

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Eric A. Pillemer, M.D.

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Licensing Board Matter

STIPULATION AND CONSENT ORDER II

NOW COME Eric A. Pillemer, M.D. (Respondent), and the State of Vermont, by and through Attorney General William H. Sorrell and the undersigned Assistant Attorney General, James S. Arisman, and agree and stipulate as follows, with regard to this matter:

1. Eric A. Pillemer, M.D., an oncologist, holds Vermont Medical License Number 042-0007691, issued by the Board of Medical Practice (the "Board") on March 28, 1988. Due to ongoing illness, Respondent discontinued his practice activities in 1999. In April 2001 he voluntarily formalized this discontinuance in a Cessation of Practice Agreement with the Board.

2. On May 3, 2006, Respondent's Vermont medical license was reinstated, with retraining provisions and other conditions by the Board.

3. Jurisdiction vests with the Vermont Board of Medical Practice (Board) by virtue of 26 V.S.A. §§ 1353, 1354, 1398 & 1400 and 3 V.S.A. § 814.

I. Background.

4. The Cessation of Practice Agreement between Respondent and the Board in April 2001 provided for the likelihood of Respondent's return to the practice of medicine at a later date.

Respondent agreed at the time that he then might be required to enter into additional terms and conditions governing his medical practice. Respondent expressly agreed that he might be subject to future Board monitoring of his medical condition and treatment.

A. Recent Medical Circumstances.

5. In December 2005, Respondent determined that he might wish to return to the practice of medicine. He undertook discussions with the Board, the undersigned Assistant Attorney General, and peer practitioners. Pursuant to these discussions and Respondent own plan for refreshing his fund of knowledge and retraining, the Board in May 2006 granted reinstatement of Respondent's medical license, subject to conditions relating to Respondent's planned retraining, involvement in medical treatment, and resumption of practice.

6. Respondent has provided ongoing documentation regarding his continued medical recovery and involvement in treatment. His treating physician has indicated that Respondent has fully and responsibly involved himself in treatment, maintained sound health without symptoms, and has effectively managed his personal and professional commitments and decision-making. The treating physician indicates that he will continue to provide to Respondent and will make himself available to the Board for any necessary inquiries. The treating physician has no reservations of any kind regarding Respondent's involvement in the practice of medicine.

7. Respondent expressly agrees here to continued regular care and monitoring of his medical needs and condition.

B. Clinical Skills.

8. Respondent's training, intellect, and conscientious care of patients in the past are well recognized and attested to by his colleagues. Respondent has completed a series of steps to ensure the currency of his fund of knowledge and his clinical skills. These steps include:

a. independent study: completion in 2006 of more than 20 credit hours of continuing medical education with the American Society of Clinical Oncology; completion of 38 credit hours in oncology board review with the George Washington University Medical Center;

b. board recertification: successful completion in 2006 of examination by the American Board of Internal Medicine for recertification in medical oncology;

c. clinical care: patient care and related activity, five days a week during May, June, and July 2006 at Fletcher Allen Health Care (FAHC), with highly favorable evaluations; regular progress discussions with the director of the FAHC Hematology/Oncology training program; Respondent was evaluated as "superior" in patient care, medical knowledge, practiced-based learning, communication and interpersonal skills, professionalism, and systems-based practice;

d. inpatient oncology care: completion of rotation in August 2006 in the inpatient/consult service at FAHC;

e. rotations in outpatient specialty services: completion of rotations at FAHC in radiation oncology and hematopathology;

f. conferences and peer involvement: regular attendance at weekly teaching conferences and tumor Boards at FAHC, including a talk on office practice at the August Hematology/Oncology conference; attendance at the 2006 annual meeting American Society of Clinical Oncology.

9. On the basis of the information provided by Respondent and his peers, the Board of Medical Practice deems his retraining to have been successfully completed.

10. In light of Respondent's successful and thorough retraining efforts, he has been offered a one-year contract for 3-day a week position at FAHC in its Hematology/Oncology clinic; the clinic's director states that he "strongly support[s] Dr. Pillemer's application for full medical licensure and look[s] forward to working with him as a colleague". Subject to Board approval of the instant agreement, Respondent would begin work and practice activities at FAHC in early- to mid-September 2006.

II. Terms and Conditions.

A. Acknowledgement.

11. All prior agreements between Respondent and the Board of Medical Practice are hereafter void and superseded by the instant agreement. The parties agree that this agreement is non-disciplinary and is intended solely to address Respondent medical needs and care.

12. Respondent has knowingly and voluntarily determined that he shall enter into this agreement with the Vermont Board of Medical Practice. The parties agree here that Respondent's practice of medicine shall be subject to his full and continuing compliance with all the terms and conditions set forth below. Respondent expressly agrees that his full, good faith cooperation with his treating physician(s) and all recommended medical care is required for his continued well-being and the sound care of his patients.

13. Respondent acknowledges that at all times he has had the right to be represented by counsel in this matter. Respondent has personally read and carefully reviewed this document. Respondent agrees to abide by the terms and conditions set forth below wherever he may practice medicine, while this agreement is in force.

14. Respondent agrees to continue to provide his full cooperation with the Board in this matter and with regard to his care of patients. Respondent agrees to meet at any time with the Board or any of its individual operating committees with regard to his practice of medicine.

15. Respondent understands and agrees that his practice of medicine shall be subject to ongoing determination by the Board of Medical Practice, in its sole discretion, that (a) his medical needs are being appropriately addressed; (b) his medical condition remains favorable; and (c) his

prognosis indicates to a reasonable medical certainty that he is able to practice competently and safely. Thus, Respondent expressly has agreed to the conditions of licensure set forth herein.

16. Respondent understands and agrees that pursuant to this agreement his Vermont medical license will bear the designation "conditioned". Respondent agrees that conditions of licensure shall require Board approval of his medical treatment, as well as monitoring of his medical condition.

17. Respondent agrees that the Vermont Board of Medical Practice may adopt Paragraphs 1 through 16, above, and this paragraph as its findings of fact and/or conclusions of law in this matter. He agrees that these paragraphs provide a sufficient basis for entry and enforcement of this Stipulation and Consent Order by the Vermont Board of Medical Practice. Respondent expressly agrees to the continuing jurisdiction of the Vermont Board of Medical Practice with regard to his practice and licensure, in exchange for issuance of a conditioned medical license that shall be subject to the terms of this agreement.

B. Respondent's Medical Care.

18. Respondent agrees that he shall remain in treatment with his current treating physician or another physician approved in advance by the Board during the life of this agreement. Respondent agrees that he shall continue to provide his full, good faith cooperation with such treatment and with all reasonable recommendations of his physician(s).¹ Respondent shall bear all costs of care and treatment, any assessment and/or evaluation, and monitoring and reporting but shall be permitted to share such costs with third parties, subject to Board review and approval.

1. Should Respondent be unwilling or unable to fully cooperate with and follow all treatment and advice reasonably recommended by his treating physician(s), he agrees that the treating physician(s) may and shall notify immediately the Board of Medical Practice regarding this circumstance. Respondent shall provide a complete copy of this agreement to all treating physicians and request and authorize such reporting.

C. Evaluation and Treatment.

19. Respondent agrees that he will, if directed by the Board to do so: (a) undergo such assessment or evaluation of his condition and health as may be required by the Board in its sole discretion; and (b) not practice medicine without the continuing agreement of his treating physician(s) and express approval to do so in writing from the Board.

20. Although the parties deem it unlikely to be necessary, Respondent agrees to cooperate fully and in good faith with any Board-required evaluation or assessment of his medical needs, if requested to do so. In this regard, Respondent agrees that no hearing or similar proceeding shall be required prior issuance of any such request or order by the Board or any of its operating committees. However, should time permit, the Board will attempt to provide reasonable notice to Respondent and seek his voluntary cooperation in this regard.

21. Respondent agrees that he shall execute any and all waivers and/or authorization that may be required for the Board, its staff, or agents to receive copies of any and all assessments, evaluations, diagnoses, records, or reports regarding his medical care and condition.

22. Concurrent with any approval of this agreement, Respondent agrees he shall sign as required a general authorization for the release of his medical records and information to the Board. Respondent agrees not to terminate such authorization and to execute such further authorizations for the release of his medical records and such information as might be required by the Board. Consistent with this authorization Respondent also agrees that the Board or its agents may communicate orally or in writing to obtain information from any and all practitioners involved in his care and treatment. Respondent understands and agrees that his compliance with the terms

and conditions herein and with the recommendations of those providing care and treatment to him may be considered in any proceeding before the Board regarding his license.

23. Should Respondent's treatment involve more than one physician, he agrees that each such physician may communicate freely with any other physician or individual providing care and treatment to Respondent. Respondent agrees to execute any authorizations for release of his medical records that may be required for this purpose. Respondent agrees that the Board may (a) communicate freely and without limitation with each physician; and (b) obtain and review Respondent's treatment records in their entirety, upon request.

24. Each professional caring for Respondent, including his primary care physician, shall be subject to approval by the Board. Respondent shall provide each treating professional with a copy of this Stipulation and Consent Order and such other documentation or information as may be requested by the treating professional.

D. Reporting and Possible Modification of Terms.

25. Respondent agrees that the principal treating professional, who shall be expressly subject to approval for this purpose by the Board, shall provide on a quarterly basis written reports to the Board regarding Respondent's involvement in treatment and health. At least quarterly and upon request, the principal treating professional shall provide a written assessment expressly addressing: (a) whether Respondent appears to be able to practice medicine with reasonable care, skill, and safety; (b) affirming that Respondent's practice of medicine is not inconsistent with his own medical needs; and (c) summarizing Respondent's medical condition and treatment needs. The Board also may designate other treating practitioner(s) who shall provide reporting to the

Board. Respondent shall bear the responsibility for personally making reasonable efforts to ensure that all such reporting takes place as required.

26. The Board shall be promptly notified in writing by both the principal treating professional and by Respondent if the treating professional has concluded that the frequency of or duration of treatment can be reduced. The treating professional must set forth in writing the observations that are deemed to support this conclusion. Respondent shall be required to present a written petition seeking Board approval of any such proposal. The frequency or duration of treatment shall not be reduced without the written approval of the Board.

27. Respondent agrees that all reasonable recommendations from his treating professional(s), evaluations, and/or assessments as to his course of treatment shall be incorporated as additional terms and conditions of this Stipulation and Consent Order. Respondent expressly agrees that he shall fully and in good faith comply with all such reasonable recommendations. The Board in its sole discretion shall determine Respondent's compliance with this requirement.²

28. If deemed appropriate, the Board, in its sole discretion and at any time, may limit the average number of hours per week that Respondent may practice or care for patients. Such limitation may be effected by written notice to Respondent and his employer/practice site by the

2. In the unlikely event that such a circumstance might occur, Respondent agrees that he shall promptly cease the practice of medicine should a treating physician so recommend to him. Respondent agrees that his treating physician(s) shall be directed by him to notify the Board immediately of any such recommendation to Respondent. A treating physician also shall notify the Board of Respondent's compliance or non-compliance with any such recommendation, if known. Respondent agrees that noncompliance with such recommendation may be grounds for summary suspension of his medical license. Respondent agrees that upon any such recommendation from a treating practitioner, he shall promptly and voluntarily cease and desist from any and all practice of medicine, including prescribing, in the State of Vermont or elsewhere until: (a) such time as it is deemed safe for him to return to the practice of medicine, such determination to be made by the Board, in its sole discretion; and/or (b) the Board approves any additional or revised conditions and requirements that shall regulate any future practice activities, care, additional treatment, and/or monitoring by the Board; and/or (c) other order of the Board. The Board agrees to promptly decide any petition from Respondent for: a) review of any recommendation made to Respondent by a practitioner that he temporarily cease the practice of medicine; or b) for Board approval of his return to re-training and practice after a temporary interruption.

Board or any of its operating committees. The Board in its sole discretion may approve or disapprove a petition at a later date from Respondent to increase the average number of hours per week that he may retrain or care for patients.

29. Evaluative reports and/or assessments, physician reports, or medical records as referred to above, which are supplied to the Board pursuant to this Stipulation and Consent Order II, shall be treated as protected by the patient-physician privilege, held confidential, and shall not be subject to disclosure to anyone other than the Board, its employees, and agents, other than through disclosure as evidence in a Board proceeding pursuant to 26 V.S.A. §§ 1356-1357 and 3 V.S.A. § 814.

E. Medical Practice.

30. Respondent agrees that he shall promptly provide copies of this Stipulation and Consent Order to any employer, partnership, or institution where he may practice or apply to practice.

31. Respondent agrees that he shall promptly report and provide to the Board of Medical Practice copies of any performance evaluations, notices, memoranda, and similar writings he may receive from his employer or at his practice site regarding his care of patients and medical practice.

32. Respondent agrees that he shall identify in writing to the Board his supervising physician or department director. Respondent agrees that the Board or its agents may communicate, orally or in writing, with his supervising physician, other practitioners, and peers at any time regarding his performance of his duties. Respondent agrees he shall execute any and all waivers of confidentiality that may be required for this purpose.

33. The primary site for Respondent's practice of medicine is planned to be the Hematology/Oncology Unit at Fletcher Allen Health Care. Should Respondent later practice elsewhere he shall promptly notify the Board of this employer or practice site. Respondent agrees he shall endeavor whenever possible to practice medicine in a structured group practice setting.³

F. Other Matters.

34. Respondent agrees to accept and be bound by the terms and conditions of this agreement until such time as he may be expressly relieved of these or they are modified, in writing, by the Board. The parties agree that Respondent may apply for modification or relief from the terms and conditions of this agreement by written petition after the passage of one year. However, by agreement of the undersigned parties, such petition may be presented at an earlier time if warranted by circumstances. The Board in its sole discretion shall promptly consider and decide any such petition.

35. The Board agrees that this agreement may be modified, provided that the Board is satisfied that amendment of this agreement is consistent with protection of the public health, safety, and welfare and Respondent's own treatment and health.

36. Respondent agrees that all terms and conditions herein as to this matter may be adopted as an enforceable order of the Board, pursuant to 3 V.S.A. §§ 809(d) & 814; and 26 V.S.A. § 1353(4) and other applicable authorities, and agrees to be bound by these until such time as he may be expressly relieved of these or they are modified, in writing, by the Board.

37. The parties agree that this non-disciplinary Stipulation and Consent Order II imposes terms and conditions upon Respondent's medical license, shall be a public document,

3. A structured group practice shall include, at a minimum, frequent and regular substantive interaction with peers and colleagues involved in the care of patients.

shall be made part of Respondent's licensing file, and may 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.

38. This Stipulation and Consent Order II 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 agreement, the entire agreement shall be considered void. However, if this agreement is deemed acceptable, the parties request that the Board enter an order adopting the facts and/or conclusions herein and all terms and conditions of licensure as set forth herein. Respondent agrees that the Board of Medical Practice shall retain jurisdiction in this matter and may enforce as necessary the terms and conditions herein, subject to the terms of this agreement and 26 V.S.A. §1354(25) or other statutory authority.

Dated at Montpelier, Vermont, this 31st day of August, 2006.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

by: James S. Arisman
JAMES S. ARISMAN
Assistant Attorney General

Dated at Randolph, Vermont, this 28th day of August, 2006.

Eric A. Pillemmer
ERIC A. PILLEMER, *pro se*
Respondent

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

FOREGOING, AS TO ERIC A. PILLEMER, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

John J. Murawski
David W. Clow *Sty R. Dagher*
Therese Gony
David J. Santoro *Monica L. Neal*
Bill Stewart *David Catell*
Margaret Funk Martin *Debra A. Kelly, M.D., Ph.D.*
Christina J. [unclear]
Eric A. Pillemer

DATED: 9/6/2006

ENTERED AND EFFECTIVE: September 6, 2006

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