

STATE OF VERMONT  
BOARD OF MEDICAL PRACTICE

In re: William A. O'Rourke, Jr., M.D.     )  
  )     Docket No.: MPN 19-0302  
  )

**RESPONDENT WILLIAM A. O'ROURKE, JR., M.D.'S  
OBJECTION TO AND MOTION TO STRIKE STATE'S "ANSWER" TO  
RESPONDENT'S PROPOSED FINDINGS AND CONCLUSIONS OF LAW**

NOW COMES Respondent, William A. O'Rourke, Jr., M.D., by and through his attorneys, Dinse, Knapp & McAndrew, P.C., and objects to the State's "Answer" to Dr. O'Rourke's proposed findings and conclusions of law on the ground that it is in contravention of the Hearing Panel's directive and the Rules of the Board of Medical Practice. Dr. O'Rourke moves that the "Answer" be struck from the record and be removed from any consideration by the Hearing Panel.

At the conclusion of the October 30, 2006 hearing, the Hearing Panel directed that the parties, should they choose to, submit any proposed findings of fact and conclusions of law within two weeks. The Panel did not provide for the parties to submit responses to those pleadings, nor are they provided for in the Medical Practice Board Rules. The State's pleading dated November 13, 2006, is thus unauthorized and should be struck.

Moreover, the State's pleading invites a formal response from Dr. O'Rourke which would lead to a (theoretically never-ending) cycle of pleadings and responses.<sup>1</sup> Against the backdrop of the State's relentless persecution of Dr. O'Rourke, the time has come to put this matter to rest, not permit the State to continue its barrage of paper. In that regard, Attorney

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<sup>1</sup> For example, Dr. O'Rourke strenuously disagrees with the State's attempt to bootstrap its ex parte communication charge by reference to irrelevant and unadmitted rules from the Office of the Secretary of State, to the State's unsupported reference to quasi-judicial notice, and to the State's strained interpretation of the Board of Medical Practice's decision in Chase.

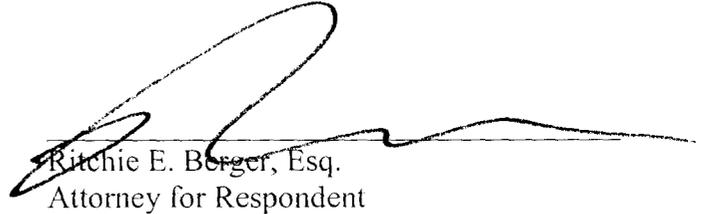
Arisman's position evokes Gertrude's words in Shakespeare's Hamlet: "[he] doth protest too much."

WHEREFORE, Respondent William A. O'Rourke, Jr., M.D., respectfully requests that the State's "Answer" be struck from the record.

DATED at Burlington, Vermont this 20 day of November, 2006.

DINSE, KNAPP & McANDREW, P.C.

By:



Ritchie E. Berger, Esq.  
Attorney for Respondent

c: James S. Arisman, Esq.

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