

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Roger J. Giroux, M.D.

)
)
)
)

Licensing Board Matter

STIPULATION AND AGREEMENT

NOW COME Roger J. Giroux, M.D. (Applicant), and the State of Vermont, by and through Attorney General William H. Sorrell and the undersigned Assistant Attorney General, James S. Arisman, and agree and stipulate as follows:

1. Roger J. Giroux, M.D., presently an inactive family practice physician, holds Vermont Medical License Number 042-0008119, issued by the Board of Medical Practice (the "Board") on February 20, 1990. Applicant's Vermont medical license lapsed on or about November 30, 1996. Dr. Giroux has applied for reinstatement of his Vermont medical license.

2. Jurisdiction vests with the Vermont Board of Medical Practice (Board) under 26 V.S.A. §§ 1353, 1391-1400 and other authority.

I. Background.

3. Applicant graduated from the University of Vermont (UVM) in 1983 and received his medical degree from UVM in 1987. He completed a residency in family practice medicine at Fletcher Allen Health Care in 1990. In 1990, Applicant gained board certification in family practice medicine. Between 1990 and 1996 Applicant practiced family medicine in Hinesburg.

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

4. In 1996, Applicant discontinued the practice of medicine to pursue a business venture. Applicant now plans to return to the practice of medicine.

A. Application for Reinstatement of Licensure.

5. In March 2007, Applicant determined that he wished to return to the practice of medicine and filed an application with the Board for reinstatement of his Vermont medical license. Applicant has provided the written references required by the Board. These references describe Applicant's skills and knowledge as excellent. Applicant also indicates that he has pursued a rigorous program of self-study to ensure that his fund of knowledge is current and complete.

6. Applicant has met with the Board's Licensing Committee to discuss his application for reinstatement of licensure and the steps required for his return to the active practice of medicine. Applicant has presented the Licensing Committee with a plan for supervised reentry to practice. The Licensing Committee has reviewed Applicant's plan and finds the plan, with minor revisions, to be acceptable. Applicant's plan is set forth in his letter to the Board of Medical Practice of January 29, 2008.

II. Agreement and Purpose.

A. Acknowledgement.

7. Applicant knowingly and voluntarily has determined that he shall enter into this agreement with the Vermont Board of Medical Practice regarding his planned return to medical practice. The parties agree here that Applicant may return to the practice of medicine subject to (a) reinstatement of his medical license by the Vermont Board of Medical Practice, pursuant to the terms and conditions of this agreement; and (b) his full and continuing compliance with all terms and conditions set forth below. Applicant

expressly agrees that he shall provide his full, good faith cooperation and compliance with the terms and conditions set forth herein. And see Paragraph 14 below.

8. Applicant acknowledges that at all times he has had the right to be represented by counsel in this matter. Applicant agrees that he personally has read and carefully reviewed this document. Applicant agrees to accept and fully abide by the terms and conditions set forth below while this agreement remains in force.

9. Applicant recognizes the responsibility of the Vermont Board of Medical Practice to protect the health, safety, and welfare of patients. He agrees to continue to provide his full cooperation with the Board in this matter and with regard to his practice and care of patients.

B. Purpose.

10. Applicant acknowledges that the sole purpose of this agreement is to establish terms and conditions governing his supervised return to the practice of medicine. Applicant agrees to and accepts all terms and conditions herein without reservation and to do so in exchange for the Board's approval of this Stipulation and Agreement. Applicant further agrees that this Stipulation and Agreement, without more, does **not** create a right to an unconditioned Vermont medical license and does not constitute a promise of any kind by the Board of Medical Practice regarding continued or future licensure. Applicant agrees that the Vermont Board of Medical Practice may adopt Paragraphs 1 through 9, above, and this paragraph as its findings of fact and/or conclusions of law in this matter. He accepts and agrees that these paragraphs provide a sufficient basis for entry and enforcement of this Stipulation and Agreement by the Vermont Board of Medical Practice.

11. The parties agree that the terms, conditions, and requirements set forth in this agreement shall govern Applicant's return to practice and reinstatement of medical licensure. The parties agree that this Stipulation and Agreement is **non-disciplinary** and intended solely to provide for the purposes expressly set forth in this agreement.

C. Supervision.

12. Applicant recognizes the Board's responsibility for regulation of the profession of medicine and the protection of the health and safety of patients. Applicant has agreed to meet upon request with the Board or any of its individual operating committees with regard to his return to the practice of medicine, day-to-day practice activities, progress, and other matters.

13. Applicant has developed a staged plan for his return to the practice of medicine. He has arranged a detailed program of supervised re-entry to practice that is intended to provide for monitoring and to ensure the soundness and currency of his medical skills. The Board's Licensing Committee has reviewed Applicant's plan and finds that it appears to provide appropriate protection of patients and the public. Applicant and the Board of Medical Practice concur that his return to the practice of medicine shall include a period of clinical supervision, monitoring and attention to the currency of his skills and knowledge, and general re-training. And see Paragraphs 15 through 18, below.

D. SPEX Examination.

14. Applicant agrees that he shall arrange for and successfully pass the Special Purpose Examination (SPEX) of the Federation of State Medical Boards as a candidate sponsored by the Vermont Board of Medical Practice and as a precedent to any actual

practice of medicine by him. Applicant understands and expressly agrees that he may not and shall not practice medicine in any form in the State of Vermont if he fails to achieve a reported SPEX examination score of at least 75. Applicant understands and agrees that he shall be limited to three attempts to successfully complete and pass the SPEX examination within a one-year period. A third examination attempt shall require a mandatory 90-day waiting period, determined from the prior date of examination. Any subsequent examination attempts shall require (a) Board approval and sponsorship, to be determined in the Board's sole discretion; and (b) a one-year waiting period from the date of the last attempt. Applicant shall bear all costs. And see Paragraph 29, below.

E. Initial Practice Sites and Supervision.

15. Applicant's proposed plan for re-entry to practice initially shall be implemented under the auspices of the Family Medicine Health Care Service of Fletcher Allen Health Care (FAHC). Applicant's practice locations shall be limited to Colchester Family Practice, South Burlington Family Practice, and the Fletcher Allen Health Care. Applicant may petition the Board to add other practice sites at a later date, subject to the approval or disapproval and sole discretion of the Board or the Board's Licensing Committee.

16. At the practice sites identified immediately above, Applicant shall be supervised by Thomas Peterson, M.D., Allan Ramsay, M.D., Robert Luebbers, M.D., and John Saia, M.D. From among these practitioners, one physician shall be designated as Applicant's "primary supervising physician", subject to the approval or disapproval of and in the sole discretion of the Board or its Licensing Committee. The primary supervising physician shall carry out the responsibilities described immediately below.

17. On-site monitoring, consultation, and review of Applicant's practice activities at the sites identified in Paragraph 15 shall be the continuing responsibility of the primary supervising physician. The Board shall be promptly notified in writing by Applicant of the name of the physician who is proposed for this purpose. Other physicians providing monitoring, consultation, and review of Applicant's practice activities shall be identified as "secondary supervising physicians" and also shall be subject to the written approval or disapproval of the Board or its Licensing Committee, in the sole discretion of either. Applicant agrees that he shall promptly provide copies of this Stipulation and Agreement to all practitioners proposed for the purposes described in Paragraphs 16 and 17.

18. The primary supervising physician at the sites identified in Paragraph 15, during the period that applicant is supervised at any of the above-named sites, shall provide written monthly reports to the Board regarding Applicant's practice. Such reports shall address Applicant's practice activities, including hours and workload, functioning, knowledge, skills, general professionalism, any deficiencies, and overall ability to practice safely and competently. Each report shall be in letter form and shall address the required content. Applicant shall be responsible for making reasonable efforts to ensure that such reports are promptly prepared and provided to the Board.

19. Initially, Applicant shall see and care for patients only (a) under the direct supervision of one of his named supervisors; or (b) when any care provided by Applicant is immediately reviewed and followed-up upon by a supervising physician, who also shall have direct contact with each such patient during the patient's office visit. **The initial**

phase of supervision shall continue until Applicant has completed at least 40 hours of direct patient care or involvement in such care.

20. In the second phase of Applicant's re-entry to practice, if agreed to and approved in writing by his primary supervising physician, Applicant shall see and care for patients only when a supervising physician will be readily available for consultation with Applicant and to provide any needed assistance or consultation. A supervising physician shall, without fail, carry out a chart review within one working day for each instance of patient care rendered by Applicant. Following review each chart shall be initialed and dated by the reviewer, who shall be one of Applicant's supervising physicians. **The second phase of Applicant's reentry to practice and supervision shall continue until Applicant has completed at least 120 additional hours of direct patient care or involvement in such care.**

21. The Vermont Board of Medical Practice, in its sole discretion and without need of notice or hearings, may extend the duration of either or both of the reentry phases described immediately above, but only if reporting or information from Applicant's supervising physicians or practice site indicates one or more areas of possible deficiency in Applicant's practice skills, knowledge, or performance.

22. **During the two phases described in Paragraphs 15 through 21, Applicant shall complete a total of at least 160 hours of direct patient care, under supervision.**

23. It is understood by the parties that Applicant, during the periods referred to above, may be assigned to "take call" on a periodic basis and also may be assigned to periods of full-day hospital rounding with another licensed physician. **Such activity shall not be credited toward the total number of hours required by Paragraph 22, above.**

24. All patient care, which Applicant personally provides or that he is involved in, shall be separately logged and documented by him in writing, including the patient's name, date and time of care, a brief summary of the care rendered, and the name of the supervising physician(s) who is involved or on duty at the time.

25. Upon completion of the total number of hours required by Paragraph 22, above, the Board may deem Applicant to have completed the period of supervision described in Paragraphs 15 through 24, unless he has been notified to the contrary by the Board of Medical Practice or the Board's Licensing Committee.

26. Applicant understands and agrees that his return to the practice of medicine shall occur and continue only if the Board of Medical Practice, in its sole discretion, determines at all times that such continuation is consistent with prevailing professional standards, patient safety, and the public welfare.

F. Modification of Terms.

27. The Vermont Board of Medical Practice, in its sole discretion, may require that Applicant pursue an additional period of supervised practice, re-training, or additional training in certain subjects or fields, but only if reporting or information from Applicant's supervising physicians or practice site indicates one or more areas of possible deficiency in Applicant's practice skills, knowledge, or performance.

28. The parties expressly agree that Applicant's continuing formalized association with Fletcher Allen Health Care and its associated entities, during the period described in Paragraph 22, above, is a **material term** of this agreement. The parties agree that interruption or cessation of his practice or employment, or his formalized association with these entities during the required period shall constitute a circumstance of non-

compliance by Applicant with the terms and conditions of this agreement and shall require Applicant voluntarily and immediately to cease any and all practice activities. The Board, in its sole discretion, shall promptly consider and approve or disapprove any petition from Applicant or the State regarding such cessation.

29. In the unlikely event that circumstances reasonably appear to warrant, Applicant agrees that the Board, in its sole discretion, may determine that Applicant's further involvement in reentry to practice and/or supervised practice, while this agreement is in force: (a) is inconsistent with the public health, safety, and welfare; or (b) lacks a reasonable likelihood of success. Thereafter, Applicant shall cease and desist from practice, subject, however, to petition from Applicant or the State and further proceedings before the Board, to be promptly undertaken.

G. Continuation of Period of Supervised Practice.

30. The parties agree that following completion of the period described in Paragraph 22, above, Applicant may practice of medicine at a different site and under a different supervising physician. Applicant shall provide the Board with advance written notice of his proposed new practice site and proposed new supervising physician, both of which shall be subject to the approval or disapproval of the Board of Medical Practice or its Licensing Committee, in the sole discretion of either.

31. Applicant agrees that following completion of the period described in Paragraph 22, above, Applicant's practice of medicine shall be supervised as follows:

a. Applicant shall at all times have a supervising physician, who shall be subject to the actual approval or disapproval of the Board of Medical Practice at any time. Applicant agrees that he shall not practice medicine without a supervising physician as described in this agreement. The supervising physician shall hold a current, unrestricted Vermont medical license.

b. Applicant shall consult with his supervising physician whenever deemed necessary by either party.

c. Applicant shall meet and consult regularly with his supervising physician. He shall do so at least twice monthly. Applicant shall maintain a written record of the date, place, and duration of each such meeting and consultation with his supervising physician. Upon request by the Board or its agents, Applicant shall produce without delay such written record for review and copying.

d. Each meeting between Applicant and the supervising physician shall be of sufficient duration and involve discussion in sufficient detail to permit them to: (i) confer regarding the care of individual patients; (ii) review charts and record keeping matters; (iii) discuss problems or concerns related to certain patients or complex cases; (iv) address general professional standards, expectations, and office-based practice; (v) review, as needed, matters such as current research and studies, general fund of knowledge, patient safety, performance of procedures, prescribing, communication and counseling, and decision making; and (vi) address suggestions regarding continuing medical education or aspects of practice which might benefit from further attention or study.

32. Applicant promptly shall provide a complete copy of this Stipulation and Agreement to his proposed supervising physician.

33. Following completion of the period of supervision described in Paragraph 22, the required written reporting to the Board by the supervising physician shall take place on a monthly basis for the next three complete months that Applicant is actively practicing. Thereafter, written reporting to the Board by the supervising physician shall take place on a quarterly basis until this agreement is modified or terminated.

34. Each report by the supervising physician shall address Applicant's practice activities and workload, knowledge and skills, any problems and concerns, and Applicant's ability to practice safely and competently. Each report by the supervising physician shall expressly affirm that all consultation as described and required by Paragraph 31, above, has taken place. Applicant shall be personally responsible for making reasonable efforts to ensure that all such reports are promptly provided to the Board.

III. Other Conditions of Licensure.

A. Acknowledgement.

35. All terms and conditions of this agreement shall be imposed concurrently with any reinstatement of Applicant's Vermont medical license.

36. Applicant understands and agrees that pursuant to this agreement his Vermont medical license shall be reinstated with the designation "**conditioned**". Applicant agrees that conditions of licensure shall require Board oversight and monitoring of his re-entry to medical practice, his practice site(s), and his day-to-day practice activities during the life of this agreement.

37. Applicant acknowledges and agrees that he shall not practice medicine without the continuing approval of the Vermont Board of Medical Practice. Upon any notice and request from the Board, its Licensing Committee, or an agent of the Board, Applicant shall immediately cease practice, pending prompt, further proceedings before the Board.

B. Monitoring and Communication.

38. Applicant agrees to execute such authorizations for the release of information regarding his professional re-entry, practice, and patient care as the Board might require. Consistent with this authorization, Applicant also understands and agrees that the Board or its agents may communicate orally to obtain information from any and all practitioners or individuals involved in his professional re-entry and practice activities. Applicant agrees that his compliance with the terms and conditions herein and with all those supervising him or practicing with him may be considered in any review or proceeding of the Board or its Licensing Committee regarding his medical license.

C. Duration of Agreement.

39. The parties agree that the duration of this agreement shall be for a minimum of one year.

40. Applicant agrees that all terms and conditions herein may be adopted as an enforceable order of the Board and agrees to be bound by these until such time as he may be expressly relieved of these terms and conditions by the Board or they are modified, in writing. Applicant understands and agrees that this agreement may be modified or terminated, only if the Board is satisfied, in its sole discretion, that any such amendment would be consistent with protection of the public health, safety, and welfare. Applicant understands and expressly agrees that the Board shall not be required to consider any such petition from him prior to the passage of one year from the effective date of this agreement.

41. The parties agree that Applicant may apply for modification of or relief from this agreement by filing a written petition that includes copies of a current assessment and statement from Applicant's supervising physician describing Applicant's present practice activities and attesting to Applicant's ability to practice medicine safely and competently, without need of further supervision.

42. The parties agree that this Stipulation and Agreement imposes terms and conditions upon Applicant's medical license, shall be a public document, shall be made part of Applicant's licensing file, and shall be reported to other licensing authorities and/or entities including, but not limited to, the National Practitioner Data Bank and the Federation of State Medical Boards.

43. This Stipulation and Agreement is subject to review and acceptance by the Vermont Board of Medical Practice and shall not become effective until presented to and

approved by the Board. If the Board of Medical Practice rejects any part of this agreement, the entire agreement shall be considered void. By his signature, Applicant expressly requests the Board's review and approval of this agreement. If the Board rejects any part of this document, Applicant agrees that he shall not assert as a claim or defense that his right of due process has been prejudiced in any way by such consideration. However, if this agreement is deemed to be acceptable, the parties jointly request that the Board enter an order adopting the facts and/or conclusions herein and all terms and conditions of licensure as set forth herein.

44. Applicant agrees that all terms and conditions herein may be adopted as an enforceable order of the Board. Applicant agrees that the Board of Medical Practice shall retain continuing jurisdiction in this matter and may enforce as necessary all terms and conditions herein.

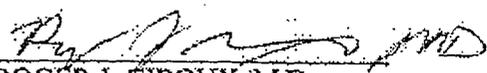
Dated at Montpelier, Vermont, this 25th day of March, 2008.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL


JAMES S. ARISMAN
Assistant Attorney General

Dated at Hewesburg, Vermont, this 25th day of March, 2008.


ROGER J. GIROUX, M.D.
Applicant, *pro se*

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

FOREGOING, AS TO ROGER J. GIROUX, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Jody R. Sadler, MD

James C. Cullen, MD

Gene B. Webber

Peter Pham, MD

Paul W. O'Connell, MD

Frank

DATED: 4/2/08

ENTERED AND EFFECTIVE: 4/2/08

GIROUX, M.D.: REINSTATEMENT STIP; JSA/AAG 3/08