

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

BOARD OF MEDICAL LICENSURE AND DISCIPLINE

IN THE MATTER OF:

Michael Luke, MD

License Number MD 06575

Complaint Files: C11-982

C13-1033

CONSENT ORDER

Michael Luke, M.D. (hereinafter "Respondent") is licensed as a physician in Rhode Island. The Board of Medical Licensure and Discipline (Board) has investigated the complaints referenced above Respondent and makes the following:

FINDINGS OF FACT

1. Respondent is a physician who has been licensed in Rhode Island since March 20th, 1985. He graduated from the State University of New York; Down State Medical Center at Buffalo in 1979. His specialty is general surgery.
2. Respondent's office location is 501 Great Rd, Unit 205, North Smithfield, Rhode Island.

He has privileges at Landmark hospital.

3. The Board received notice in 2011 regarding care given to "Patient A" alias, now deceased, from Respondent.
4. Patient A was accurately diagnosed with right sided colon cancer and scheduled for a right hemi-colectomy at Landmark Medical Center. Patient A underwent the proposed surgical procedure.
5. Patient A suffered post-operative complications which later resulted in sepsis and Patient

A did not successfully recover from this complication.

6. An expert retained by the Board found the medical records poorly legible, scant, and subjective. The expert was unable to construct a review based on Respondent's records, rather had to rely on consultants and nursing notes.
7. Respondent is in violation of physician Rules and Regulations section 11.4 regarding keeping and maintaining medical records.
8. The Board was notified on a complaint in December of 2013 of a settlement of a suit alleging negligent performance of a cholecystectomy to "Patient B" alias, at Landmark Medical Center in February of 2008 resulting in a common bile duct injury.
9. The Board retained an expert consultant to evaluate the quality of care given in this case.
10. "Patient B" alias was evaluated in February of 2008 in the emergency room at Landmark Medical Center with right upper quadrant pain. "Patient B" was subsequently diagnosed with cholecystitis and respondent was consulted. "Patient B" was admitted to the hospital and underwent a laparoscopic cholecystectomy the following day, and discharged postoperative day #2.

11. "Patient B" returned to Landmark Medical Center Emergency Department 2 days later with increased abdominal pain, nausea and upper quadrant tenderness. Upon evaluation, an elevated WBC of 16,260 was noted as well as elevated bilirubin (3.7), Alkaline phosphatase (182) and SGOT of (42).
12. "Patient B" was readmitted by Respondent with "possible common bile duct obstruction, postoperative inflammatory (not legible)". During this second hospitalization "Patient B" received IV antibiotics, pain medication, anti-emetics and a Gastroenterology

consultation was obtained.

13. During the second hospitalization, "patient B", was noted to have marked ascites, inflammation (post-surgical) of the right upper quadrant wall and a normal caliber bile duct. A follow up Cat Scan (CT) done 2 days later revealed no changes or improvement.
14. "Patient B" subsequently slowly improved clinically and was discharged home several days later with plans to follow up as an outpatient.
15. "Patient B" went to another emergency department 2 days after discharge, where an Endoscopic Retrograde Cholangiopancreatography (ERCP) was performed which demonstrated a common bile duct injury. "Patient B" was transferred to a tertiary care facility where another surgical procedure was performed to correct the complication.
16. On the review by an expert retained by the Board, the medical records, were described as; "perfunctory, often illegible and mostly untimed, there was no progress note on 2.21.2008". The quality of the medical records fell below the standard of care.
17. Respondent is in violation of physician Rules and Regulations section 11.4 regarding keeping and maintaining medical records.

Based on the foregoing, the parties agree as follows:

1. Respondent admits to the jurisdiction of the Board.
2. Respondent has agreed to this Consent Order and understands that it is subject to final approval of the Board, and this Consent Order is not binding on Respondent until final ratification by the Board.
3. If ratified by the Board, 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.
 - h. Any objection that this agreement is reported to the National Practitioner Data Bank as well as the Federation of State Medical Boards and posted on the RI DOH web site.
4. The Respondent agrees to this reprimand on his physician license.
 5. Respondent agrees to pay an administrative fee to the Board for costs associating with investigating this complaint. Respondent shall submit to the Board within 12 months of ratification of this order a check made payable to the Rhode Island General Treasury for the amount of \$3600.00.
 6. Respondent agrees to attend a Board approved CME of 12 hours duration in medical records. Respondent has already completed a Category 1 CME of 13.5 hours regarding patient safety.
 7. Respondent agrees to obtain a Board approved monitor to review post-operative care and record keeping for the next 12 months, at intervals of at least 3 months and at least 5 medical records.

8. Respondent will be on Probation for 1 year following ratification of this order
9. In the event that any term of this Consent Order is violated, after signed and accepted, the Director of the Department of Health shall have the discretion to impose further disciplinary action. If the Director imposes further disciplinary action, Respondent shall be given notice and shall have the right to request an administrative hearing within twenty (20) days of the suspension and/or further discipline. The Director of the Department of Health shall also have the discretion to request an administrative hearing after notice to Respondent of a violation of any term of this Consent Order. The Administrative Hearing Officer may suspend Respondent's license, or impose further discipline, for the remainder of Respondent's licensing period if the alleged violation is proven by a preponderance of evidence.

Signed this 15 day of October, 2015.

Michael Luke, M.D.

Michael Luke, MD

Ratified by the Board of Medical Licensure and Discipline on the ___ day of October, 2015.

Nicole Alexander-Scott

Nicole Alexander-Scott, M.D., M.P.H.
Director of Health