

**STATE OF VERMONT  
BOARD OF MEDICAL PRACTICE**

In re: Robert W. Murray, M.D.

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Docket Nos: MPN 123-0804  
MPN 37-0207

**STIPULATION AND CONSENT ORDER**

NOW COME the State of Vermont, by and through Attorney General William H. Sorrell and Assistant Attorney General James S. Arisman, and Robert W. Murray, M.D. (Respondent), and agree and stipulate as follows:

1. Robert W. Murray, M.D., Respondent, a board-certified family practice physician, holds Vermont medical license No. 042-0004629, issued by the Vermont Board of Medical Practice (Board) on June 22, 1972.

2. The parties concur that jurisdiction in this matter vests with the Vermont Board of Medical Practice, pursuant to its statutory and regulatory authority.

**I. Background.**

3. Respondent Murray practices medicine in Waterbury, Vermont. At all times, Respondent has cooperated with the Vermont Board of Medical Practice, including written communication and meeting on more than one occasion with the Board's North Investigative Committee to discuss patient complaints, aspects of his practice, and voluntary steps he might take in response to concerns of the Investigative Committee.

4. By letter dated November 5, 2005, addressed to the undersigned Assistant Attorney General, Respondent provided certain voluntary assurances regarding aspects of his practice, his care of patients, and his own personal medical needs. The North Investigative Committee had requested these assurances, and Respondent readily agreed

to provide these in writing. Respondent stated in his November 5, 2005 letter, "I wholly understand the concerns of the [North] investigative committee regarding my manner of communicating and interacting with my patients . . . I would like to identify for the committee specific steps I am committed to taking with regard to my practice and care of patients." Respondent discussed these specific steps in a four-page letter of assurance.

5. The North Investigative Committee recently reviewed Respondent's compliance with certain provisions of his November 5, 2005 letter of assurance. The committee noted that in at least some instances, Respondent's office notes did not include entries required under the November 5, 2005 letter of assurance. As a result, the North Investigative Committee of the Board of Medical Practice requested that Respondent Murray enter into a legally binding Stipulation and Consent Order that parallels the provisions of Respondent's November 5, 2005 voluntary letter of assurance. Respondent readily agreed to enter into the instant agreement.

6. Respondent agrees here that he shall abide fully by all terms and conditions of this Stipulation and Consent Order. Respondent fully understands and agrees that this Stipulation and Consent Order shall be legally binding upon him and understands that non-compliance on his part could result in further disciplinary action by the Vermont Board of Medical Practice.

7. Respondent recognizes the responsibility of the Board of Medical Practice to protect the Vermont public, health, safety, and welfare. In this light, Respondent voluntarily has agreed to this Stipulation and Consent Order and its requirements relating to his practice. Respondent acknowledges and understands that his Vermont medical license shall be conditioned pursuant to this agreement, as set forth below.

## II. Agreement.

### A. Use of Chaperones.

8. Respondent affirms here his full agreement with the content of Section 8.21 (Use of Chaperones During Physical Exams) of the Code of Medical Ethics of the American Medical Association. He agrees that the use of chaperones, particularly with female patients, fosters an atmosphere of respect for the patient's dignity and provides a comfortable and secure atmosphere for the patient.<sup>1</sup>

9. Respondent agrees that he shall use chaperones in caring for all female patients, regardless of age, when such patient care may involve or does involve a breast, pelvic, or anal examination or when a female patient is required to disrobe or expose intimate parts of her body in his presence. Further, he agrees that any examination of a female patient by him that unexpectedly requires a breast, pelvic, or anal examination or requires a female patient to disrobe or expose intimate parts of the body shall be interrupted until a chaperone is able to be physically present in the examination room during such examination.<sup>2</sup>

10. Respondent agrees that he shall personally inform by dated, written notice all current or incoming office staff and practitioners at his practice site of the requirements

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1. Section 8.21 of the AMA Code also recommends "A policy that patients are free to make a request for a chaperone should be established in each care setting. This policy should be communicated to patients, either by means of a well-displayed notice or preferably through a conversation initiated by the intake nurse or the physician." Respondent agrees that such notice shall be provided to his patients, at a minimum, by a clear written posting in his waiting area and in each examination room.

2. In the unlikely event that it should be necessary to care for a patient in urgent or emergency circumstances, Respondent shall nonetheless endeavor to comply with the requirements of paragraph 8, above, unless to do so might endanger the patient's health or well-being. In all such urgent or emergency cases, Respondent shall promptly report the attendant circumstances in writing to the Board of Medical Practice.

of this agreement regarding his use of chaperones. Respondent also shall provide a complete copy of this agreement to all such individuals at his practice site. Respondent agrees that copies of all such dated notices shall be retained and made available, upon request, for review and copying by the Vermont Board of Medical Practice or its agents at any time, without prior notice to Respondent or any other intermediary.

11. The Board of Medical Practice in its sole discretion may at any time disapprove the use of any individual as a chaperone for the purposes described in this agreement.

#### **B. Entries in Patient Records.**

12. Respondent agrees that he shall personally be responsible for ensuring that each and every office note for office visits by female patients shall clearly state as a separate and distinct entry the name of any chaperone or other individual who was present during any breast, pelvic, or anal examination of a female patient or when a female patient has been required to disrobe or expose intimate parts of the body in Respondent's presence, as required by this agreement. Respondent understands and agrees that the Board of Medical Practice and its agents may review such entries in patient medical records at any time, without prior notice to Respondent, his staff, and/or any other intermediary.<sup>3</sup>

13. Respondent understands and expressly agrees that failure to (a) make use of chaperones as required by this agreement, e.g., Paragraph 9, above; or (b) clearly record the

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3. Respondent asserts that he has consistently made use of chaperones, as he had pledged to do in his November 5, 2005 voluntary letter of assurance. Respondent, however, concedes that office notes for a number of patients, as reviewed by the Board, did not record in writing the presence of a chaperone in circumstances when this would have been appropriate and required by the November 5, 2005 voluntary letter of assurance.

presence and name of a chaperone, e.g., Paragraph 12, above; or (c) other non-compliance with the terms and conditions herein, may be found to be a violation of this agreement and may result in the filing of a motion for summary suspension or other disciplinary proceedings before the Board of Medical Practice.

### **C. Patient Relations and Communication.**

14. Respondent agrees that he shall always err on the side of caution in communicating with his patients. He agrees that directness and attempts at humor with patients may be misconstrued. Respondent agrees that female patients, especially, may find certain joking or comments to be offensive, concerning, or off-putting. Respondent agrees that women and all other patients are entitled at all times to care and treatment that is clearly respectful and unfailingly professional in character.

15. Respondent agrees that every patient has the right to courtesy, personal dignity, and responsiveness from a physician. He commits himself here to always interacting with his patients with scrupulous care and courtesy. He agrees he shall maintain at all times a respectful, and professional demeanor with his patients. He agrees he shall carefully monitor his own speech, remarks, and observations to patients. Respondent agrees that he shall avoid communication, jokes, or banter that could be misconstrued or that might reasonably be found offensive by any patient. He agrees he shall carefully avoid directing remarks or questions to any patient regarding personal appearance or sexual matters if these observations might reasonably be interpreted as gratuitous or inappropriate.

### **D. Peer Consultation.**

16. Respondent agrees that he shall continue to work directly with Pamela A.

Rowland, PhD, with regard to aspects of his care of his patients during office visits. Dr. Rowland is an associate professor with the Dartmouth Medical School, who is a specialist in the field of patient and medical communications. Respondent agrees that Dr. Rowland regularly shall come to his office and observe his care of patients and his interactions with them. Dr. Rowland shall offer observations, suggest strategies and approaches, and discuss any matters that might be useful to Respondent in his medical practice.

17. Respondent agrees that he shall meet with Dr. Rowland on at least a monthly basis, work with her in good faith, and follow all reasonable recommendations and advice from her. Respondent shall meet more frequently with Dr. Rowland if she so recommends. Respondent may reduce the frequency of his meetings with Dr. Rowland only upon the written approval of the North Investigative Committee and with the concurrence of Dr. Rowland. Respondent shall not substitute another practitioner for the services of Dr. Rowland without filing a written petition and receiving the express written approval of the North Investigative Committee to do so.

18. Respondent agrees that he shall sign any and all written waivers, consents, and authorizations necessary for the Medical Board, its agents, and/or the Office of the Attorney General to communicate directly with Dr. Rowland regarding her work with him and to receive information from her both orally or in writing. Respondent promptly shall provide Dr. Rowland with a complete copy of this agreement.

#### **E. Personal Health and Medical Care.**

19. Respondent agrees that he shall maintain an ongoing relationship with a primary medical care provider. He agrees that he shall provide the North Investigative Committee with the name of this practitioner and shall ensure that the committee

promptly is notified as to any change of provider. He shall see this physician as needed, but at least annually or as he/she may recommend. Respondent shall sign any and all written waivers, consents, and authorizations necessary for the Medical Board, its agents, and/or the Office of the Attorney General to communicate directly with his primary care provider and to receive information from him/her orally or in writing. Respondent agrees that he shall not discontinue such medical care with his physician without notice to and the express written approval of the North Investigative Committee of the Board of Medical Practice.

20. In addition to the care discussed above, Respondent agrees he shall continue to meet at least monthly with the specialist physician who is currently providing care, counseling, and prescribing for certain of his medical needs. Respondent agrees that he shall provide the North Investigative Committee with prior notice if he proposes to transfer such care of himself to another specialist physician. Respondent agrees that if more frequent office visits or examinations are recommended by any such specialist physician, he shall comply. Respondent agrees that if such physician recommends medication(s) as part of treatment, he shall comply or promptly notify the investigative committee of any objection he may have to doing so. Respondent agrees he shall sign any and all written waivers, consents, and authorizations necessary for the Medical Board, its agents, and/or the Office of the Attorney General to communicate directly with such specialist physician and to receive information from him/her orally or in writing. Respondent agrees he shall not discontinue care by such physician without notice to and the express prior approval of the North Investigative Committee.

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**F. Meetings with North Investigative Committee.**

21. Respondent agrees that he shall meet with the North Investigative Committee of the Board of Medical Practice whenever requested to do so. Such meetings shall be for the purpose of discussing his practice, interactions with patients, and his medical needs.

**G. General.**

22. Respondent agrees that the Board of Medical Practice may adopt and enter Paragraphs 1 through 7, as well as this paragraph 22, as the sufficient and proper basis for its order adopting the terms and conditions of licensure set forth in this agreement. Respondent expressly consents to and does not contest entry of this order.

23. Respondent has not previously been the subject of disciplinary action by the Vermont Board of Medical Practice, any other state licensing body, or privileging authority.

24. Respondent acknowledges and agrees here that he is knowingly and voluntarily agreeing to this Stipulation and Consent Order. He acknowledges and agrees that he has been offered the opportunity to obtain advice of counsel in reviewing this Stipulation and Consent Order. He 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.

25. Respondent agrees that he has read and carefully considered all terms and conditions herein.

26. The parties to this Stipulation and Consent Order agree that Respondent's license to practice medicine in Vermont shall be designated in all official records as

"conditioned" pursuant to this agreement. Respondent agrees he shall comply fully and in good faith with all the terms and conditions of licensure set forth herein.

27. Respondent acknowledges and agrees that failure by him to comply with the terms and conditions herein, expressly including its record keeping requirements and its requirements for use of chaperones, may constitute unprofessional conduct and, if established by the State's evidence, could result in the suspension of Respondent's license to practice medicine or such other disciplinary action as the Board might deem necessary.

28. Respondent agrees that he shall provide a complete copy of this Stipulation and Consent Order to any and all licensed practitioners with whom he is associated in practice, to any current or prospective employer or practice affiliate, and to any State medical board or other licensing authority in any location or jurisdiction where he may seek to practice or where he may make application, so long as this agreement remains in effect.

29. The parties agree that this Stipulation and Consent Order shall be a public document, shall be made part of Respondent'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.

30. The parties agree that this Stipulation and Consent Order 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 rejects any part of this Stipulation and Consent Order, the entire agreement shall be considered void. Respondent further agrees that if the Board does not accept this agreement in its current form, he shall not assert in any subsequent proceeding that his rights have been prejudiced by any such

prior consideration by the Board of Medical Practice. However, should the terms and conditions of this Stipulation and Consent Order be deemed acceptable to the Board, the parties request that the Vermont Board of Medical Practice enter its order conditioning Respondent's license to practice medicine in Vermont, as set forth above.

31. Respondent agrees that the Board of Medical Practice shall retain jurisdiction to enforce all terms and conditions of this Stipulation and Consent Order during its lifetime. Respondent expressly understands and agrees that failure by him to comply with the terms of this Stipulation and Consent Order may constitute unprofessional conduct under 26 V.S.A. §1354(a)(25) or other statutory provisions and may subject Respondent to further disciplinary action by the Vermont Board of Medical Practice.

32. The parties have executed this agreement with their signatures on the following Page 11.

Dated at Waterbury, Vermont, this 18<sup>th</sup> day of November 2008.

WILLIAM H. SORRELL  
ATTORNEY GENERAL

by: [Signature]  
JAMES S. ARISMAN  
Assistant Attorney General

Dated at Waterbury, Vermont, this 18<sup>th</sup> day of November 2008.

[Signature]  
ROBERT W. MURRAY, M.D.  
Respondent, *pro se*

\* \* \*

FOREGOING, AS TO MEDICAL LICENSE OF  
ROBERT W. MURRAY, M.D.  
APPROVED AND ORDERED  
VERMONT BOARD OF MEDICAL PRACTICE

[Signature]  
[Signature]  
Margaret Funk Martin  
[Signature]  
[Signature]  
[Signature]  
David W. Clouse MD  
[Signature]

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DATED: 12/3/08  
ENTERED AND EFFECTIVE: 12/3/08

ISA: MURRAY STIPULATION 11/08