

COMMONWEALTH OF MASSACHUSETTS

Middlesex, SS.

Board of Registration in Medicine

Adjudicatory Case No. 2013-040

In the Matter of

MATTHEW PHILIPS, 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 that Matthew Philips, M.D. (Respondent) has 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. 11-420.

Biographical Information

1. The Respondent was born on April 20, 1966. He graduated from the Yale University School of Medicine in 1993. He is certified by the American Board of Neurological Surgery. He has been licensed to practice medicine in Massachusetts under certificate number 161120 since 1999. He has privileges at St. Anne's Hospital, Tobey Hospital, St. Luke's Hospital, and Charlton Hospital.

Factual Allegations

2. From 2001 to 2010, patients, hospital staff, and others complained that the Respondent was rude, used offensive language, was unprofessional, and intimidated staff.

3. On October 16, 2011, Patient A, a 68-year-old male diagnosed with esophageal cancer, was admitted to St. Anne's Hospital (St. Anne's).
4. St. Anne's determined that Patient A's cancer had spread to his spine and that the cancer was impacting his spinal cord and his ability to walk.
5. Patient A's oncologists noted in Patient A's records that neurosurgery was not an option given Patient A's condition.
6. Patient A's oncologists determined that physical therapy and a brace might assist Patient A with his functional recovery and improve his ability to walk.
7. In order to determine whether it was safe for Patient A to perform physical therapy or to use a brace, one of Patient A's oncologists asked for a consultation from the neurosurgery department at St. Anne's.
8. On October 22, 2011, the Respondent performed the neurosurgery consultation and saw Patient A.
9. Despite the oncologists' reasons for the consult, the Respondent evaluated Patient A for surgery.
10. The Respondent told Patient A and his wife that: Patient A's prognosis was poor; Patient A would progress to paralysis with or without surgical intervention; the Respondent had never performed surgery on anyone with esophageal cancer that had gone to the bones and Patient A was no exception; Patient A needed hospice and not surgery; Patient A needed to have a heart to heart with his oncologist; and Patient A's oncologist was stupid.
11. The Respondent was insensitive and unprofessional when speaking with Patient A and his wife.

09/17/14 S21

12. After speaking with Patient A and his wife, the Respondent was angry and called one of Patient A's oncologists and loudly told her that the consult was a waste of time.
13. Board Policy Number 01-01 on Disruptive Physician Behavior states that "Disruptive behavior by a physician has a deleterious effect on the health care system and increases the risk of patient harm."
14. 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.
15. Board Policy Number 01-01 on Disruptive Physician Behavior indicates that "health care systems must promote teamwork, the free exchange of ideas, and a collaborative approach to problem solving if medical errors are to be reduced."

Legal Basis for Proposed Relief

- A. Pursuant to G.L. c. 112, §5, ninth par. (c) and 243 CMR 1.03(5)(a)3, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that he engaged in conduct that places into question the Respondent's competence to practice medicine.
- B. Pursuant to *Levy v. Board of Registration in Medicine*, 378 Mass. 519 (1979); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708 (1982), the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician has engaged in conduct that undermines the public confidence in the integrity of the medical profession.
- C. Pursuant to 243 CMR 1.03(5)(a)18, the Board may discipline a physician upon proof satisfactory to a majority of the Board, that said physician committed misconduct in the practice of medicine.

09/17/13 532

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

By the Board of Registration in Medicine,

Candace Lapidus Sloane, MD
Candace Lapidus Sloane, M.D.
Board Chair

Date: September 11, 2013