

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Mitchell R. Miller, M.D.

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Docket No.: MPC 76-1100

**PROCEDURAL ORDER ON RESPONDENT'S MOTION TO RECONSIDER
SUMMARY SUSPENSION AND TO IMMEDIATELY REINSTATE
DR. MITCHELL R. MILLER'S LICENSE**

Introduction

On April 30, 2009, the Respondent, through his attorneys, filed a Motion to Reconsider Summary Suspension and to Immediately Reinstatement Dr. Mitchell R. Miller's License (the Motion). On May 5, the Attorney General's Office filed the State's Answer to Respondent's Motion to Reconsider Summary Suspension. A preliminary hearing was held on the Motion on May 6, 2009.

At the hearing, the Board determined that before making a decision on the Motion, it wished to take testimony on certain limited issues, and a further hearing was set to hear limited testimony on the terms set out below. Pending the outcome of that hearing, the Board determined that the summary suspension should continue in force.

ORDER

1. A further hearing on the Motion will be held before the full Board on May 20, 2009, at 2:00 p.m. in the Asa Bloomer State Office Building, 4th Floor, Room 492, Rutland, Vermont.

a. The Board will take evidence which shall be limited to the matters and timeframe referenced in the Supplemental Affidavit of Philip J. Ciotti, dated May 6, 2009 (attached hereto) and testimony of Philip J. Ciotti, Senior Investigator of the Vermont Board of Medical Practice, given at the hearing on April 1, 2009 (a transcript of which will be sent under separate cover).

b. The State shall submit supporting exhibits, if any, on or before May 14, 2009.

c. The Respondent may, if he chooses, testify on the matters referenced in Investigator Ciotti's prefiled testimony. If the Respondent does intend to testify, he shall notify the Board and the State on or before May 13, 2009, and shall prefile his testimony and any supporting exhibits on or before May 14, 2009.

d. To protect the identity of the Respondent's patients from public disclosure as required by the Board's Order issued on April 1, 2009, the parties shall provide copies of all prefiled testimony (including Investigator Ciotti's Supplemental Affidavit) in two versions, one of which shall refer to individual patients only by letter (for instance Patient A) instead of by

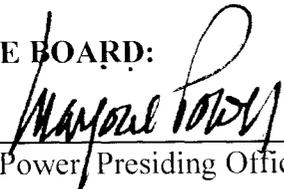
name and shall include a separate key to the actual names. The keyed copy of the filing shall be used as the basis for the oral testimony and cross-examination at the hearing so that the identity of the patients referenced will not be inadvertently revealed.

2. At the hearing on May 6, the Board heard argument on the question of its authority to summarily issue limitations on a respondent's license rather than a complete suspension of the license. The Board would like written briefing of that issue. Briefs shall be filed on or before May 18, 2009.

3. Because of the short timeframes in this proceeding, filing shall be by e-mail to **rdownes@vdh.state.vt.us** as Adobe Reader PDF files. Service on the opposing party shall be by copy of the e-mail. It is the responsibility of the filing party to confirm that all filed and served materials have been timely received, but recipients shall assist by acknowledging receipt to the sender and the Board.

4. Pending further order of the Board, the suspension of the Respondent's license shall remain in force.

FOR THE BOARD:



Marjorie Power/Presiding Officer

DATE:

May 7, 2009

EFFECTIVE DATE: May 8, 2009

DATE OF ENTRY: May 8, 2009