

I. Factual Findings

4. The Board opened a complaint against Respondent on June 4, 2002. By Stipulation and Consent Order with the Board, dated November 5, 2003, Respondent settled the matter. The November 5, 2003 Stipulation and Consent Order with the Board is incorporated herein by reference, and has remained in full force and effect.
5. On or about January 24, 2005, the State of Vermont, by and through the offices of the Attorney General, filed a Specification of Charges against Respondent. On or about December 20, 2006, a Hearing Committee for the Board recommended that Respondent's license be suspended for 10 days. On or about March 20, 2007, the Board ordered that Respondent be reprimanded and that his license be suspended for 20 consecutive days.
6. On or about August 2, 2010, the State of Vermont, by and through the offices of the Attorney General, filed a Specification of Charges against Respondent alleging failures to conform with various terms and conditions of the November 5, 2003 Stipulation and Consent Order. The August 2, 2010 Specification of Charges is incorporated herein by reference, and were denied by Respondent.

II. Conclusions of Law

7. Respondent agrees that, if the State were to satisfy its burden at hearing as to the allegations in the August 2, 2010 Specification of Charges, findings adverse to him could be entered by the Board, pursuant to 26 V.S.A. §§ 1354(a)(7), (22), (25); 1355(b)(2); 1398.
8. The State agrees that, if it did not satisfy its burden at the hearing, findings favorable to the Respondent and adverse to the August 2, 2010 Specification of Charges could be entered by the Board.

9. In the interest of resolving this matter, the Respondent and the State agree to enter this Stipulation and Consent Order, in lieu of proceeding to hearing.

III. Order

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

10. Respondent shall end any, and all, private, independent practice of medicine in the State of Vermont on or before December 31, 2011.
11. Upon the close out of Respondent's private, independent practice, he shall be released from the terms and conditions of the November 5, 2003 Stipulation and Consent Order.
12. The Respondent may practice medicine at the Rutland Free Clinic in a volunteer capacity. In that practice, Respondent may prescribe for *bona fide* patients of the Rutland Free Clinic. While working at the Rutland Free Clinic, Respondent shall continue to be bound by all professional licensing requirements concerning the practice of medicine. He also shall comply with a procedure generally reflecting licensed physicians' prevailing practice relative to prescribing and recordkeeping by: a) for all prescribing of controlled substances: 1) the prescriptions shall be based upon a current diagnostic assessment and treatment plan with specific entries for the patient's diagnosis or condition and rationale for prescribing and (2) the prescriptions shall be clearly noted in writing in the office record for the patient with the date of prescribing indicated; and (b) all prescribing of DEA schedule II, III, and IV drugs shall be maintained in electronic records or shall be copied and retained in duplicate, with one copy placed in a chronologically-ordered file and the other copy placed in the patient's chart. The records referred to in this paragraph shall be produced for review by the Rutland Free Clinic to the Board upon request.

13. The Respondent may, with written notice filed in advance with the Board, provide other medical services and consultations in Vermont that do not require him to write prescriptions for medications while providing such services and consultations, including but not limited to: a) volunteering at Vermont high school athletic events; b) serving as Medical Director for Mollen Immunizations Clinics for the state of Vermont, c) serving as a consultant to other physicians or d) acting as a consulting or testifying expert on medical issues in legal disputes.
14. The Respondent may practice medicine in Vermont while serving as a locum tenens or covering physician for an established Vermont medical practice under a written contract that is filed in advance with, and approved by, the Board. The Board shall not unreasonably withhold approval of any such contract, provided that it is shown that the record keeping requirements of the medical practice generally reflect licensed physicians' prevailing practice relative to prescribing and recordkeeping.
15. Respondent shall provide a complete copy of this Stipulation and Consent Order to any Vermont medical practice for whom he works or to any prospective Vermont medical practice to whom he makes application, as well as to any state medical board or other licensing authority in any location or jurisdiction where he may apply to practice, so long as this Stipulation and Consent Order remains in effect.
16. Respondent's license to practice medicine in the state of Vermont shall be designated as "conditioned" so long as this Stipulation and Consent Order remains in effect.
17. Respondent shall continue to be bound by all professional licensing requirements concerning the practice of medicine.

18. Respondent shall bear all costs of complying with the terms and conditions of the Stipulation and Consent Order.
19. 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.
20. This Stipulation and Consent Order is subject to review and acceptance by the Board 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 null and void. However, should the terms of this Stipulation and Consent Order be deemed acceptable to the Board, the parties request that the Board enter an order conditioning Respondent's medical license as set forth above and that such certificate be subject to each of the terms and conditions as set forth herein.
21. Respondent agrees to be bound by all terms and conditions of this Stipulation and Consent Order. Respondent agrees that any failure by him to comply with the terms and conditions of this Stipulation and Consent Order shall constitute unprofessional conduct under 26 V.S.A. § 1354(a)(25) and may subject Respondent to disciplinary action as the Board may deem appropriate.

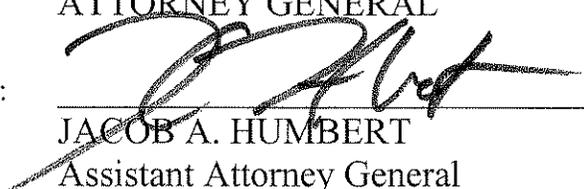
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DATED at Montpelier, Vermont this 19TH day of JULY 2011.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

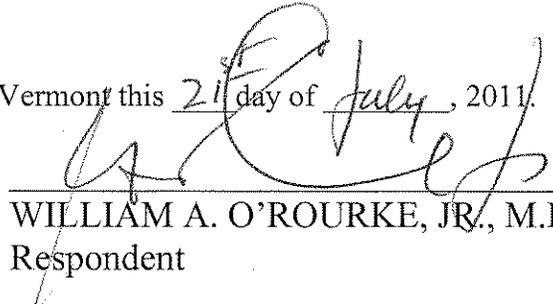
By:



JACOB A. HUMBERT
Assistant Attorney General

DATED at Rutland, Vermont this 21ST day of July, 2011.

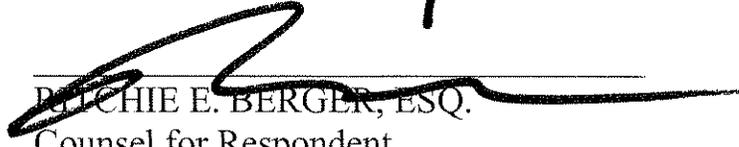
By:



WILLIAM A. O'ROURKE, JR., M.D.
Respondent

DATED at Barre, Vermont, this 25 day of July, 2011.

By:

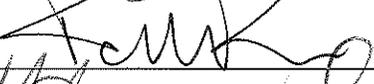


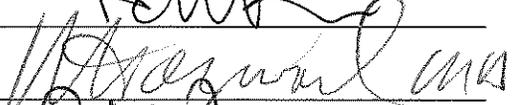
RITCHIE E. BERGER, ESQ.
Counsel for Respondent

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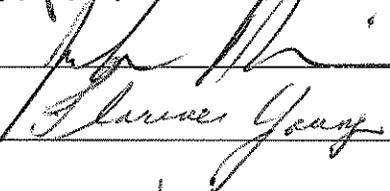
AS TO WILLIAM A. O'ROURKE, JR., M.D.:
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE






Peter Pharoah, M.D.


Margaret Fink Martin


Blaine Young

DATED: August 3, 2011

ENTERED AND EFFECTIVE: August 3, 2011