

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2023-011

In the Matter of

MICHAEL V. ELMAN, M.D.

STATEMENT OF ALLEGATIONS

The Board of Registration in Medicine (Board) has determined that good cause exists to believe the following acts occurred and constitute a violation for which a licensee may be sanctioned by the Board. The Board therefore alleges Michael V. Elman, M.D., (Respondent) practiced medicine in violation of law, regulations, or good and accepted medical practice as set forth herein. The investigative docket number associated with this order to show cause is Docket No. 19-551.

Biographical Information

1. The Respondent graduated from Boston University School of Medicine in 2002. He is certified by the American Board of Orthopedic Surgery and specializes in sports medicine. The Respondent has practiced medicine in Massachusetts under certificate number 235367 since 2008. He is affiliated with Norwood Hospital, Carney Hospital and Morton Hospital. Until 2019, he was associated with Good Samaritan Medical Center (GSMC).

Factual Allegations

2. In January 2017, the Respondent performed a right thumb interpositional arthroplasty with ligamentous reconstruction on Patient J in which he erroneously removed the

scaphoid bone instead of the trapezium bone. Prior to the surgery, the Respondent failed to perform localization of the correct bone performed by intra-operative fluoroscopy.

3. In 2021, the Respondent's malpractice insurance carrier made a payment on his behalf of \$750,000 to Patient J in relation to the 2017 surgery.

4. The Board has previously held that wrong-site surgery constitutes malpractice within the meaning of G.L. c. 112, § 61.

5. While working at Norwood Hospital the Respondent engaged in the following disruptive behaviors:

- a. In December 2017, he vented his frustration regarding staffing shortages on a nurse.
- b. On a separate date in December 2017, he made an off-color joke regarding his coworker's daughter having a sexually transmitted disease in front of multiple colleagues participating in a surgery with him.
- c. In May 2018, the Respondent failed to respond to a page regarding a pain medication issue for over 90 minutes.
- d. In June 2018, in violation of hospital policy, the Respondent instructed his surgical team to begin operating on a patient before ordering a pre-operative antibiotic.
- e. In September 2018, he yelled at nursing staff, calling them "inefficient."

6. In March 2018, Norwood Hospital reprimanded the Respondent.

7. In July 2018, GSMC did not renew the Respondent's privileges.

8. In 2019, the Respondent entered a Behavioral Health contract with Physician Health Services (PHS).

9. In January 2021, the Respondent completed his two-year contract with PHS.

10. Board Policy Number 01-01, Disruptive Physician Behavior (Adopted June 13, 2001) states "Disruptive behavior by a physician has a deleterious effect on the health care system and increases the risk of patient harm." Disruptive behavior is defined as style of interaction with physicians, hospital personnel, patients, family members or others that interferes with patient care and it includes foul language, rude or offensive comments and intimidation of staff, patients, and family members.

Legal Basis for Proposed Relief

A. Pursuant to Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982) and Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979) the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician engaged in conduct that undermines the public confidence in the integrity of the medical profession.

B. Pursuant to G.L. c. 112, § 5, eighth par. (h) and 243 CMR 1.03(5)(a)11, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician violated a rule or regulation of the Board. Specifically, that said physician engaged in disruptive behavior contrary to Board Policy 01-01 Disruptive Physician Behavior (Adopted June 13, 2001).

C. Pursuant to G.L. c. 112, § 5, eighth par. (h) and 243 CMR 1.03(5)(a)17, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician committed malpractice with the meaning of G.L. c. 112, § 61.

The Board has jurisdiction over this matter pursuant to G.L. c. 112, §§ 5, 61 and 62. This adjudicatory proceeding will be conducted in accordance with the provisions of G.L. c. 30A and 801 CMR 1.01.

Nature of Relief Sought

The Board is authorized and empowered to order appropriate disciplinary action, which may include revocation or suspension of the Respondent's license to practice medicine. The Board may also order, in addition to or instead of revocation or suspension, one or more of the following: admonishment, censure, reprimand, fine, the performance of uncompensated public service, a course of education or training or other restrictions upon the Respondent's practice of medicine.

Order

Wherefore, the Respondent is hereby **ORDERED** to show cause why the Board should not discipline the Respondent for the conduct described herein.

By the Board of Registration in Medicine,



Julian N. Robinson, M.D.
Board Chair, Physician Member

Date: 3/2/2023