

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals
Docket No. RM-21-0251

Board of Registration in Medicine,
Petitioner,

v.

Charles M. Rosenthal,
Respondent.

STIPULATION

Charles M. Rosenthal (Respondent), counsel for the Respondent, and Complaint Counsel agree that this stipulation shall be filed with 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 Statement of Allegations in the above-captioned matter. The Respondent admits to the Stipulated Facts described below and agrees that the Administrative Magistrate and the Board of Registration in Medicine (Board) may make the Conclusions of Law as set forth below.

BIOGRAPHICAL INFORMATION

1. The Respondent is a graduate of Cornell University Medical College. He obtained a license to practice medicine in Massachusetts on May 9, 2007 under certificate number 231404. The Respondent is board-certified in Diagnostic Radiology. He lists his specialty areas as Radiology, Diagnostic Radiology, and Interventional Radiology. The Respondent also holds licenses to practice medicine in Rhode Island and New York.

STIPULATED FACTS

2. On October 3, 2020, the Respondent signed a Consent Order ("RI Consent Order") with the State of Rhode Island Board of Medical Licensure and Discipline ("RI BOMLD") in

which he agreed to a reprimand on his license to practice medicine issued by the State of Rhode Island. The RI Consent Order was ratified by the RI BOMLD on October 14, 2020. Per the RI Consent Order, the Respondent agreed to pay an administrative fee representing the costs associated with the RI BOMLD's investigation and to complete, at his own expense, a minimum of eight (8) hours of Board-approved CME courses in emergent conditions in Radiology. Respondent successfully completed these obligations within the time frames set forth in the RI Consent Order.

3. The basis for the discipline described in the RI Consent Order was the conclusion of the RI BOMLD's Investigative Committee that the Respondent violated R.I. Gen. Laws § 5-37-5.1.1(19), which defines "unprofessional conduct" as including "any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing medical practice in his or her area of expertise as is determined by the board."
4. The factual bases for the discipline described in the RI Consent Order included the following: Respondent was the radiologist assigned to review Patient A's CT scan. In his report, the Respondent documented the identification of a large, right, renal cyst and a distended gallbladder. The Respondent's initial report did not document the identification of any urgent or emergent conditions.
5. The factual bases for the discipline described in the RI Consent Order included the following: Subsequent to the Respondent's initial interpretation of the CT scan, Patient A was discharged home, but returned to the emergency department less than 24 hours later with increased pain. Upon Patient A's return, a surgeon was consulted. The surgeon reviewed Patient A's March 20, 2018 CT scan with Respondent and both the surgeon and Respondent identified the presence of free air in the abdomen on the CT scan, which had

been missed on Respondent's initial read. The presence of free air detected on a CT scan is a critical finding. Respondent added an addendum to the report with the additional finding, as per established hospital protocol to correct the medical record.

6. The factual bases for the discipline described in the RI Consent Order included the following: Respondent appeared before the RI BOMLD Investigative Committee on September 3, 2020, at which appearance Respondent explained that he is not sure why the critical finding was not identified, although one of the possibilities was that a computer error, that had happened previously, may have occurred, resulting in the report being finalized and closed without his knowledge. Respondent explained that in this possible scenario, he would have been interrupted during his initial review of Patient A's CT scan and that his report was closed and electronically signed by the computer prior to his concluding his formal review of the templated report.

CONCLUSIONS OF LAW

- A. Pursuant to 243 CMR 1.03(5)(a)12, the Board may discipline a physician upon proof satisfactory to a majority of the Board that said physician has been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in M.G.L. c. 112, § 5 or 243 CMR 1.03(5).

RESOLUTION

The Respondent, the Respondent's attorney, and Complaint Counsel expressly acknowledge that the Board may impose sanctions against the Respondent based on the above Stipulated Facts and Conclusions of Law. The Respondent, the Respondent's attorney, and Complaint Counsel jointly agree to recommend to the Board that no adverse action be taken against the Respondent's license to practice medicine in Massachusetts considering that the matter

described in the Stipulated Facts (the "event") was a remote occurrence the specific cause of which is in dispute; that the Respondent agreed to a reprimand on his Rhode Island medical license in resolution of the complaint investigated by the RI BOMLD regarding the event; that the Respondent successfully and timely completed his financial and educational obligations set forth in the RI Consent Order; that the discipline imposed by the RI BOMLD in resolution of the event is the only time the Respondent has been subjected to discipline in thirty-four (34) years of medical practice in Rhode Island and fourteen (14) years of medical practice in Massachusetts, proving him to be a qualified and competent physician of good moral character. The Respondent, the Respondent's attorney, and Complaint Counsel further jointly agree that, within six (6) months of the Board's acceptance of this agreement, the Respondent shall, at his own expense, complete a minimum of eight (8) hours of Board-approved Continuing Professional Development (CPD) courses in emergent conditions in Radiology. It is understood that the recommended resolution is not binding on the Board, and that the Board may wish to seek an alternative resolution.

If the Board decides against accepting the agreement herein recommended, the Respondent will be given the opportunity to proceed to a hearing on the merits in accordance with the adjudicatory process as provided in General Laws chapter 30A and 801 CMR 1.00 et seq.

EXECUTION OF THIS STIPULATION

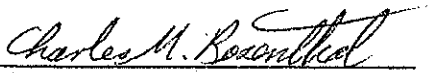
It is agreed that the approval of this Stipulation is left to the discretion of the Administrative Magistrate and the Board. As to any matter this Stipulation leaves to the discretion of the Administrative Magistrate or the Board, neither the Respondent, nor anyone else acting on his behalf has received 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.

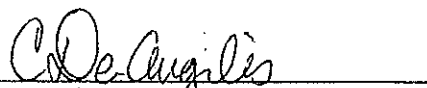
If the Administrative Magistrate rejects any provision contained in this Stipulation, the entire document shall be null and void and the matter will be scheduled for a hearing pursuant to General Laws c. 30A and 801 CMR 1.00 et seq.

If the Board rejects any provision in this Stipulation, the entire document shall be null and void and the matter will be recommitted to DALA 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 therefrom.


Charles M. Rosenthal, M.D.
Respondent

5/16/22
Date


Cassandra DeAngelis, Esq.
Attorney for Respondent

5/12/22
Date


Stephen C. Hctor, Esq.
Complaint Counsel

5/12/22
Date