

COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

Division of Administrative Law Appeals

Docket No. RM-13-461

BOARD OF REGISTRATION IN MEDICINE,
Petitioner,

v.

MATTHEW PHILIPS, M.D.,
Respondent.

STIPULATION

Matthew Philips, M.D. (Respondent), the Respondent's attorney, and Complaint Counsel agree that this Stipulation shall be filed with the Administrative Magistrate for the Division of Administrative Law Appeals (DALA) as a resolution of questions of material fact and law as set forth by the Statements of Allegations in the above matter. The Respondent admits to the Findings of Fact described below and agrees that the Administrative Magistrate and the Board may make the Conclusions of Law as set forth below.

FINDINGS OF FACT

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. At all times relevant, he had privileges at St. Anne's Hospital, Tobey Hospital, St. Luke's Hospital, and Charlton Memorial Hospital.

2. On October 16, 2011, Patient A, a 68-year-old male diagnosed with terminal esophageal cancer, was admitted to St. Anne's Hospital (St. Anne's).

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3. 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.
4. Patient A's oncologists noted in Patient A's records that neurosurgery was not an option given Patient A's condition.
5. Patient A's oncologists determined that physical therapy and a brace might improve Patient A's quality of life.
6. In order to determine whether it would be safe for Patient A to perform physical therapy, one of Patient A's oncologists asked for a consultation from neurosurgery at St. Anne's.
7. On October 22, 2011, the Respondent saw Patient A and performed the neurosurgery consultation.
8. The Respondent evaluated Patient A for surgical intervention. The Respondent told Patient A and his wife about Patient A's poor prognosis and of the high likelihood that Patient A would progress to paralysis regardless of surgical intervention. The Respondent recommended that Patient A speak with his oncologist regarding the reality of his condition. Approximately one month after the consultation, Patient A died as a result of his cancer.
9. The Respondent failed to conduct himself with adequate sensitivity during his interaction with Patient A and his wife.
10. As a result this incident, the Respondent has changed the way he communicates and interacts with patients.
11. Following the interaction with Patient A and his wife, the Respondent was frustrated because he believed that the consultation was unwarranted.
12. While still frustrated, the Respondent criticized Patient A's oncologist in an unprofessional manner to a member of the St. Anne's staff.

13. After speaking with Patient A and his wife, the Respondent completed a detailed report of his consultation and verbally communicated his recommendations to the referring oncologist.

14. 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."

15. Certain conduct in the practice of medicine is now recognized as detrimental to patient care.

LEGAL BASIS FOR PROPOSED RELIEF

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, ninth par. (c) and 243 CMR 1.03(5)(a)3 by engaging in misconduct in the practice of medicine.

SANCTION

The Respondent, the Respondent's attorney and Complaint Counsel expressly acknowledge that the Board may impose sanctions against the Respondent based upon the above Findings of Fact and Conclusions of Law. The Respondent, the Respondent's attorney and Complaint Counsel jointly agree to recommend to the Board that it impose the sanction set forth below. The parties hereto understand that the recommended sanction is not binding on the Board, and that the Board may wish to impose a different sanction on the Respondent.

At the time the Board considers this Stipulation, it will inform the parties of its inclination as to sanction. If the Board's sanction is different from the one recommended by the

parties, the Respondent will be given an opportunity to either accept or reject the proposed sanction. If the Respondent rejects the proposed sanction, then the matter will continue through the adjudicatory process pursuant to General Laws chapter 30A and 801 CMR 1.00 et seq.

The Respondent's license is hereby Admonished and he is required to complete the Massachusetts Medical Society's course on workplace conflict within one year of the Board issuing a Final Decision and Order in this matter.

EXECUTION OF THIS STIPULATION

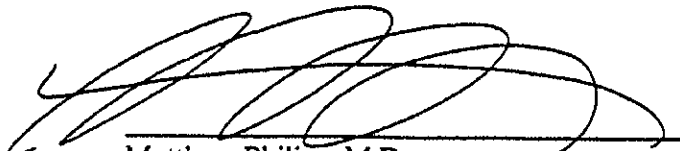
The parties agree that the approval of this Stipulation is left to the discretion of the Administrative Magistrate and the Board. As to any matter this stipulation leaves to the discretion of the Administrative Magistrate or the Board, neither the Respondent, nor anyone else acting on his behalf has received any promises or representations regarding the same.

The signature of the Respondent, his attorney, and Complaint Counsel are expressly conditioned on the Administrative Magistrate and the Board accepting this stipulation.

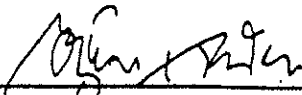
If the Administrative Magistrate rejects any provision contained in this Stipulation, the entire document shall be null and void and the matter will be scheduled for a hearing pursuant to General Laws c. 30A and 801 CMR 1.00 et seq.

If the Board rejects any provision in this Stipulation or modifies the Sanction and said modification is rejected by the Respondent, the entire document shall be null and void and the matter will be recommitted to the Division of Administrative Law Appeals for a hearing pursuant to General Laws c. 30A and 801 CMR 1.00 et seq.

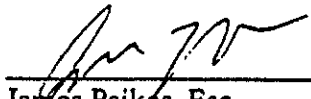
Neither of the parties nor anyone else may rely on the Stipulation in these proceedings or in any appeal there from.


Matthew Phillips, M.D.

4/18/14
Date


Stephen P. Harten, Esq.
Attorney for Respondent

04.18.14
Date


James Paikos, Esq.
Complaint Counsel

4-22-2014
Date

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