

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In Re:)	
)	
Mark F.L. Silverstein)	MPC 52-0305
)	MPC 103-0605
Respondent)	

STIPULATION AND ORDER

Now comes Mark F.L. Silverstein, M.D. (hereinafter "Respondent") and the State of Vermont, by and through Attorney General William H. Sorrell, and stipulate to the following:

JURISDICTION

1. Respondent is currently licensed to practice medicine in the State of Vermont, holding license number 042-0009693.
2. The Vermont Medical Practice Board (hereinafter "Board") has jurisdiction over this matter pursuant to 26 VSA §§ 1353, 1354 & 1398.

STIPULATED FACTS -- MPC 52-0305

3. Respondent currently practices medicine at Champlain Valley Internal Medicine, P.C., 77 Fairfield Street, St. Albans, Vermont and retains privileges at Northwestern Medical Center ("NWMC").
4. On Friday, January 22, 2005, Patient A was seen in the emergency room ("ER") of NWMC. At the time, Patient A was not a patient of the Respondent. Patient A and Respondent were contending parties in legal proceedings.

5. On January 22, 2005 Respondent learned that Patient A had been seen in the ER of NWMC. On that day Respondent accessed computer records for NWMC and found records confirming that Patient A had been seen in the ER. Respondent contacted the ER physician on duty and asked the ER physician about the circumstances of Patient A's visit to the ER. The ER physician informed Respondent that he could not discuss the case with Respondent.
6. Records from NWMC indicate that Respondent improperly accessed Patient A's records two more times during the weekend of January 21, 2005 and printed a copy of the record of Patient A's visit to the ER.
7. Respondent provided the record of Patient A's visit to his attorney in the legal proceeding. Respondent's attorney sought and obtained access to medical records of Patient A to use in the legal proceeding.

UNPROFESSIONAL CONDUCT -- MPC 52-0305

8. Respondent acknowledges he has been advised by counsel. Respondent voluntarily and knowingly agrees to the terms herein.
9. Respondent stipulates that his unauthorized access of Patient A's medical records is a violation of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 29 U.S.C.A. §1181, et seq., and therefore constitutes unprofessional conduct under 26 V.S.A. §1354(a)(27).
10. Respondent stipulates that he be subject to a **PUBLIC REPRIMAND** for such conduct.

STIPULATED FACTS -- MPC 103-0605

11. Respondent is one of a group of nine physicians that provides coverage for one another. On June 3, 2005, Respondent was providing coverage for physicians in the group.
12. On June 3, 2005, Patient B, a patient of one of the other physicians in the group, contacted Respondent's office on the instruction of her physician's answering service. Patient B spoke with the receptionist at Respondent's office and complained of lower abdominal pain. Patient B was instructed to come to Respondent's office after 1:00 p.m.
13. After she arrived at Respondent's office, Patient B provided a urine sample to the receptionist at Respondent's office. The receptionist tested the sample and told Respondent the results. The receptionist then informed Patient B that Patient B had a bladder infection because the urine test indicated blood in the urine. The receptionist gave Patient B a prescription written by Respondent.
14. Patient B informed the receptionist that she was beginning her period that might explain the blood in the urine. The receptionist passed on this information to Respondent who told the receptionist to tear up the prescription and inform Patient B that the pain she was experiencing was due to her period. The receptionist relayed this information to Patient B.

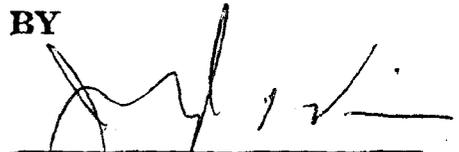
15. After the receptionist relayed Respondent's diagnosis to Patient B, Patient B informed the receptionist that she had never experienced this kind of pain in relation to her period. Patient B also stated she had concerns about the location of the pain and that the pain may be due to appendicitis. The receptionist told Patient B to go to the emergency room if her condition worsened.
16. Patient B never saw Respondent in her visit to Respondent's office on June 3, 2005.
17. On June 4, 2005, Patient B was admitted to Northwestern Medical Center for an emergency laparoscopic appendectomy.

UNPROFESSIONAL CONDUCT - MPC 103-0605

18. Respondent acknowledges he has been advised by counsel. Respondent voluntarily and knowingly agrees to the terms herein.
19. Respondent stipulates that his treatment of Patient B on June 3, 2005 constituted unsafe or unacceptable patient care and was therefore unprofessional conduct under 26 V.S.A. §1354(b)(1).
20. Respondent stipulates that he be subject to a **PUBLIC REPRIMAND** for such conduct.
21. The Board expects that all patients who receive an appointment for an office visit shall have treatment provided based on a proper evaluation by an appropriately qualified health care professional or referred to another physician or hospital, as deemed appropriate.

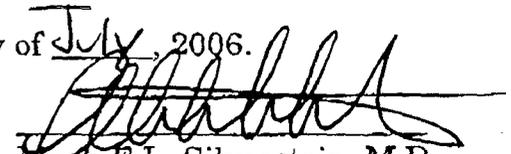
^{Burlington}
Dated at Montpelier, Vermont this 17th day of July, 2006.

**WILLIAM SORRELL
ATTORNEY GENERAL
STATE OF VERMONT
BY**



Joseph L. Winn
Assistant Attorney General

Dated at _____, Vermont this 12 day of July, 2006.



Mark F.L. Silverstein, M.D.
Respondent

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

FOREGOING, AS TO MARK F.L. SILVERSTEIN, M.D.,
APPROVED AND ORDERED, VERMONT BOARD
OF MEDICAL PRACTICE:

John B. Webster

Richard L. Gussis M.D.

Will H. Stoud, MD

Sharon L. Sped

Margaret Funk Martin

Jane Cahill

DATED: 8/2/06

ENTERED: August 2, 2006

EFFECTIVE: August 2, 2006

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