

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Paul R. Silverstein, M.D.

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MPC 181-1207

STIPULATION AND CONSENT ORDER

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

1. Paul R. Silverstein, M.D., holds Vermont Medical License Number 042-0009441, issued by the Vermont Board of Medical Practice (Board) on February 12, 1997. Respondent is a board-certified urologist and holds privileges at the Berkshire Medical Center and North Adams Regional Hospital in Massachusetts and at the Southwestern Medical Center in Vermont.

2. Respondent holds medical licensure in the Commonwealth of Massachusetts State of New York (Mass. License No. 44181). The instant matter, now before the Vermont Board, results from disciplinary action taken against Respondent by the Massachusetts Board of Registration in Medicine in 2007.

3. The Vermont Board of Medical Practice holds jurisdiction in this matter under the provisions of 26 V.S.A. §§ 1353-56 & 1398 and other authority.

I. Massachusetts Discipline.

A. Basis for Massachusetts Action.

4. On or about December 20, 2007, Respondent, through counsel, informed the Vermont Board of Medical Practice of disciplinary action that had been taken against his medical license by the Massachusetts Board of Registration in Medicine. Respondent

provided a copy of the Consent Order entered on or about December 19, 2007 by the Massachusetts Board in Adjudication No. 2007-066. See Exhibit 1 (attached).

5. Respondent admitted in the Massachusetts Consent Order that on five occasions, *i.e.*, March 1992, July 1994, September 2001, August 2003, and January 2006, he variously had used "inappropriate language", been "rude", been "verbally abus[ive]", and/or used "profanity" in incidents that had occurred in a hospital setting. See Massachusetts Consent Order, Paragraphs 1-10.

B. Corrective Steps Taken.

6. In May 2006, the Physician Health Services program of the Massachusetts Medical Society evaluated Respondent. The program recommended that Respondent engage in individual therapy and pursue coursework on conflict management. Respondent complied with both recommendations in a timely manner. In October 2006, the Massachusetts Physician Health Services program performed a follow-up evaluation of Respondent but did **not** recommend a contract with the program that would have required Respondent to participate in further services.

7. No repetition of the conduct described in Paragraph 5, above, is known to have occurred since January 2006, *i.e.*, the date of the last occurrence that came to the attention of the Massachusetts Board.

II. Discipline in Vermont.

A. Statement of Vermont Board of Medical Practice.

8. The Vermont Board of Medical Practice holds the view that physicians are responsible and accountable both to society and their fellow physicians for their

professional actions and conduct.¹ Physicians possess the rights, privileges, and duties that are necessary attributes of the physician-patient relationship, and each of these are accompanied by the obligation that physicians must be competent and knowledgeable, as well as considerate and respectful of their peers and patients. The conduct of physicians, as licensed professionals in the healing arts and as individuals in the community, should be worthy of respect and emulation.

9. In Vermont, the legislature has declared that each patient has the right to considerate and respectful medical care at all times. Conduct to the contrary is unprofessional. See 18 V.S.A. § 1852(a)(1) and 26 V.S.A. § 1354(a)(24). The Vermont Board of Medical Practice holds the view that any physician conduct, whether verbal or physical, which might negatively affect patient care is inconsistent with appropriate professional standards and a physician's obligations to peers and patients.

10. The Vermont Board of Medical Practice finds that Respondent's conduct, in the instances described in Paragraph 5, above, is inconsistent with the professional standards expected of licensed physicians in this State.

B. Agreement Regarding Discipline in Vermont.

11. Respondent has cooperated fully with the Vermont Board of Medical Practice in its review of the disciplinary action already taken by the Massachusetts Board of Registration in Medicine. In resolving the Massachusetts matter, Respondent (a) admitted to the conduct summarized in Paragraph 5 and in the 2007 Massachusetts Consent Order; and (b) accepted the Conclusion of Law of the Massachusetts Board that his conduct on

1. *And see, e.g.*, American Medical Association, Code of Medical Ethics, §§ 9.045, 10.01 (2006-2007 ed.); American College of Physicians, Ethics Manual 5th ed. (physician and society; relationship to other clinicians); Joint Commission on Accreditation of Health Care Organizations, Comprehensive Accreditation Manual for Hospitals, MS.2.6 (2005); Massachusetts Board of Registration in Medicine, Board Policy 01-01 (2001).

specific occasions had "undermine[d] public confidence in the integrity of the medical profession".

12. The Vermont Board of Medical Practice concurs with the Conclusion of Law of the Massachusetts Board of Registration in Medicine. The Vermont Board recognizes that Respondent already has been the subject of professional discipline in Massachusetts and that he has taken some appropriate remedial steps. The Vermont Board of Medical Practice holds the view that it is incumbent on Respondent to continue to take such actions on his own behalf and that of his profession as may be required to ensure that there shall be no future repetition of the conduct described in Paragraph 5, above.

13. Respondent recognizes the importance of the licensing, regulatory, and investigative responsibilities of the Vermont Board of Medical Practice. The parties concur that this agreement is consistent with protection of the health, safety, and welfare of the Vermont public. Respondent has determined without reservation that he shall voluntarily enter into this agreement. Respondent at all times has been advised by and represented by counsel in his consideration of this agreement. Respondent is well satisfied with all such advice and representation he has received.

14. Respondent agrees and understands that by executing this document he is waiving such rights as he may possess to challenge the jurisdiction and continuing jurisdiction of the Vermont Board of Medical Practice in this matter, and to a public hearing on any specification of charges that the State of Vermont might have filed. In sum, Respondent agrees and fully understands that he is executing this document in lieu of any proceedings, findings, and other order by the Board of Medical Practice that might

otherwise have been available under applicable law. Respondent knowingly agrees to the terms and conditions herein.

15. For the purposes of this agreement, Respondent expressly agrees and admits here that the Massachusetts Board of Registration in Medicine entered an order on or about December 19, 2007 **reprimanding** him for his conduct, as summarized in Paragraph 5, above. Respondent agrees here that the Vermont Board of Medical Practice may adopt as its facts and/or conclusions the content of this paragraph and Paragraphs 4, 5, 10, and 11-15, above, as the basis for this agreement, pursuant to the Board's authority under 26 V.S.A. §§ 1353-1361.

16. No specification of charges has been filed by the State of Vermont in this matter. Respondent has not been the subject of any prior disciplinary action by the Vermont Board of Medical Practice.

C. Order of Public Reprimand.

17. The parties to this Stipulation and Consent Order agree that appropriate disciplinary action in this matter, as to the circumstances set forth above, shall consist of the following:

**Paul R. Silverstein, M.D., Respondent
Shall be Publicly Reprimanded
By Order of the Vermont Board of Medical Practice**

18. Respondent shall within 10 days of approval of this agreement by the Vermont Board of Medical Practice (a) provide a complete copy of this agreement to any employer, practice, medical site, institution, clinic, or hospital where he may hold privileges or work as a licensed practitioner; and (b) provide a complete copy of this

agreement to any agency or entity from which he presently holds professional licensure, certification, privileges, or credentials, regardless of location.

D. General.

19. This Stipulation and Consent Order is conditioned upon its approval and acceptance by the Vermont Board of Medical Practice. If the Board rejects any part of this document, the entire agreement shall be considered void.

20. Respondent agrees that the Board of Medical Practice shall retain jurisdiction to enforce the terms and conditions of this agreement, *i.e.*, Paragraphs 17-19, above. Respondent agrees that any failure by him to abide by any of the terms and conditions of this Stipulation and Consent Order may constitute unprofessional conduct under 26 V.S.A. § 1354(a)(25) and other authority and could subject Respondent to such further disciplinary action as the Vermont Board might deem appropriate under the circumstances.

21. The parties jointly agree that should the terms and conditions of this Stipulation and Consent Order be deemed acceptable to the Vermont Board of Medical Practice, the Board may adopt and enter this agreement as an enforceable order regarding Respondent's Vermont license to practice medicine. Respondent further agrees that if the Vermont Board does not accept this agreement in its current form, he shall not assert in any subsequent proceeding any claim of prejudice from such prior consideration.

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

23. Respondent expressly agrees that the Board of Medical Practice shall retain jurisdiction in this matter and may enforce as necessary the terms and conditions herein or cite this agreement as evidence in subsequent proceedings.

Dated at Montpelier, Vermont, this 1st day of April 2008.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

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

Dated at PITTSFIELD, MA, this 28 day of MARCH 2008.

[Signature]
PAUL R. SILVERSTEIN, M.D.
Respondent

Dated at Newton, Mass., this 26 day of March 2008.

[Signature]
W. SCOTT LIEBERT, ESQ.
Counsel for Respondent

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

FOREGOING, AS TO PAUL R. SILVERSTEIN, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Patricia A King MD PhD William H. French, MD
Sharon L. Nick _____
W. D. [unclear] _____
[unclear] _____
[unclear] _____
A. James Ryan _____
Quinn M. Huber _____

DATED: May 7, 2008

ENTERED AND EFFECTIVE: May 7, 2008

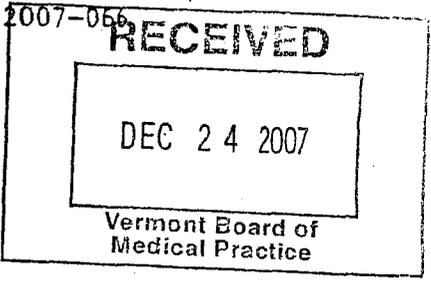
STIP:JSA/3/08, Not Effective Until Approved by BMP

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

BOARD OF REGISTRATION
IN MEDICINE

ADJUDICATORY NO. 2007-056



In the Matter of)
Paul Silverstein, M.D.)

CONSENT ORDER

Paul Silverstein, M.D. (the Respondent) and the Complaint Counsel agree that the Board of Registration in Medicine (the Board) may issue this Consent Order with all the force and effect of a Final Decision within the meaning of 801 CMR 1.01(11)(d). The Respondent admits to the findings of fact described below and agrees the Board may make conclusions of law and impose a sanction in resolution of Docket No. 06-230.

FINDINGS OF FACT

1. The Respondent was born on January 2, 1949. He is a board-certified urologist who graduated from New York Medical College in 1974. He has been licensed to practice medicine in Massachusetts since 1979 under certificate number 44181. He has a private urology practice and is affiliated with North Adams Regional Hospital and Berkshire Medical Center (BMC).
2. BMC received five complaints about the Respondent in the following months: March 1992, July 1994, September 2001, August 2003, and January 2006.
3. In March 1992, a surgical booking coordinator complained that the Respondent used inappropriate language. BMC determined that the Respondent did not intend to be abusive and he was warned that foul language was unacceptable.

4. In July 1994, a patient complained that the Respondent was rude when the patient sought care at the BMC Emergency Room at 5 a.m. without calling the Respondent first.
5. In September 2001, Employee 1, a female receptionist in the Radiology Department, complained that the Respondent verbally abused her. The Respondent had gone to the Radiology Department after attempting to start a surgical procedure and discovering that the patient's radiology films were not in the operating room. The Respondent later told Employee 1's supervisor that if Employee 1 worked for him, that he would tear her throat out.
6. Employee 1 reported the Respondent to BMC administrators as well as the Pittsfield Police Department.
7. After receiving Employee 1's complaint, a Pittsfield Police Detective spoke with the Respondent at the physician's office. The Respondent became upset when the detective informed him that his actions against Employee 1, specifically the allegation that he had shaken his finger near Employee 1's face while yelling profanity at her, amounted to assault.
8. BMC investigated Employee 1's complaint. BMC advised the Respondent to refrain from going to Employee 1's department and advised him to consult with Physician Health Services.
9. In August 2003, the Respondent used profanity towards an Emergency Department physician who called the Respondent three times in the early morning hours. BMC investigated the complaint and verbally reprimanded the Respondent. The Respondent was also informed that a repeat offense with the next two years may result in a written reprimand and report to the Board. Due to concerns about anger management, BMC referred the Respondent to PHS.
10. In January 2006, the Respondent became angry about a new policy and used profanity in the operating room. BMC investigated the incident and issued a formal letter of warning to the Respondent. BMC again recommended that the Respondent consult with PHS.

11. The Respondent was evaluated by PHS in May 2006. PHS recommended that the Respondent participate in individual therapy and an educational course to address conflict management. The Respondent participated in twenty weeks of individual therapy. He also participated in a two day course sponsored by PHS titled Managing Workplace Conflict.

12. In October 2006, PHS re-evaluated the Respondent and did not recommend a contract for the Respondent.

CONCLUSION OF LAW

A. The Respondent has engaged in conduct that undermines the public confidence in the integrity of the medical profession in violation of the standards set forth in Raymond v. Board of Registration in Medicine, 387 Mass. 708 (1982) and Levy v. Board of Registration in Medicine, 378 Mass. 519 (1979).

SANCTION

The Respondent is hereby reprimanded. This sanction is imposed for Docket No. 06-230 and Conclusion of Law A.

EXECUTION OF THIS CONSENT ORDER

The parties agree that the approval of this Consent Order is left to the discretion of the Board. The signature of Complaint Counsel, the Respondent and the Respondent's counsel are expressly conditioned on the Board accepting this Consent Order. If the Board rejects this Consent Order in whole or in part, then the entire document shall be null and void; thereafter, neither of the parties nor anyone else may rely on these stipulations in this proceeding.

As to any matter this Consent Order leaves to the discretion of the Board, neither the Respondent, nor anyone acting on his behalf, has received any promises or representations regarding the same.

The Respondent waives any right of appeal that he may have resulting from the Board's

acceptance of this Consent Order.

The Respondent shall provide a complete copy of this Consent Order with all exhibits and attachments within ten (10) days by certified mail, return receipt requested, or by hand delivery to the following designated entities: any in- or out-of-state hospital, nursing home, clinic, other licensed facility, or municipal, state, or federal facility at which he practices medicine; any in- or out-of-state health maintenance organization with whom he has privileges or any other kind of association; any state agency, in- or out-of-state, with which he has a provider contract; any in- or out-of-state medical employer, whether or not he practices medicine there; the state licensing boards of all states in which he has any kind of license to practice medicine; the Drug Enforcement Administration Boston Diversion Group; and the Massachusetts Department of Public Health Drug Control Unit. The Respondent shall also provide this notification to any such designated entities with which he becomes associated within one year of the imposition of the reprimand. The Respondent is further directed to certify to the Board within ten (10) days that he has complied with this directive.

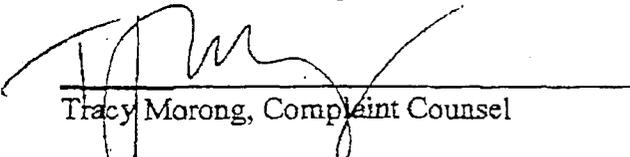
The Board expressly reserves the authority to independently notify, at any time, any of the entities designated above, or any other affected entity, of any action it has taken.


Paul Silverstein, M.D., Respondent

11/21/07
Date


W. Scott Liebert, Respondent's Counsel

11/26/07
Date


Tracy Morong, Complaint Counsel

11/28/07
Date

Accepted by the Board of Registration in Medicine on this 19th day of December 2007.


Martin Crane, M.D.
Chairman