

State of Rhode Island
Department of Health
Board of Medical Licensure and Discipline



IN THE MATTER OF:
John A. Phillip, MD
License No.: MD 08221
Case No.: C200009

CONSENT ORDER

John Phillip, MD ("Respondent") is licensed as a physician in Rhode Island. The Rhode Island Board of Medical Licensure and Discipline ("Board") makes the following

FINDINGS OF FACT

1. Respondent has been a licensed physician in Rhode Island since July 1, 1992.
2. Respondent graduated from Universidad Autonoma de Guadalajara School of Medicine in 1983. Respondent's specialty is general surgery.
3. Respondent was the attending physician for Patient A (alias).
4. The Board received a complaint from the Rhode Island Department of Health ("RIDOH") Center for Health Facility Regulations regarding Respondent's care of Patient A. According to the RIDOH complaint, on October 22, 2019, Patient A underwent a laparoscopic cholecystectomy—surgical removal of the gall bladder—that was converted to an open cholecystectomy during the procedure due to clinical reasons.
5. In his written response to the Board, Respondent represented that the procedure was technically challenging because Patient A had abdominal adhesions caused by significant prior abdominal surgery. Accordingly, during the surgery, Respondent converted the laparoscopic

procedure to an open procedure. Respondent stated, however, that even after converting to an open procedure, Patient A's anatomy remained very difficult to discern.

6. The Investigative Committee obtained and reviewed Respondent's credentials file, which included peer review conducted by the Medical Staff Performance Improvement Committee relative to the above-referenced matter. Specifically, the committee commented on Respondent's documentation of the case, noting, "*written progress notes that were not detailed and some illegible, EMR progress notes were not detailed enough to describe the patient's care.*"

7. The Investigative Committee reviewed Patient A's medical record and concluded that Respondent's documentation in the medical record was substandard and, at times, illegible.

8. The Investigative Committee subpoenaed and heard from a health care provider who regularly worked with Respondent in medical procedures and who was involved in Respondent's care of Patient A. The health care provider attested positively to Respondent's character and competence, but admitted the documentation in Patient A's medical record was substandard. The health care provider further corroborated Respondent's representation that the cholecystectomy was complicated by Patient A's previous surgeries and resultant adhesions, which made defining anatomy challenging. The health care provider stated that it was not possible for Respondent to be certain where he was with respect to Patient A's abdominal anatomy due to multiple adhesions and that Respondent inadvertently entered the retroperitoneal space and excised part of the kidney unintentionally.

9. Respondent violated Rhode Island General Laws § 5-37-5.1(19) and (24), which define "unprofessional conduct," respectively, as including, *and 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;* and "[v]iolating any provision or provisions of this

chapter or the rules and regulations of the board or any rules or regulations promulgated by the director or of an action, stipulation, or agreement of the board" for violating Section 1.5.12(D) of the Rules and Regulations for the Licensure and Discipline of Physicians (216-RICR-40-05-1), relative to "medical records," which provides "Medical Records shall be legible and contain the identity of the physician or physician extender and supervising physician by name and professional title who is responsible for rendering, ordering, supervising or billing each diagnostic or treatment procedure. The records must contain sufficient information to justify the course of treatment, including, but not limited to: active problem and medication lists; patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations."

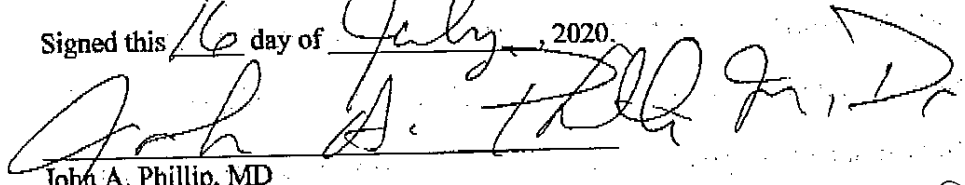
Based on the foregoing, the parties agree as follows:

1. Respondent admits to and agrees to remain under 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 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; 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 Rhode Island Department of Health ("RIDOH") public website.
4. Respondent agrees to pay, within 5 days of the ratification of this Consent Order, an administrative fee of \$1,380.00 for costs associated with investigating the above-referenced complaint. Such payment shall be made by certified check, made payable to "Rhode Island General Treasurer," and sent to Rhode Island Department of Health, 3 Capitol Hill, Room 205, Providence, RI 02908, Attn: Lauren Lasso. Respondent will send notice of compliance with this condition to DOH.PRCCompliance@health.ri.gov within 30 days of submitting the above-referenced payment.
5. Respondent hereby agrees to this reprimand on his physician license.
6. Within six months of ratification of this Consent Order, Respondent will complete the Case Western Intensive Review of Medical Records course, which is a category 1 CME. Respondent may not substitute another course for this requirement without prior approval of the Board.
7. If Respondent violates any material term of this Consent Order after it is signed and accepted, the Director of RIDOH ("Director") shall have the discretion to impose further disciplinary action, including immediate suspension of Respondent's medical license. If the Director imposes further disciplinary action, Respondent shall be given notice and shall have the right to request, within 20 days of the suspension and/or further discipline, an administrative hearing. The Director 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 16 day of July, 2020.



John A. Phillip, MD

Ratified by the Board of Medical Licensure and Discipline on the 12 day of July, 2020.



Nicole Alexander-Scott, MD, MPH

Director

Rhode Island Department of Health

3 Capitol Hill, Room 401

Providence, RI 02908