

which constitutes a quorum under 26 V.S.A. § 1360(a), heard oral argument from the parties, and then went into deliberative session to consider the evidence in the record before it and render judgment thereupon.

PRELIMINARY MATTERS

After the issuance of the Hearing Committee Report and prior to the February 7, 2007 hearing, the parties alerted the Presiding Officer to some apparent errors contained in the Report. The Presiding Officer acknowledged that the drafting errors were entirely his responsibility and that he would suggest the corrections to the Board. At the beginning of the February 7 hearing, the substance of the following corrections were noted and can be found in the record at pages 4 and 5 of the transcript:

1. On page 5 of the Hearing Committee Report, “Counts 6, 7, and 8” should be changed to “Counts 6 and 7”.
2. On page 6 of the Hearing Committee Report, “Counts 4, 5, 6, 7, and 8” should be changed to “Counts 3, 5, 6, and 7”.
3. On page 6 of the Hearing Committee Report and “No disciplinary action should be imposed regarding Count 3” should read “No disciplinary action should be imposed regarding Count 4”.

No objections were made. These changes appear below in the Board’s Findings, Conclusions, Judgment, and Order.

THE BOARD’S RULINGS ON THE STATE’S EXCEPTIONS TO REPORT OF HEARING COMMITTEE

The Board rules on the State’s exceptions as they appear in the lettered headings in the State’s filing.

1. **A. Proposed Findings 1 through 3.** The State accepts proposed Findings 1 and 2. The Board accepts proposed Finding 3. The evidence supporting that finding was not objected to at the hearing and is relevant as background information about Respondent that was considered by the Committee and the Board in its determination of whether Respondent engaged in dishonorable conduct and was unfit to practice medicine as charged by the State.
2. **B. Proposed Findings 4 through 7.** The Board declines to revise proposed Findings 4 through 7 as requested by the State. Those findings are supported by the evidence and accurately reflect, among other facts, that Respondent knowingly and voluntarily, with assistance of counsel, agreed to the terms of the Stipulation and Consent Order and that “he would be bound by such until expressly relieved from them, in writing, by the Board.” Indeed, proposed Finding 7 emphasizes that Respondent agreed that his failure to comply with the terms of the Order, “*specifically the educational and record-keeping requirements*” (emphasis added) may be deemed unprofessional conduct and may subject him to further disciplinary action. These

proposed Findings are supported by the record and clearly state, as the Committee found, Respondent's obligations and his awareness of those obligations under the Stipulation and Consent Order.

3. **C. Proposed Finding Number 8.** The Board declines to add the language requested. The Board directs the State's attention to proposed Finding 12, in which the Committee found that Respondent's explanations "*do not constitute legitimate and acceptable excuses for his failure to comply with the Board order he had agreed to.*" (emphasis added). This finding is supported by the record and accurately states the Committee's and the Board's assessment of the evidence.

4. **D. Proposed Finding Number 9.** The Board again directs the State's attention to proposed Finding 12. As stated above, that finding reflects the Committee's and the Board's determination regarding Respondent's explanations. The State's request is denied.

5. **E. Proposed Finding Number 10.** The Board directs the State's attention to proposed Finding 11, in which the Committee refers to the State's letter sent to Respondent reminding him of the clear requirements of the Stipulation and Consent Order and that no substitutes for the designated course would be acceptable. This finding sufficiently states the Committee's and the Board's assessment of the evidence. The State's request is denied.

6. **F. Proposed Finding Number 11.** Finding 8 sets forth Respondent's failure to attend the required course on several dates. Finding 12 sets forth in adequate language the Committee's and the Board's rejection of all of Respondent's explanations that are found in the record. The Board declines to add the language requested by the State.

7. **G. Proposed Finding Number 12.** The Board does replace the word "simply" with the word "knowingly" from this finding to clarify that the evidence does show that Respondent knowingly failed to complete the required course and the Board so finds. Otherwise, as stated above, the Board is satisfied that, based on the entire record, proposed Finding 12 accurately finds that Respondent's failure to complete the required course had no legitimate and acceptable excuse, and no further change is necessary.

8. **H. Proposed Finding Number 13.** The Board declines to revise proposed Finding 13 as requested by the State. The obligations imposed under the Stipulation and Consent Order apply to Respondent, not his office staff. The record was clear that Respondent was in Florida when Board Investigator Ciotti visited Respondent's office on March 16, 2005. The record establishes that subsequent to the March 16 visit, "requests" made through Respondent's attorney were acceptable to the State. Furthermore, Mr. Ciotti's testimony was clear that anytime he asked Respondent's attorney for something in the course of his investigation, Respondent's attorney promptly replied. See proposed Finding 14.

9. **I. Proposed Finding Number 14.** This proposed Finding is supported by the record and accurately sets forth the Committee's assessment of it. The Board declines to insert the language requested by the State.

10. **B. Proposed Conclusion of Law: Count 3.** The State contends that Respondent's failure to comply in a timely manner with the educational requirement of the Stipulation and Consent Order constitutes unfitness to practice medicine in violation of 26 V.S.A. § 1354(a)(7). The Board disagrees. Respondent's failure to comply was concluded by the Committee to be unprofessional conduct under 26 V.S.A. §§ 1354(a)(25) and 1398. The categories of unprofessional conduct set forth in the Vermont statutes serve different functions and purposes, and are not coextensive. Delozier v. State, 160 Vt. 426, 432-433 (1993); see also In re Baska, Docket Nos. MPS-38-0501 and MPS-39-0501, *Board's Rulings on Respondent's Objections to the Hearing Committee Report*. Based on the entire record of this case, the Board does not conclude that Respondent has engaged in conduct which evidences his unfitness to practice medicine.

11. **C. Proposed Conclusion of Law: Count 4.** The State takes issue with the words "While not an egregious act" and "technical". The Committee found Respondent's letter to a member of the Board to be an *ex parte communication*. The Committee also inferred that it was an attempt by Respondent to have his request to take a substitute course presented to the Board. The attempt was misguided, and as the Committee concluded, unprofessional conduct. However, considering the entire circumstances surrounding the letter, the Committee did not conclude that it was egregious, that is, not "extremely or remarkably bad; flagrant". Black's Law Dictionary (2nd Pocket Edition). Rather, the Committee, in this instance, found it to be more of an error in judgment, grounded in frustration, and thus a "technical" violation, rather than a purposeful or malicious violation. This corresponds to the Committee's recommendation that no disciplinary action be imposed on the determination of unprofessional conduct. While reasonable minds can differ, the Board agrees with the Committee's conclusion and declines to strike the words as requested by the State.

12. **E. Proposed Conclusion of Law: Counts 6 and 7.**

As discussed above in Preliminary Matters, Count 8 is deleted from the heading to Paragraph F on page 5 of the Hearing Committee Report. Counts 6 and 7 essentially allege that Respondent failed to timely produce, upon request, documentation he was required to maintain under the Stipulation and Consent Order. The State contends that the Committee has erroneously misstated the allegations, has ignored plain evidence in the record, and has applied a strained interpretation to the Stipulation. On the contrary, timely production under the Stipulation was contingent upon timely and appropriate requests for production. The record establishes that the chain of events started with Investigator Ciotti's March 16, 2005 visit to Respondent's office. Respondent was in Florida. As the Committee determined, the obligations imposed by the Stipulation and Consent Order were imposed upon Respondent. As the Committee also determined, all "requests" for Respondent to comply with those obligations should have been made to Respondent. Attempts to involve office staff to effectuate a "request" for documentation or to establish an ostensible "request" for documentation under the Stipulation do not support the allegation of noncompliance in this case. The record does not clearly establish what occurred after that March 16 visit. For example, the evidence does not establish that there was any meaningful follow-up to that visit, and Investigator Ciotti couldn't recall the dates of any subsequent requests to produce. Furthermore, the record establishes that subsequent to the March 16 visit, "requests" made through Respondent's attorney were acceptable to the

State. As discussed previously, those “requests”, according to the testimony of Investigator Ciotti, received prompt replies. Based upon the evidence in the record, the Committee concluded that the State did not meet its burden of proving its allegations by a preponderance of the evidence. For the reasons stated above, the Board agrees.

13. **F. “General” Discussion, Page 5.** The Board declines to expand Paragraph H as requested by the State. The Board concludes that it clearly states that Respondent’s noncompliance with “an order of the board” is unprofessional conduct.

14. **IV. Exceptions to Recommended Decision.** The Board does agree that the Proposed Decision should be amended. The Board feels that the inclusion of the language of “sheer stubbornness” and “egregious or aggravating circumstances” in relation to the remedial education course is misplaced and confusing. Respondent’s letter to a Board member was concluded to be “technical” and not “egregious”, but this conclusion is not warranted with respect to the failure to complete the required course in a timely manner. In addition, the Board does not agree that the record supports the language that repetition of Respondent’s conduct is unlikely due to his exemplary professional history. For these reasons, the Board will excise the above-described language from its Findings, Conclusions, Judgment, and Order.

The Committee concluded that once a person agrees to a stipulation, that person should be held to it. Most importantly, as the Committee concluded as set forth in Paragraph I of the Report:

Compliance with Board orders must be respected and enforced. The credibility of the statutory scheme and the protection of the public would be rendered ineffectual if a licensee could fail to comply with the Board’s order without the consequence of any disciplinary action.

The Board emphatically agrees with this conclusion. Consequently, the Board has carefully examined the record for a good reason why Respondent did not fulfill his obligation of completing the required course in a timely manner. It found none. The Board further scrutinized the record looking for some evidence of insight and acknowledgement on the part of Respondent as to the importance of fulfilling his obligation under the Stipulation. The Board regretfully did not find such insight and acknowledgement. For these reasons, and based on the record before it, the Board concludes that the Proposed Decision does not impose an adequate disciplinary action, and will modify it as will appear below in the Findings, Conclusions, Judgment, and Order of the Board.

BOARD’S RULINGS ON RESPONDENT’S CONDITIONAL
EXCEPTIONS TO THE HEARING COMMITTEE REPORT

The Board rules on the Respondent’s Conditional Exceptions as they appear in the headings in the Respondent’s filing.

1. **Discussion.** Respondent contends that the State's failure to introduce into evidence a signed and entered Stipulation and Consent Order establishes that the Board has no jurisdiction over this matter, and the case should be dismissed. At the February 7, 2007 Hearing before the Board, the Presiding Officer noted for the record that the original Stipulation and Consent Order in the Board's administrative file was dated November 5, 2003, and was entered and effective on that date as shown on the face of the document. The Presiding Officer had previously notified the parties during a telephone status conference on February 5, 2007, that the Board would take official or judicial notice of the original Stipulation and Consent Order that had been filed with the Board. Over Respondent's objection, the Board takes official or judicial notice of the original Stipulation and Consent Order pursuant to 3 V.S.A. § 810(4). Respondent's request for dismissal on this jurisdictional ground is denied.

2. **Counts 1, 2, 3, Should be Dismissed; Or, at Most, Dr. O'Rourke Should be Reprimanded for Failing to Comply With a Board Order as Alleged in Count 1.**

Respondent contends that Respondent's delay in attending the course was not "dishonorable" and he did not make "false and fraudulent representations" as alleged by the State. The Committee did not make any such findings. The Committee did conclude that Respondent's failure to complete the required course in a timely manner amounted to a failure to comply with an order of the Board which constitutes unprofessional conduct under 26 V.S.A. § 1354(a)(25) as alleged in Count 1. The Committee further found that his failure to complete the course within the required time period was *unprofessional* conduct under 26 V.S.A. § 1398 as alleged in Count 2, but did not conclude that the conduct was *dishonorable* as alleged in Count 2 and did not include such language in the Conclusion of Law (emphasis added). The Board agrees with the Committee's conclusions.

Respondent also contends that it is unfair and in violation of Due Process to find three violations of unprofessional conduct for the same facts by charging under three separate statutes. As Respondent concedes, Count 3 was dismissed, so that Count is not at issue. As for the charges under 26 V.S.A. §§ 1354(a)(25) and 1398, as previously stated, the categories of unprofessional conduct set forth in the Vermont statutes serve different functions and purposes, and are not coextensive. *Delozier v. State*, 160 Vt. 426, 432-433 (1993). The same conduct may constitute a violation of one, both, or one and not the other. Based on the record, the Committee concluded, and the Board agrees, that Respondent's conduct violated both statutes.

3. **Dr. O'Rourke's Letter to Patricia King, M.D., was *De Minimus*, Warranting Dismissal of Count 4.**

The Committee viewed the evidence of the letter as a "technical" violation, but not one that the Committee viewed as "egregious". In light of Respondent past service as a Board member, Respondent should have known that this was not the ethically proper method to request action from the Board. The fact that he did not inform his attorney of the letter is further indication that he probably realized he was treading on unprofessional ground. For these reasons, the Board agrees with the Committee's conclusion.

As with Count 2, the State alleged dishonorable and unprofessional conduct under 26 V.S.A. § 1398, but the Committee concluded that Respondent's action was unprofessional, not dishonorable.

4. The Hearing Committee Correctly Found That the State Failed to Prove Counts 6 and 7.

For the reasons stated above addressing the State's exceptions to Counts 6 and 7, the Board agreed with the Committee's dismissals of those counts.

FINDINGS OF FACT AND CONCLUSIONS OF LAW OF THE BOARD;
JUDGMENT AND ORDER

The Board has reviewed the record of proceedings in this case, listened to oral arguments of the parties, and addressed the exceptions to the Hearing Committee Report. After deliberation, and pursuant to 26 V.S.A. § 1355(b), the Board accepts the Findings of Fact and Conclusions of Law with the minor modifications explained above and set forth below. The Board modifies the Proposed Decision that was recommended by the Committee. As a result, the Board issues the following Findings of Fact, Conclusions of Law, Judgment, and Order.

FINDINGS OF FACT

1. William A. O'Rourke, M.D., Respondent, holds Vermont Medical License Number 042-0002399, issued by the Board on September 10, 1958.
2. Respondent was born and raised in Rutland, Vermont. He attended the University of Vermont School of Medicine, graduating in 1957. He interned in 1958 at The Ohio State University College of Medicine and returned to Vermont for a one-year residency at the DeGoesbriand Hospital. His residency was followed by military service serving with the Department of Medicine at the 2795th U.S. Air Force Hospital and then a residency in infectious diseases at Georgetown University Medical Center. Subsequently, in 1963, he returned to Rutland to practice internal medicine, with a subspecialty in infectious disease, and has continued to do so to the present time.
3. Respondent has served the people of Rutland County in many capacities including as a dedicated physician, City Health Officer, and in numerous educational and charitable capacities. While practicing medicine and engaging in the other community services, he raised five children who, in turn, have provided him with 15 grandchildren.
4. On October 31, 2003, the Respondent and the State of Vermont entered into an agreement set forth in a Stipulation and Consent Order that was signed on that date by an Assistant Attorney General on behalf of the State, the Respondent, and Respondent's Counsel at that time. Respondent, represented by counsel, acknowledged in the Stipulation and Consent Order that he knowingly and voluntarily agreed to it. He further agreed that he had read and carefully considered all of the terms and conditions and that he would be bound by such until

expressly relieved from them, in writing, by the Board. The Stipulation and Consent Order was approved, ordered, entered, and became effective on November 5, 2003.

5. As a result of the Stipulation and Consent Order, Respondent's Vermont license to practice medicine was "Conditioned" for a period of 24 months. Among the conditions placed on Respondent's license was a requirement that Respondent have a current diagnostic assessment and treatment plan for each office patient for whom he prescribes controlled substances; a requirement that Respondent clearly note in writing in the patient's office record each controlled substance that he prescribes for that patient; and a requirement that Respondent copy and retain in duplicate all prescriptions written by him for patients other than those seen in hospital and nursing home settings – one copy placed in a chronologically-ordered file, and the other copy placed in the patient's chart. Respondent agreed to make these records promptly available to the Board or its agent upon request.

6. In addition to the record-keeping conditions set forth in Finding No. 5, Respondent agreed to and was ordered to attend and satisfactorily complete educational coursework within one year of the effective date of the Stipulation and Consent Order. The coursework agreed to and ordered was the four-day intensive course in controlled substance management offered by the School of Medicine of the Case Western Reserve University. Respondent agreed to and was ordered to ensure that documentation and evaluation of his participation and satisfactory completion of the coursework would be forwarded to the Board within 30 days after Respondent completed the course. This license condition was subject to review and approval by the Board in its sole discretion.

7. Respondent further agreed to and the Stipulation and Consent Order ordered that Respondent's failure to comply with the terms of the Order, specifically the educational and record-keeping requirements, may constitute unprofessional conduct and may subject Respondent to such further disciplinary action.

8. After Respondent had agreed to and the Board had ordered the above-stated conditions, the required Case Western course was offered on the following dates: December 10-13, 2003; May 19-22, 2004; December 15-18, 2004; May 11-14, 2005; and December 7-10, 2005. Respondent did not attend the required course on any of those dates. Respondent did attend and satisfactorily complete the required course on May 10-13, 2006. Respondent did not satisfactorily complete the required course within one year of the effective date of the Stipulation and Consent Order. In fact, Respondent did not complete the required course until approximately two-and-a-half years after the date on which the requirement was ordered by the Board.

9. Respondent offered several explanations why he did not or could not attend and complete the required course within the require time period. He testified that he did not attend the required course in December 2003, because he deferred from attending the required course to attend an infectious disease course that he takes every year. The infectious disease course did not and does not satisfy the required course ordered by the Board. He further testified that he did not attend the required course in May 2004, because it was around the time that his brother was discharged

from hospital care after suffering serious injuries in an automobile accident. Respondent felt that he needed to be available for his brother at all times.

10. Subsequently, Respondent attempted to find a course that would be accepted by the Board as a substitute for the course required by the Board order. The Investigative Committee of the Board and the Assistant Attorney General did not agree to substitute any other course. Respondent felt he needed a physician's input, so by his letter dated July 15, 2004 to Patricia A. King, M.D., Chair of the North Investigative Committee of the Board, Respondent requested her intercession to allow him to attend another course as a substitute for the required course. Respondent wrote the letter without informing his attorney of record, who was his brother, subsequently causing his attorney to withdraw from further representation of Respondent concerning this matter. Respondent wrote the letter, because he was frustrated with what was happening with the situation.

11. Respondent's letter to Dr. King prompted the Assistant Attorney General to write a letter dated September 9, 2004, to Respondent. The Assistant Attorney General informed Respondent that Dr. King could not unilaterally change the condition of the required course, and that the Investigative Committee was very firm that the proposed substitute course was not acceptable. The Assistant Attorney General restated the requirements of the Stipulation and Consent Order, requested Respondent to attend the required course in December 2004, and notified Respondent that his failure to do so would subject him to unprofessional conduct charges for failure to comply with the Board's Order.

12. Respondent's explanations as set forth above do not constitute legitimate and acceptable excuses for his failure to comply with the Board order that he had agreed to. He knowingly failed to complete the required course within the required time period despite the reasonable opportunity to do so.

13. On March 16, 2005, Board Investigator Philip Ciotti visited Respondent's office to review records that Respondent was required to compile pursuant to the Stipulation and Consent Order. Mr. Ciotti had not contacted Respondent or his office prior to making the visit. Respondent was in Florida, so was not in the office when Mr. Ciotti arrived. Mr. Ciotti spoke with Linda Lewis, who is the bookkeeper for Respondent. Mr. Ciotti asked for the records that were required to be kept pursuant to the Stipulation and Consent Order, but Ms. Lewis was unaware of any such records. She tried nonetheless to be helpful and did make some copies of records for Mr. Ciotti. Mr. Ciotti made no other attempt to contact Respondent and made no further visits to his office except for a visit in December 2005.

14. After reviewing some of the copies that he had received, Mr. Ciotti had several phone calls with Respondent's new attorney of record, Mr. Berger. By letter dated June 13, 2005, Mr. Berger corresponded with the Assistant Attorney General advising him that the requested records were available for review. By letter dated July 28, 2005, Mr. Berger corresponded with Investigator Ciotti enclosing copies of the requested records and a copy of the June 13, 2005 letter. No other written requests for records were made to either Respondent or Mr. Berger regarding this matter at that time. When requests were made to Mr. Berger during this matter, Mr. Berger promptly replied.

CONCLUSIONS OF LAW

Count 1

A. Respondent failed to attend and complete the course within the time period that was required by the Stipulation and Consent Order. He failed to do so despite having several reasonable opportunities to satisfy the requirement. His failure to comply with an order of the Board and his violation of a condition imposed on his license by the Board is a violation of 26 V.S.A. § 1354(a)(25) and constitutes unprofessional conduct.

Count 2

B. Respondent entered into an agreement with the State of Vermont whereby he would attend a remedial educational course within a specified time period. Fulfilling that agreement a year-and-a-half after the required time period constitutes unprofessional conduct as set forth in 26 V.S.A. § 1398.

Count 3

C. While Respondent's actions regarding his failure to comply in a timely manner with the educational requirement of the Board's Order constitutes unprofessional conduct under Counts 1 and 2 as concluded above, it does not constitute unfitness to practice medicine in violation of 26 V.S.A. § 1354(a)(7).

Count 4

D. Respondent's written letter to a member of the Board of Medical Practice was an inappropriate and improper *ex parte* attempt to address non-compliance with a Board Order. While not an egregious act, it was an action that constitutes a technical violation of 26 V.S.A. § 1398, and as such is unprofessional conduct.

Count 5

E. Count 5 was withdrawn by the State prior to the beginning of the hearing and was not considered by the Hearing Committee.

Counts 6 and 7

F. These Counts allege that Respondent failed to maintain and timely produce records that were required to be kept under the Stipulation and Consent Order. The evidence regarding these allegations does not prove by a preponderance of the evidence that Respondent failed to comply with the record-keeping requirements of the Order. The Stipulation and Consent Order requires that Respondent make the records in question available upon request. The evidence establishes only that an employee of Respondent's was orally requested to produce the records; Respondent was never requested or asked to follow-up on the request to his employee. Once Respondent's

attorney was contacted, the testimony and other evidence establish that every request was promptly complied with.

In General

G. The Board has the power and duty to investigate all complaints and charges of unprofessional conduct against any license holder and to hold hearings regarding such charges. 26 V.S.A. § 1351(1). A contested case before an administrative agency, such as the Board, may be disposed of informally by “stipulation, agreed settlement, consent order, or default”. 3 V.S.A. § 809(d).

H. Although Respondent offered several reasons why he could not comply with the educational requirement in a timely manner, and he did ultimately complete the course, the Hearing Committee feels that Respondent could have easily complied within the required time period, or at least have formally requested an extension of time or modification from the Board. The Stipulation and Consent Order that Respondent knowingly and voluntarily agreed to and was ordered by the Board is clearly “an order of the board” under 26 V.S.A. § 1354(25), noncompliance of which is unprofessional conduct.

I. The facts of this matter demonstrate that Respondent should be held to his “free, calculated and deliberate choice embodied in the stipulation.” See Estate of Emilio v. St.Pierre, 146 Vt. 421, 424 (1985) and In re Norris Trust, 143 Vt. 325, 328 (1983) (“... free, calculated, deliberate choices are not to be relieved from.”). “Once a party agrees to a stipulation he or she is bound by it ...” Angolano v. City of So. Burlington, 142 Vt. 131, 136 (1982). Compliance with Board orders must be respected and enforced. The credibility of the statutory scheme and the protection of the public would be rendered ineffectual if a licensee could fail to comply with the Board’s order without the consequence of any disciplinary action.

J. Under 3 V.S.A. § 810(4), the Board takes official or judicial notice of the original Stipulation and Consent Order in the Board’s administrative file. The original Stipulation was dated November 5, 2003, and was entered and effective on that date as shown on the face of the document.

JUDGMENT AND ORDER

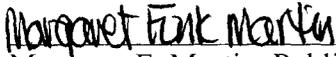
The Hearing Committee has determined that Respondent’s failure to timely comply with the Board Order to successfully complete a remedial education course was unprofessional conduct. Respondent’s failure to comply and some of the methods he chose to address the issue were unprofessional, and the Committee decided, for the reasons stated in its Conclusions H and I, that some discipline is warranted. The Board has carefully examined the record for a good reason why Respondent did not fulfill his obligation of completing the required course in a timely manner. It finds no legitimate or acceptable excuse for Respondent’s failure to complete the course required under the Stipulation within the time period he had agreed to. The Board further scrutinized the record looking for some evidence of insight and acknowledgement on the part of Respondent as to the importance of fulfilling his obligation under the Stipulation. The Board regretfully does not find such insight and acknowledgement. The Board feels that the

totality of circumstances surrounding Respondent's unreasonable delay in the fulfillment of this obligation imposed by the Stipulation demonstrates a serious lack of respect for the agreement he signed and the resulting Order of the Board. For these reasons, and based on the record before it, the Board concludes that the Committee's Proposed Decision does not impose an adequate disciplinary action.

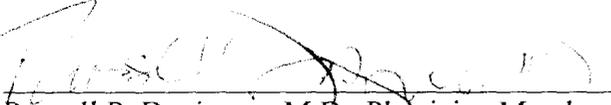
Based upon the evidence in the record and the resulting Findings of Fact and Conclusions of Law, IT IS ORDERED BY THE BOARD that:

1. Counts 3, 5, 6, and 7 should be DISMISSED;
2. No disciplinary action should be imposed regarding Count 4;
3. Respondent is REPRIMANDED and his license to practice medicine in Vermont should be suspended for 20 consecutive days for his unprofessional conduct as concluded in Counts 1 and 2. The period of suspension shall begin 60 days from the date of entry of this ORDER.

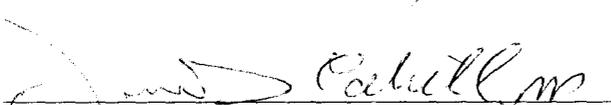
THE BOARD:


Margaret F. Martin, Public Member

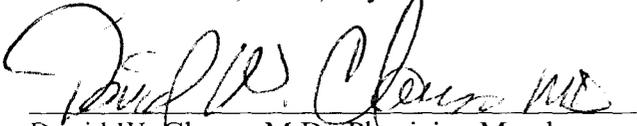
3/17/07
Date


Russell P. Davignon, M.D., Physician Member

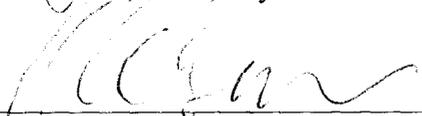
3/17/07
Date


James D. Cahill, M.D., Physician Member

3/12/07
Date


David W. Clauss, M.D., Physician Member

3/7/07
Date


Katherine A. Silta, PA-C, Physician Assistant Member

3/7/07
Date

Filed with Board Office:

3/20/07
Date

Date of Entry:

March 20, 2007