

RHODE ISLAND BOARD OF MEDICAL LICENSURE AND DISCIPLINE

IN THE MATTER OF:
Malcolm Kirk, MD
License No.: MD10373
Case No.: C23-0068

CONSENT ORDER

The Board of Medical Licensure and Discipline ("Board") makes the following:

FINDINGS OF FACT

1. Malcolm Kirk, MD ("Respondent") was issued a license to practice medicine in the State of Rhode Island on July 12, 2000.
2. At the time of the filing of the complaint, the Respondent had privileges to perform surgeries at Rhode Island Hospital, located in Providence, Rhode Island.
3. Respondent was scheduled to perform a procedure at Rhode Island Hospital on January 12, 2023. On the evening of January 11, 2023, Respondent learned that he had tested positive for the Coronavirus disease ("COVID-19"). Despite the positive test results, Respondent proceeded to conduct the procedure on the following morning of January 12, 2023, at Rhode Island Hospital.
4. The Board's Investigative Committee conducted an initial investigation and interviewed Respondent on May 30, 2023.
5. Respondent admitted that he conducted a procedure on January 12, 2023 while COVID-19 positive.
6. The Investigative Committee made a probable cause determination of unprofessional conduct on the part of Respondent, in violation of R.I. Gen. Laws § 5-37-5.1(19) and (27), finding that Respondent's conduct violated both federal and state quarantine guidelines applicable to COVID-19.

Based upon the foregoing, the Parties agree as follows:

1. Respondent admits to and agrees to remain under the jurisdiction of the Board.

2. Respondent agrees to this Consent Order and understands that it is subject to final approval of the Board and is not legally binding on Respondent until accepted and ratified by the Board.

3. Respondent hereby acknowledges and waives:
- a) the right to appear personally or by counsel or both before the Board;
 - b) the right to produce witnesses and evidence on his behalf at a hearing;
 - c) the right to cross-examine witnesses;
 - d) the right to have subpoenas issued by the Board;
 - e) the right to further procedural steps except for those specifically contained herein;
 - f) any and all rights of appeal of this Consent Order;
 - g) any objection to the fact that this Consent Order will be presented to the Board for consideration and review; and
 - h) any objection to the fact that this Consent Order will be reported to the National Practitioner Data Bank and Federation of State Medical Boards and posted to the RI DOH public website.

4. Respondent is hereby issued an order of reprimand by the Board.

Respondent is hereby issued an order of reprimand by the Board and shall pay administrative fees in the amount of \$1,100.00. Said administrative fees must be paid within three (3) months of the ratification of this Consent Order and shall be made payable to the Rhode Island General Treasurer, and delivered to the Rhode Island Department of Health, 3 Capitol Hill, Room 205, Providence, RI 02908, Attn. Jessica DeSanto. Respondent will send notice of compliance of this

condition to DOH.PRCompliance@health.ri.gov within thirty (30) days of submitting the above-referenced payment.

5. Respondent is required to review, be familiar with, and follow all federal and state COVID-19 and other infectious disease guidelines that are directly applicable to healthcare providers.

6. In the event that any term of this Consent Order is violated, after signed and ratified, the Board or the Director of the Department of Health ("Director") shall have the authority to impose further disciplinary action. If the Board or the Director does so, Respondent shall be given notice and shall have the right to request an administrative hearing within twenty (20) days following the suspension and/or further discipline. The Board or the Director shall also have the authority to request an administrative hearing after notice to Respondent of a violation of any term of this Consent Order. The administrative hearing officer may impose further discipline and/or related fees and fines if the alleged violation is proven by a preponderance of evidence.

As Assented to and Signed this 12th day of October 2023.


Malcolm Kirk, MD

Ratified by the Medical Licensure and Discipline Board on the 8th day of November 2023.

