

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Jeffrey B. Fine (PA-C)) Docket No. MPS 50-0312

STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through Vermont Attorney General William H. Sorrell, and Jeffrey B. Fine, PA-C, and stipulate and agree as follows:

1. Jeffrey B. Fine, PA-C (“Respondent”) of St. Albans, Vermont, holds Vermont physician assistant license number 055.0030897 originally issued by the Vermont Medical Practice Board on February 6, 2008. Respondent’s license has been in “inactive per request” status since May 3, 2012. Prior to his inactive status, Respondent practiced as a physician assistant with a private family practice medical office in St. Albans, Vermont.
2. Jurisdiction in these matters vests with the Vermont Board of Medical Practice (“the Board”), pursuant to 26 V.S.A. §§ 1353-1361, 3 V.S.A. §§ 809-814, and other authority.

FINDINGS OF FACT

3. The Board opened the above-captioned matter upon receipt of information that Respondent had been arrested and charged with two felonies in March 2012. Respondent was originally charged in Franklin Superior Court, Criminal Division with the crimes of: aggravated sexual assault, victim less than 10 years old (13 V.S.A. § 3253(a)(8)), and lewd and lascivious conduct with a child (13 V.S.A. § 2602).
4. Respondent advised the Board in March 2012 that he was no longer practicing clinically or seeing patients at the family practice pending the outcome of his criminal case.

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

5. On January 3, 2013, Respondent conditionally pled nolo contendere to the felony lewd and lascivious conduct with a child count under a differed sentence agreement. He also pled nolo contendere to two misdemeanor counts of prohibited acts (13 V.S.A. § 2632(a)(8)). The felony count of aggravated sexual assault, victim less than 10 years old was dismissed by the State. The plea was accepted by the Franklin Superior Court and an adjudication of guilty was entered on the three remaining counts.
6. On April 15, 2013, Respondent received consecutive sentences of 3 months to 1 year, all suspended but 2 months on each of the misdemeanor engaging in a prohibited act counts. Sentencing on the felony lewd and lascivious conduct with a child count was deferred for a maximum period of 14 years. Upon completion of the 4-month incarcerative portion of his sentence, Respondent will be placed on probation, with a number of general and specific probation conditions in effect, including, *inter alia*, that he not initiate or maintain contact with children under the age of 16 years without the prior written approval of his probation officer. Respondent must also attend and meaningfully participate in, and complete sex offender treatment to the satisfaction of his probation officer.
7. By the terms of his sentence, Respondent will be on probation following his incarceration until further order of the Franklin Superior Court, Criminal Division, and shall not be discharged from probation for at least 14 years; however, the Court agreed that three years after Respondent successfully completes Sex Offender Treatment and proves he is in compliance with his general and specific conditions of probation, he may seek early discharge of his probation and the expungement of the case records

regarding the deferred sentence on the felony lewd and lascivious conduct with a child.

8. Respondent is presently incarcerated.

CONCLUSIONS OF LAW

9. It is unprofessional conduct to engage in conduct which evidences unfitness to practice medicine. It is the position of the Board that the criminal conduct that is the subject of the charge and adjudication described above evidences Respondent's unfitness to practice medicine in violation of 26 V.S.A. § 1736(a)(6).
10. Consistent with Respondent's cooperation with the Board, he agrees that if the State were to file charges against him it could satisfy its burden at a hearing and a finding adverse to him could be entered by the Board, pursuant to 26 V.S.A. § 1736(a)(6).
11. Respondent agrees that the Board may enter as its facts and/or conclusions in this matter Paragraphs 1 through 10, above, and further agrees that this is an adequate basis for the Board actions set forth herein. Any representation by Respondent herein is made solely for the purposes set forth in this agreement.
12. Therefore, in the interest of Respondent's desire to fully and finally resolve the matter presently before the Board, he has determined that he shall enter into the instant agreement with the Board. Respondent enters no further admission here, but to resolve this matter without further time, expense, and uncertainty, he has concluded that this agreement is acceptable and in the best interest of the parties.
13. Respondent acknowledges that he is knowingly and voluntarily entering into this agreement with the Board. He acknowledges he has had the advice of counsel regarding this matter and in the review of this Stipulation and Consent Order.

Respondent is fully satisfied with the legal representation he has received in this matter.

14. Respondent agrees and understands that by executing this document he is waiving any right to challenge the jurisdiction and continuing jurisdiction of the Board in this matter, to be presented with a specification of charges and evidence, to cross-examine witnesses, and to offer evidence of his own to contest any allegations by the State.
15. The Board and Respondent agree that upon their execution of this Stipulation and Consent Order, and pursuant to the terms herein, the above-captioned matter shall be administratively closed by the Board. Thereafter, the Board will take no further action as to this matter absent non-compliance with the terms and conditions of this document by Respondent and except as otherwise provided herein.
16. This Stipulation and Consent Order is conditioned upon its acceptance by the Board. If the Board rejects any part of this document, the entire agreement shall be considered void. Respondent agrees that if the Board does not accept this agreement in its current form, he shall not assert in any subsequent proceeding any claim of prejudice from any such prior consideration. If the Board rejects any part of this agreement, none of its terms shall bind Respondent or constitute an admission of any of the facts of the alleged misconduct, it shall not be used against Respondent in any way, and it shall be without prejudice to any future disciplinary proceeding and the Board's final determination of any charge against Respondent.
17. Respondent acknowledges and understands that this Stipulation and Consent Order shall be a matter of public record, shall be entered in his permanent Board file, shall constitute an enforceable legal agreement, and may and shall be reported to other

licensing authorities, including but not limited to the Federation of State Medical Boards' Board Action Databank, the National Practitioner Data Bank, and the Healthcare Integrity and Protection Data Bank.

18. In exchange for the actions by the Board, as set forth herein, Respondent expressly agrees to be bound by all terms and conditions of this Stipulation and Consent Order.

19. The parties therefore jointly agree that should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board, it may enter an order implementing the terms and conditions herein.

ORDER

WHEREFORE, based on the foregoing Findings of Fact, Conclusions of Law, and the consent of the Parties, it is hereby ORDERED that:

- a. Respondent shall be REPRIMANDED for the conduct set forth above;
- b. Respondent's inactive license shall be considered REVOKED by Order of the Board. The revocation of Respondent's license shall be effective after this Stipulation and Consent Order has been approved by the Board;
- c. Respondent may not re-apply for reinstatement of a license until such time as: (1) he has been successfully discharged from his probation; (2) the case records regarding the deferred sentence on the felony lewd and lascivious conduct with a child charge have been expunged; and (3) the Board has granted him permission to re-apply for licensure. Respondent acknowledges that in addition to the three conditions listed, he may also be required to meet retraining requirements before a license may be issued; and
- d. In the event that Respondent returns to practice in Vermont with a reinstated license,

he shall be required to have a chaperone present when providing care or treatment to any individual under the age of eighteen years. The chaperone shall not be a family member of the patient. Respondent shall document the presence and name of the chaperone in the patient records.

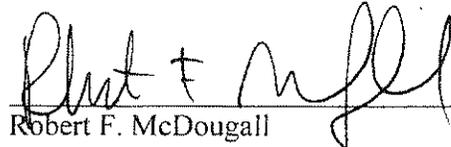
SIGNATURES

DATED at Montpelier, Vermont, this 12 day of August, 2013.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:


Robert F. McDougall
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609

DATED at _____, Vermont, this ___ day of _____, 2013.

Jeffrey B. Fine, PA-C

Respondent

DATED at _____, Vermont, this ___ day of _____, 2013.

Paul S. Volk, Esq.
Blodgett, Watts, Volk & Sussman, P.C.
72 Hungerford Terrace
P.O. Box 8

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

he shall be required to have a chaperone present when providing care or treatment to any individual under the age of eighteen years. The chaperone shall not be a family member of the patient. Respondent shall document the presence and name of the chaperone in the patient records.

SIGNATURES

DATED at Montpelier, Vermont, this ___ day of _____, 2013.

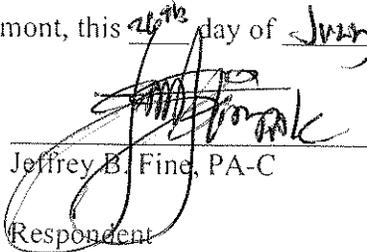
STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:

Robert F. McDougall
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609

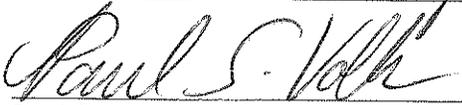
DATED at Newport, Vermont, this 26th day of July, 2013.



Jeffrey B. Fine, PA-C

Respondent

DATED at Burlington, Vermont, this 31st day of July, 2013.



Paul S. Volk, Esq.
Blodgett, Watts, Volk & Sussman, P.C.
72 Hungerford Terrace
P.O. Box 8

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

AS TO JEFFREY B. FINE, PA-C

APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

[Handwritten signature]

[Handwritten signature]

Carol Diamond

Lew M. Young

[Handwritten signature]

Robert M. Sawyer MD

David A. Jew

Peter A. G. M.D.

DATED: *August 7, 2013*

ENTERED AND EFFECTIVE: *August 7, 2013*

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609