

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Phillip B. Blanchard, M.D.

)
) Docket No. MPN 155-1005
)

JUN 12 2006

DEFAULT JUDGMENT AND FINAL ORDER

INTRODUCTION

On June 7, 2006, the Vermont Board of Medical Practice ("Board") held a hearing on the Specification of Charges dated January 10, 2006, and filed by the Attorney General's Office against Phillip B. Blanchard, M.D. ("Respondent"). The Board members who were present and constituted a quorum at the June 7 Board hearing were James D. Cahill, M.D., Board Chair; David W. Clauss, M.D.; Margaret F. Martin; Ezekiel S. Cross; Russell P. Davignon, M.D.; Richard L. Guerrero, M.D.; Peter Thomashow, M.D.; John B. Webber, Esq.; and Florence Young. Respondent did not appear and was not represented by counsel. Joseph L. Wium, Esq., Assistant Vermont Attorney General, appeared on behalf of the State of Vermont. Respondent did not appear at the hearing. Phillip J. Cykon, Esq. served as Presiding Officer for the Board.

During the hearing, the State, due to Respondent's failure to appear at the hearing, requested that the allegations of the charges be treated as proven, that the Board enter a default judgment, and that the Board take disciplinary action against Respondent based on the default.

FINDINGS OF FACT

1. Respondent holds Vermont Medical License Number 042-0007385. On November 2, 2005, based on the Motion for Summary Suspension and the Affidavit of Board Investigator, Paula Nenninger, filed by the Vermont Attorney General's Office, the Board ordered the summary suspension of Respondent's license to practice medicine in Vermont.
2. Subsequently, the Vermont Attorney General's Office filed a Specification of Charges dated January 10, 2006, alleging several counts of unprofessional conduct against Respondent.
3. The Specification of Charges and other correspondence were mailed several times by Board administrative staff via certified and first class mail to Respondent at his last known address in Palm Coast, Florida. Respondent has not contacted the Board Office.
4. On April 10, 2006, the Board Staff sent a notice dated April 7, 2006, informing

Respondent of the June 7, 2006 hearing date on the Specification of Charges. The notice was sent via certified and first class mail to Respondent's last known address. The notice further informed Respondent that if he failed to appear at the hearing, the hearing would proceed in his absence with the presentation of evidence or the issuance of a default judgment order. Respondent did not contact the Board Administrative Office regarding the hearing date.

5. On June 5, 2006, Margaret Langlais, Board Licensing Administrator, telephoned Respondent's residence in Vermont and spoke with Respondent's former wife. Ms. Langlais was informed by Respondent's former wife that Respondent was residing in Florida. Respondent did not appear at the hearing held on June 7, 2006.

6. On May 21, 2005, Respondent examined a patient in the emergency room of the San Ramon Regional Medical Center in California. Late in the evening of May 21, 2005 or early in the morning of May 22, 2005, Respondent entered the patient's hospital room, went to the patient's bedside, closed the blinds, and began to masturbate. Respondent ejaculated on the patient's hospital gown near the area of the patient's chest and stomach.

7. Respondent was later interviewed by a Deputy Sheriff McKeen of the Contra Costa County Sheriff's Department. Respondent admitted to the Deputy Sheriff that he, Respondent, had ejaculated in the patient's room.

8. Respondent was arrested and taken to the local police department. After being advised of his rights, Respondent agreed to provide a video-recorded statement. In his statement, Respondent admitted to sitting in a chair next to the patient's bed and masturbating. Respondent further admitted that he stood up at the point of ejaculation.

CONCLUSIONS OF LAW

A. The Board sent notice of the June 7, 2006 hearing via certified and first class mail to the last known address of Respondent. It is Respondent's responsibility to ensure that the Board has his current address. See Board Rule 4.2. Since Respondent apparently resides outside the State of Vermont, personal service in Vermont was not feasible. The Board took steps reasonably calculated to provide Respondent with notice of his opportunity to be heard on the Specification of Charges. Proper notice was provided under Board Rule 16.1(a) and (b). See also 3 V.S.A. § 809(a) and (b).

B. The Hearing Committee proceeded with the hearing and received evidence concerning the Specification of Charges despite Respondent's failure to appear. In situations where a Respondent fails to appear for hearing, Board Rule 16.1(c) authorizes the Board to proceed with the hearing, treat the allegations contained in the Specification of Charges as proven, enter a default judgment, and take disciplinary action against the Respondent. See also 3 V.S.A. § 809(d). By failing to appear, Respondent waived his right to be present at the hearing. See Stevens v. Hill, 74 Vt. 164 (1902). See also Arizona Osteopathic Medical Assoc. v. Fridena, 463 P.2d 825 (Ariz. 1970); Silverstein v. Minkin, 49 N.Y.2d 260, 263, 401

N.E.2d 210 (1980); and Verdell v. DeBuono, 262 A.D.2d 812 (N.Y. App. 1999).

Count 1.

C. Respondent's conduct with the patient on May 21 or May 22, 2005, evidences unfitness to practice medicine and, as such, constitutes unprofessional conduct under 26 V.S.A. § 1354(7).

Count 2.

D. Respondent's conduct with the patient on May 21 or May 22, 2005, is a failure to practice competently in that it is a performance of unsafe or unacceptable patient care and, as such, constitutes unprofessional conduct under 26 V.S.A. § 1354(b)(1).

Count 3.

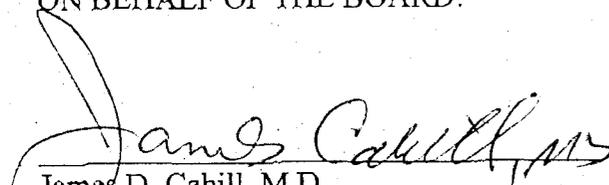
E. Respondent's conduct with the patient on May 21 or May 22, 2005, is immoral and dishonorable conduct and, as such, constitutes unprofessional conduct under 26 V.S.A. § 1398.

JUDGMENT AND ORDER

On the basis of the Findings of Fact and Conclusions of Law set forth above, the Board unanimously decides that Respondent has committed unprofessional conduct. Judgment in default is hereby rendered and it is hereby **ORDERED** by the Board that:

1. Respondent's license to practice medicine in Vermont is **REVOKED**. Respondent shall not re-apply for a Vermont license within five years of the date of entry shown below.
2. This Order shall take effect as of the date of entry shown below.
3. This document is a public record pursuant to 26 V.S.A. § 1318.

ON BEHALF OF THE BOARD:


James D. Cahill, M.D.
Board Chair

6/9/2006
Date

Date of Entry: June 9, 2006