

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Gulnaz Cowder, M.D.)	
)	MPN 131-0905; MPN 148-1005
)	MPN 19-0106; MPN 20-0106
)	MPN 21-0106;
)	

STIPULATION AND CONSENT ORDER

NOW COME, Gulnaz Cowder, M.D., Respondent in the above-captioned matters, and the State of Vermont, by and through Attorney General William H. Sorrell and James S. Arisman, Assistant Attorney General, and agree and stipulate as follows:

1. Gulnaz Cowder, M.D., holds Vermont Medical License Number 042-0010561, issued by the Vermont Board of Medical Practice on March 19, 2003. Respondent formerly practiced as a psychiatrist with privileges at the Southwestern Vermont Medical Center in Bennington, Vermont and the North Adams Regional Hospital in Massachusetts.

2. Jurisdiction vests in the Vermont Board of Medical Practice (hereinafter referred to as "the Board") pursuant to 26 V.S.A. §§ 1354, 1355-1357, 1361, 1365-1366, 1398 and 3 V.S.A. § 809-814.

I. Background.

3. The above-captioned complaints against Respondent were filed with the Board during 2005 and 2006. While Board investigation of these matters was ongoing, Respondent met with the Board's investigator, Philip Ciotti, and voluntarily signed a Cessation of Practice Agreement with the Vermont Board of Medical Practice. The agreement was approved and entered as a Board order March 1, 2006 (hereafter cited as the March 1, 2006 Cessation Agreement).

4. The March 1, 2006 Cessation of Practice Agreement cited as its basis: (a) “undue circumstances involving Respondent’s personal health and family concerns”; and (b) “her current medical condition”.¹ The March 1, 2006 agreement provided for Respondent to desist “immediately and hereafter” from all practice of medicine.

5. Following the March 1, 2006 Cessation Agreement, the Board continued its investigation of the five complaints then pending against Respondent.

A. Summary Suspension.

6. On or about April 18, 2006, Respondent filed a Petition for Relief of Cessation of Practice Agreement stating that she wished to “reopen her private [psychiatric] practice in Bennington, Vermont.” The State opposed Respondent’s petition and moved on April 28, 2006 for summary suspension of Respondent’s Vermont medical license, filing with its motion a detailed affidavit from Board investigator Philip Ciotti.

7. Following hearing on May 3, 2006, the Board denied Respondent’s petition, granted the State’s motion, and entered an order summarily suspending Respondent’s Vermont Medical license. Respondent was represented by counsel during the May 3, 2006 proceedings.

B. Respondent’s Cooperation.

8. Following the May 3, 2006 order of summary suspension, Board investigation of the pending complaints continued. Respondent at all times cooperated with the Board’s investigation. To date, no formal specification of charges of unprofessional conduct has been

1. Prior to entry of the March 6, 2006 Cessation of Practice Agreement, Respondent was the victim of an alleged domestic assault, suffering significant injuries and for which she received hospital care. Counsel for Respondent made extensive representations to the Board regarding the alleged domestic assault during the Board’s May 3, 2006 hearing and subsequently was involved in other litigation addressing the alleged assault.

filed by the State. In light of the instant agreement, the parties concur that no such formal filing will be required.

II. Resolution of Matters before the Vermont Board.

9. Although Respondent disputes certain of the allegations that are set forth in the State's April 28, 2006 summary suspension motion (and attached affidavit), she is voluntarily entering into this agreement. Consistent with her continuing cooperation with the Board of Medical Practice, she acknowledges here that if the State were to satisfy its burden at hearing as to any of the facts alleged in its April 28, 2006 motion for summary suspension, a finding adverse to her could be entered by the Board, pursuant to 26 V.S.A. §1354 and/or §1398.

10. Thus, in the interest of continuing her cooperation in these matters and resolving them expeditiously, Respondent has determined that she shall enter into the instant agreement with the Board of Medical Practice, in lieu of the filing of formal charges by the State and disciplinary action by the Board. In sum, to resolve this matter without further time, expense, and uncertainty, Respondent has concluded that her acceptance of this agreement is appropriate and in the best interests of all parties.

11. While Respondent disputes a substantial portion of the allegations against her, Respondent agrees that the allegations, if determined to be factual, could result in the same conclusions as set forth herein. Accordingly, Respondent agrees that Vermont Board of Medical Practice may adopt the following paragraphs as the factual basis for its conclusion(s) of law, approval of this agreement, and entry of a final Board order effectuating the purposes of this agreement.

A. Medical Record Keeping.

12. Respondent admits that she was requested to provide sample patient medical records to the Southwest Medical Center of Vermont as part of a peer review protocol at the hospital. Upon review of the records to be submitted to the peer review panel, Respondent asked her employees to change or enter information in the patient's medical records. It is Respondent's position that she did so in an attempt to provide clearer and more complete records for the peer review panel.

13. Respondent agrees and admits that the changes to the medical records were made in a manner inconsistent with generally accepted professional standards. Respondent admits that she was aware that the records in question were to be reviewed by other practitioners. Respondent admits that alteration of the records was to have included removal and/or insertion of certain content without written indication that such changes had been made.

B. Prescribing.

14. Respondent admits that on at least two or more occasions during 2005-2006 she wrote prescriptions for DEA Schedule II and IV controlled substances to family members in violation of Rule 4.3 of the Vermont Board of Medical Practice.² Respondent also admits that

2. Vermont Board of Medical Practice Rule 4.3 states, "It is unacceptable medical practice and unprofessional conduct for a licensee to prescribe controlled substances listed in DEA Schedules II, III, and IV for his or her own use. Such conduct constitutes a violation of 26 V.S.A. § 1398. It also is unacceptable medical practice and unprofessional conduct for a licensee to prescribe Schedule II, III, and IV controlled substances to a member of his or her immediate family, except in a bona fide emergency, of short-term and unforeseeable character. * * * 'Immediate family', as referred to above, includes the following: a spouse (or spousal equivalent), parent, child, sibling, parent-in-law, son/daughter-in-law, brother/sister-in-law, step-parent, step-child, step-sibling, or other relative who is permanently residing in the same residence as the licensee."

such prescribing on two or more occasions was for other than legitimate medical purposes. Respondent also admits that such prescribing on two or more occasions was not based on a *bona fide* medical history and physical examination. She also admits that on two or more occasions such prescribing and the medical basis for such prescribing were not entered in a patient medical record. Respondent also admits that on two or more occasions the controlled substances that were prescribed by her were improperly prescribed and this was done with her knowledge.³

15. Respondent further admits that on or about February 22, 2006 she met at her Bennington office with Board investigator Ciotti and Agent Christopher Paquette of the United States Drug Enforcement Administration (DEA). Respondent admits that she discussed certain prescribing by her of controlled substances, see above, with Agent Paquette and thereafter voluntarily surrendered her DEA controlled substance prescribing registration to Agent Paquette.

C. Professional Boundaries.

16. Respondent admits that the Vermont Board of Medical Practice has sufficient evidence to present to a trier of fact such that the trier could conclude that her care of patients involved on two or more occasions violations of professional boundaries. It is Respondent's position that no harm to patients resulted from such actions. However, Respondent affirms and agrees that the practice of psychiatry requires a sound knowledge of ethical principles and skill in applying these. She affirms and agrees that psychiatrists must possess ethically sound judgment

3. It is Respondent's position that she acted under duress, in an effort to placate the family member who was the alleged ultimate recipient of the controlled substances prescribed by her. The relationship of the parties has been described in judicial findings as "an extraordinarily tumultuous engagement of conflicting personalities". *Cowder v. Cowder*, Docket No. 292-12-05 BnDmd, Bennington Family Court, State of Vermont, Order Filed June 27, 2006 at 5 (Wesley, J.).

and exercise discipline and control in conforming their actions as professionals to accepted ethical strictures.

17. Respondent affirms and agrees that psychiatrists must be able to recognize ethical implications; possess a reflective consciousness as to the psychiatrist's own role and possible conflicting interests in patient care; follow a careful decision making model regarding ethical matters; and have the ability and foresight to establish safeguards in ethically unclear or complex circumstances. Respondent agrees that the Vermont Board of Medical Practice has sufficient evidence to present to a trier of fact such that the trier could conclude that on two or more occasions her care of patients failed to reflect adherence to such ethical principles.

18. **Patient A:** Respondent admits that with regard to Patient A, an adult male, that on two or more occasions in 2005, she had contact by telephone with her patient, purportedly for legitimate medical purposes, but failed to enter any information in the patient's medical records regarding such contacts. Respondent admits that she provided Patient A with her cell phone number and her pager number. Respondent admits that telephone contact between herself and Patient A was repeated on some days or included protracted communication on others, without a chart entry of any kind by her regarding the nature of the contact and matters addressed.

19. **Patients B and C:** Respondent further admits that in April 2005, she began to care for Patient B, who was then a child of less than ten years of age. The child had multiple physical and mental health needs that required care. Respondent cared for Patient B and provided evaluation, counseling, play therapy, and the prescribing of psychotropics. It is Respondent's position that after evaluation she determined that the entire family needed to participate in treatment for the benefit of Patient B. Respondent admits that in 2005 the child's

father (hereinafter, **Patient C**) also became a patient of Respondent. Patient C completed a patient intake form, provided his insurance information, and listed his history of illnesses, medical conditions, and medications. Respondent performed an initial evaluation of Patient C, established psychiatric diagnoses, referred Patient C for diagnostic testing, prescribed psychotropics for him, and provided care for him at her office.

20. It is Respondent's position that Patient C was verbally informed by her that he was taken on as a patient in the context of family therapy and that if a conflict arose with respect to treatment of Patient B, Patient C, or Patient D, that the parents would no longer be able to be treated by Respondent. However, Respondent acknowledges and admits that her notes do not reflect that the patient was informed that his treatment was only in the context of family therapy.

21. **Patient D:** Respondent admits that in 2005 the child's mother (hereinafter, Patient D) also became a patient of hers. Patient D completed a patient intake form, provided her insurance information, and listed her history of illnesses, medical conditions, and medications. Respondent performed an initial evaluation of Patient D, established psychiatric diagnoses, referred Patient D for diagnostic testing, prescribed psychotropics for her, and saw the patient at her office.

22. It is Respondent's position that Patient D was verbally informed by her that she was taken on as a patient in the context of family therapy and that if a conflict arose with respect to treatment of Patient B, Patient C, or Patient D, that one or both of the parents would no longer be able to be treated by Respondent. However, Respondent acknowledges and admits that her notes do not reflect that the patient was informed that her treatment was only in the context of family therapy.

23. Respondent admits that her decision to simultaneously treat Patients B, C, and D as individual patients created an ethically complex situation. Respondent admits that her records do not indicate that she addressed with each of the patients her possible professional conflicts in providing psychiatric care for three related patients with regard to (a) medical confidentiality; (b) differences in personal objectives and needs; (c) trust; and (d) the best interests of each patient. Respondent admits that the content of her medical records do not reflect recognition on her part of appropriate ethical requirements related to her care of these patients. Respondent's medical records for these patients include no discussion or reference to her decision as a psychiatrist to care simultaneously for each of these related individuals. Nor do the records reflect any disclosure and discussion by Respondent with the patients regarding possible ethical and clinical conflicts, document any warnings in this regard, or include any written informed consents by the patients regarding possible conflicts.

24. **Patient E:** Respondent admits that she began to see and care for Patient E in July 2005. Respondent admits that on or about July 5, 2005, she performed an initial evaluation of Patient E and entered a diagnosis of adjustment mood disorder, "classic migraine", possible depression with psychosis, and chronic pain. Respondent admits that Patient E filled out a patient registration form. Respondent admits that on July 12, 2006, Patient E underwent diagnostic tests ordered by Respondent. She admits that on July 13 and July 20, 2005 she saw Patient E for further care.

25. Respondent admits that she entered a progress note, dated July 25, 2005, in Patient E's medical records that states, "Pt will be D/C from practice due to being employed in my Clinic." On or about July 27, 2005, according to payroll documentation, Patient E began work

for Respondent. Respondent admits that she identified Patient E in writing on or about July 28, 2005 as “the Office Manager” for her practice.

26. Respondent admits that she entered into discussions with Patient E regarding employment in her office while the patient remained in Respondent’s care. Respondent admits that she purportedly terminated the Patient E’s care after hiring her as the office manager for her practice.

27. Respondent admits that the timing of her decisions regarding hiring and employing Patient E could result in a conclusion of the Vermont Board of Medical Practice that her actions reflect on her part a lack of appreciation of and adherence to professional boundaries in psychiatric practice. Respondent admits that her medical records for Patient E include no indication (a) that she discussed with her patient that her psychiatric care might be terminated because of her employment in the office; (b) that Respondent identified for the patient any possible professional conflicts with regard to such employment; or (c) that Patient E was offered the opportunity to discuss concerns or implications related to such employment or her psychiatric care.

D. Ethical Standards.

28. Respondent agrees and admits that professional boundaries establish important limits within the field of psychiatry. She agrees that clear boundaries support professional distance and provide safety and predictability to both patient and practitioner. Respondent agrees that psychiatrists are trained to recognize that ethical conduct requires that they limit their relationship with patients to the therapeutic context.

29. Respondent agrees that questionable, non-therapeutic interactions within the treatment relationship include financial and business relationships, employer-employee relationships, and socializing. Respondent admits with regard to Patient E that her actions raise legitimate concerns as to whether she put the employment needs of herself and her office ahead of the needs of her patient for clear professional boundaries and continuity of care.

III. Terms and Conditions of Agreement.

30. Respondent acknowledges and agrees that she is knowingly and voluntarily agreeing to this Stipulation and Consent Order. She acknowledges and agrees that she has had advice of counsel regarding the matter before the Board and expressly has had advice of counsel in reviewing this Stipulation and Consent Order. Respondent agrees here that she is well satisfied with all counsel and representation she has received in this matter. She agrees and understands that by executing this document she is waiving any right to challenge the jurisdiction and continuing jurisdiction of the Board in this matter, to be presented with a detailed, formal specification of charges, to be presented with the evidence adverse to her, to cross-examine witnesses, and to offer evidence of her own to contest the State's allegations. 26 V.S.A. §1356; and 3 V.S.A. §§ 809 & 814.

31. Respondent does not currently practice in the State of Vermont due to the ongoing suspension here of her medical license. She agrees she does not hold current admitting privileges at any hospital(s) in this State. Respondent also agrees that she has relocated from the State of Vermont and now intends to pursue her professional activities elsewhere. She agrees that her plans do not include the future practice of medicine in Vermont. After due consideration and reflection, Respondent has determined that she no longer has need of medical licensure in this

State. Therefore, Respondent has determined with advice of counsel, in lieu of possible disciplinary action by the Board, that it is appropriate for her to enter into the terms and conditions of this Stipulation and Consent Order.

32. Respondent acknowledges that she is voluntarily entering into this agreement with the Vermont Board of Medical Practice. Respondent wishes to resolve with finality all matters now pending before the Vermont Board of Medical Practice. Respondent agrees that one or more the admissions set forth above provide a sufficient factual basis for the Board of Medical Practice to enter its conclusions and to order the action contemplated herein. 26 V.S.A. §§ 1354, 1361, and 1398.

33. Respondent knowingly and voluntarily agrees that in lieu of the time, expense, and uncertainty of a public hearing and the possibility of Board disciplinary action, she has determined that she shall voluntarily and forthwith **SURRENDER** to the Vermont Board of Medical Practice her license to practice medicine in the State of Vermont following review and approval of this agreement by the Board. She understands and agrees that thereafter any prior rights of licensure in this State shall be wholly void and without effect, and that she shall retain no residual rights of any kind as to medical licensure in the State of Vermont. Respondent understands and agrees that such action by her of surrender of her medical license shall be final and non-appealable in any forum.

34. Respondent agrees and warrants that at no time hereafter shall she seek by any means licensure, reinstatement, relicensure, and/or continuation of licensure as a physician or medical doctor in the State of Vermont, regardless of circumstances or the passage of time.

Respondent expressly agrees that hereafter the Board may and shall return to her, without action or obligation of due process of any kind, any application, request, motion, petition, or other writing from her with regard to licensure, reinstatement, relicensure, or continuation of licensure. Respondent expressly and voluntarily waives any right to confidentiality that she may possess as to the Board's investigative/legal file(s) for the matters presently open before the Board in regard to an application for or proceeding related to professional licensure or privileges in another jurisdiction. Finally, the Vermont Board of Medical Practice agrees that upon Respondent's execution of this Stipulation and Consent Order, in lieu of disciplinary action, and pursuant to the terms herein, all matters involving her that are currently open before the Board shall be administratively closed by the Board. Thereafter, the Board will take no further action on these matters, absent non-compliance with the terms and conditions of this document by Respondent or the receipt of new information or evidence warranting further action by the Board. 26 V.S.A. §§ 1355, 1361, 1398.

35. This Stipulation and Consent Order is conditioned upon its acceptance by the Vermont Board of Medical Practice. Respondent expressly requests the Board's review and approval of this agreement. If the Board rejects any part of this document, the entire agreement shall be considered void. Respondent agrees that in such a case she shall not assert a claim or defense that her rights of due process have been prejudiced by such inchoate consideration. Respondent acknowledges and understands that this Stipulation and Consent Order, if approved, shall be a matter of public record, shall become part of her permanent Board file, shall constitute an enforceable legal agreement, and may be reported to other licensing authorities.

36. In exchange for the actions by the Board, as set forth herein, specifically including Paragraphs 32 through 34, above, Respondent expressly agrees to be bound by all terms and conditions of this Stipulation and Consent Order. Therefore, the parties jointly agree that should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board of Medical Practice, the Board may enter an order implementing the terms and conditions herein, thereby accepting the final SURRENDER of the Vermont medical license of Respondent, Gulnaz Cowder, M.D.

Dated at Montpelier, Vermont, this 5th day of December 2006.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

by:

James S. Arisman
JAMES S. ARISMAN
Assistant Attorney General

Dated at Rutland, Vermont, this 5th day of December 2006.

Gulnaz Cowder
GULNAZ COWDER, M.D.
Respondent

Dated at Rutland, Vermont, this 5th day of December 2006.

Thaddeus R. Lorenz
THADDEUS R. LORENZ, ESQ.
Counsel for Respondent

**FOREGOING, AS TO GULNAZ COWDER, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE**

David W. Cloutier, M.D. *Joseph A. Foss*
1. Miss [unclear] M.D. *John J. Murray, M.D.*
[unclear]
Glenn W. Walker
Margaret Fernie Madden
[unclear]
Peter Thoma, M.D.

DATED: 1/7/10

ENTERED AND EFFECTIVE: 1/20/10

JSA/AAG; COWDER, STIP/CONSENT ORDER, SURRENDER (REV III), NOT EFFECTIVE UNTIL REVIEWED AND APPROVED BY VERMONT BOARD OF MEDICAL PRACTICE

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