

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Michael D. Resnik, M.D.

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Board Licensing Matter: 2005

STIPULATION AND CONSENT ORDER

NOW COME Michael D. Resnik, M.D. (Applicant), 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. Michael D. Resnik, M.D., Applicant, applied on September 30, 2004, for a physician's license to practice medicine in Vermont.
2. Jurisdiction vests in the Vermont Board of Medical Practice (Board) by virtue of 26 V.S.A. §§ 1353, 1391, & 1398.

I. Background.

A. Application for Vermont Medical License.

3. Applicant is seeking medical licensure in Vermont. He has filed the requisite application and documentation with the Vermont Board. Applicant is presently licensed as a physician in the State of Maine. Applicant is board-certified in Diagnostic Radiology and Pediatrics. Applicant has no known record of prior disciplinary action against his license to practice medicine in any other jurisdiction.

4. Applicant's history in Maine includes periods of alcohol abuse that ultimately led to his self-referral to the Maine Physician Health Program (MPHP), beginning in 1996. Applicant admits to drinking heavily in the past and attributes this to multiple stressors. Applicant entered into a contract with the MPHP program, and he was fluid monitored weekly,

then monthly from 1996 to 2001. Applicant appears to have been fully compliant with the MPHP program requirements and abstinent from mood-altering substances from 1996 to 2001.

5. Applicant admits that he resumed drinking alcohol in 2002. Applicant asserts that he is able to control his intake of alcohol. He claims that he does not drink within any 10-hour period prior to the start of his work day. There is no known evidence of drug use by Applicant other than of drugs that have been lawfully prescribed. **And see Section II, Subsection C (Abstention), below.**

6. Applicant has been offered a job at the Brattleboro Memorial Hospital. He wishes to move to Vermont to begin working there. Applicant has two brothers who live in Burlington and his father intends to move to Vermont. Applicant wishes to live and work closer to his family members.

7. Applicant has cooperated fully with the Board at all times, has provided detailed information regarding his treatment, recovery, and use of alcohol. He has met in person with a member of the Board's licensing committee. In September 2004, Dr. Resnik submitted to the Board the required application form, documentation, and licensing fee.

8. On December 23, 2004, Applicant met with Suzanne Parker, M.D., Medical Director of the Vermont Practitioner Health Program (VPHP), for an intake-screening interview. After receiving further evaluation information from her co-workers and previous records from Maine, Dr. Parker has reported that Applicant is a good candidate for a full VPHP contract. Consequently, a VPHP contract was prepared and Applicant signed the contract on March 18, 2005.

B. Applicant Agrees that His Vermont License Shall Be Conditioned.

9. Applicant has affirmed his willingness to accept the imposition of reasonable conditions on his Vermont medical license so as to provide for his continued treatment and recovery and protection of the public. He agrees that the principal condition in this regard shall be his full, good faith participation in the Vermont Practitioner Health Program (VPHP) and his acceptance and cooperation with all reasonable recommendations to him by that program and from practitioners treating him or evaluating him. He also agrees to be bound by any and all conditions set forth herein. He agrees and understand that if this agreement is approved by the Board, his Vermont medical license shall be designated as “Conditioned” and that such licensure status shall be public information.

10. Applicant has not been the subject of any prior disciplinary action by the Vermont Board of Medical Practice. No specification of charges has been filed against Applicant at any time by the State of Vermont. The Board has no information that any other state licensing board or agency has ever taken disciplinary action against Applicant.

II. Agreement as to Terms and Conditions of Licensure.

A. General.

11. Applicant acknowledges and agrees that he is knowingly and voluntarily agreeing to this Stipulation and Consent Order. He acknowledges and agrees that he has had the opportunity to obtain an attorney and receive legal advice regarding his medical license and the import of this Stipulation and Consent Order. He agrees and understands that by executing this document he is waiving at this time any rights of due process that he may possess as to issuance of his Vermont medical license with conditions. He agrees that the Board possesses and shall

continue to maintain jurisdiction in this matter, including taking action to enforce the terms herein.

12. Applicant agrees that he has read and carefully considered all terms and conditions herein and agrees to accept and be bound by these while licensed to practice medicine in the State of Vermont or elsewhere and to be bound by these until such time in the future as he may be expressly relieved of these conditions, in writing, by the Vermont Board. The Board, in its sole discretion, may consider a petition from Applicant for modification of these conditions, no earlier than 24 months following the effective date of this Stipulation and Consent Order, unless a petition for modification at any earlier date is otherwise expressly provided for, elsewhere herein.

13. Applicant's license to practice medicine in the State of Vermont shall be conditioned for a minimum of five years, following entry of the Board's Order approving the terms of this agreement. Applicant's Vermont license to practice medicine shall include the designation "Conditioned" until such time as all terms and conditions upon his medical license have been removed by express written order of the Board.

B. Basis for Board Action.

14. Applicant does not contest the facts set forth in this paragraph and in paragraphs 1 through 10, above, and agrees that the Board of Medical Practice may adopt and enter those paragraphs and the instant paragraph as uncontested findings of fact and/or conclusions of law in this matter. Applicant agrees and admits that the facts set forth in paragraphs 1 through 10 and here constitute a sufficient basis under 26 V.S.A. §§ 1353 & 1391 and 3 V.S.A. § 809 for approval by the Board of this agreement and enforcement of its terms.

15. Applicant agrees he shall comply with all terms and conditions of this Stipulation and Consent Order. Applicant understands and agrees that any substantial or repeated failure by him at any time to comply with any of the terms and conditions herein may constitute unprofessional conduct by him and, if established by the State's evidence, could result in suspension of Applicant's license to practice medicine, additional terms and conditions on his medical license, and/or such other disciplinary action as the Board might deem appropriate under the circumstances.

C. Abstention.

16. Applicant expressly agrees he shall abstain completely and without exception from consuming alcohol or ingesting any mind or mood altering substances, controlled substances, or prohibited substances, except as may be lawfully prescribed by his Primary Care Physician or other practitioner.

D. VPHP Involvement.

17. During the period that Applicant's license is conditioned he shall comply fully with all the requirements set forth herein. Applicant expressly agrees that he shall contract with and shall participate fully and in good faith in the VPHP program until relieved of this requirement by the Board. Applicant shall bear all costs.

18. Applicant agrees that the VPHP program and the Board of Medical Practice may share information and communicate freely and without limitation regarding his care, treatment, and recovery. Applicant also agrees that he shall abide by and follow all treatment and aftercare recommendations, plans, or contracts that have been or may be presented to him by evaluators, assessors, practitioners, and/or entities that have been or may be involved in his care.

19. Applicant agrees that he shall be responsible for promptly providing to the Board copies of all such treatment and aftercare recommendations, plans, or contracts. He expressly agrees that he shall promptly sign any and all consents and/or waivers of confidentiality as to his history, dependency, alcohol or substance use, diagnosis, care, and treatment so as to permit full and complete disclosure to the Board or VPHP for the purpose of permitting monitoring of his recovery and of his ability to practice medicine safely, as well as his involvement and progress in treatment. Applicant shall bear all costs.

20. Applicant agrees that the VPHP program may report immediately to the Board of Medical Practice any apparent noncompliance by him with regard to reasonable recommendations made to him by treating practitioners or as to his obligations to VPHP. Applicant agrees that VPHP may report to the Board any concerns it may have regarding his ability to practice medicine safely or his use or consumption of any prohibited substance.

21. Should the occasion arise, Applicant agrees that upon oral or written request by the Board, its staff, or agents, he shall voluntarily and immediately cease and desist from the practice of medicine on a temporary basis, pending further proceedings before the Board. The Board shall disclose in writing the basis for its request at the time it is made. The parties agree that should Applicant so request, the Board shall promptly provide a hearing to determine whether an order of summary suspension should be entered to protect patients and the public.

E. Evaluation, If Requested.

22. Although Applicant has undergone evaluation and treatment, he nonetheless expressly agrees that, if requested by the Board or its agents or VPHP in the future, he shall promptly undergo such additional independent evaluation, assessment, or testing as may be

requested with regard to alcohol or substance use. Should Applicant be requested to undergo additional evaluation, assessment, or testing he agrees he shall bear all costs and personally shall make all such payment arrangements as may be required, subject to the Board's review and approval, in advance.

F. Testing and Collection.

23. Applicant agrees that he shall promptly provide urine, blood, or other samples for collection and testing as required by VPHP (or by the Board, if deemed necessary). VPHP shall impose such requirements in this regard as it may deem appropriate and shall monitor implementation. The Board, in its sole discretion, may require that the frequency of sample collections be increased. Each sample collection shall be random and may be directly observed. Applicant shall bear all costs. However, Applicant shall be permitted to share the cost of such collection and testing with his employer(s), should such arrangement be agreeable to the employer.

24. Generally, Applicant has agreed to random collection and testing that shall occur as directed by VPHP. Applicant may request modification of such minimum frequency of collection at a later date, subject to Medical Board approval, to be determined in the Board's sole discretion, upon written petition by Applicant. Applicant agrees that he shall not present any petition to the Board in this regard until the passage of at least 24 months after the effective date of this Stipulation and Consent Order.

25. In no case shall the Board approve any change as to collection procedures that would have the possible effect of limiting the effectiveness of collection, testing, and substance monitoring. Should the Board in its sole discretion approve any change in this regard, it may at a later date withdraw any such approval and impose any and all collection and testing

arrangements as it may deem appropriate, in its sole discretion.

G. Practice Site and Employment; Supervising Physician.

26. Applicant agrees that while employed and practicing he shall maintain regular communication with a Practice Monitor as set forth in the VPHP contract. Applicant agrees that other practitioners within his practice setting may communicate without limitation with his Practice Monitor and with the Board regarding his care of patients, any problems arising with respect to patient care, and Applicant's ability to practice medicine safely.

27. Applicant's Practice Monitor shall directly observe Applicant's work with patients as frequently as practicable and shall regularly meet with Applicant to discuss his practice, care of patients, Applicant's recovery and abstention, and any problems, concerns, or questions related to these matters or Applicant's compliance with this agreement. Applicant shall maintain a written record of the dates of all such meetings, their duration, and subjects addressed. Applicant agrees that he personally shall be responsible for ensuring that the Practice Monitor shall provide quarterly written reports to the Board summarizing actions taken under this paragraph and addressing Applicant's ability to practice medicine safely. The terms and conditions set forth in this paragraph are material terms of this agreement.

28. Applicant's practice site is intended to be the Brattleboro Memorial Hospital. In this regard, Applicant expressly agrees that the Board may receive recommendations or advice from the VPHP program as to his employment setting, and the Board, in its sole discretion, may act pursuant to such recommendations or advice. Applicant shall immediately notify the Board if his practice setting is terminated. If Applicant intends to seek a change of practice site, he

shall notify the Board 60 days in advance of any anticipated change of practice site.

29. Applicant agrees that he shall not see patients or practice at other locations without the approval of the Board. Moreover, Applicant agrees that he shall **not** practice medicine in any form or manner outside the scope of his employment agreement or affiliation with his practice site.

30. Applicant agrees that he shall provide a complete copy of this Stipulation and Consent Order to any employer and/or supervisor for whom he works or to any prospective employer, any State medical board, or other licensing authority in any location or jurisdiction where he may seek to practice or where he may make application, so long as this agreement remains in effect.

H. Prescribing.

31. Applicant agrees he shall retain in series a copy of each and every prescription for DEA schedule controlled substances written by him. Such copies shall be separated and organized by month and shall be available for immediate Board inspection upon request. Any costs related to this requirement shall be borne by Applicant.

32. Applicant agrees and understands that he shall not at any time, under any circumstances, prescribe controlled substances or medications of any kind for himself, family members, residents or guests of his household, close friends, or intimates. Applicant may prescribe only for bona fide patients who are seen by Applicant in an office or hospital setting. In no case may Applicant prescribe any substance or medication without creating a written

record to reflect that such a prescription has been provided to the patient and the rationale therefore.

33. Applicant may personally possess and consume only those medications lawfully prescribed for him. Regardless of circumstances, Applicant promptly shall report to VPHP any controlled substances or intoxicants used or consumed by him at any time, the name of the prescribing practitioner, if any, and the condition(s) involved.

I. Therapy, Twelve Step Program, and Caduceus Participation.

34. Subject to VPHP direction, Applicant agrees that he shall fully and in good faith participate in therapeutic counseling and treatment for chemical dependency as set forth in the VPHP Contract. Applicant shall attend such therapy regularly, until such time as this requirement may be modified upon his petition, at the sole discretion of the Board and upon a written recommendation from VPHP. The Board in its sole discretion may approve or disapprove such a petition from Applicant.

35. Applicant agrees he shall attend and participate fully and in good faith in a 12-Step self-help program, attending at least three meetings each week, as set forth in the VPHP Contract. Applicant shall not reduce such frequency without the express approval of VPHP. Applicant also agrees he shall attend at least once a month a meeting of Caduceus or a similar group meeting for practitioners. Applicant shall maintain a written record of all such attendance by him.

J. Other Matters.

36. Applicant acknowledges and agrees that engaging in unprofessional conduct, as set forth in 26 VSA §§1354 or 1398, shall constitute prima facie evidence of a violation by him

of this agreement sufficient to support findings by the Board that the circumstances of Applicant's recovery, rehabilitation, and/or care and treatment have substantially changed, that the present conditions are inadequate to protect the health, safety and welfare of the public, and that immediate suspension of Applicant's medical license is required. And see Paragraph 21, above.

37. The parties agree that nothing contained herein shall limit Applicant's right to present a motion at a later date for modification of any order of suspension entered pursuant to the terms and conditions set forth above. The Board, in its sole discretion, agrees that it will review, consider, and determine any such motion. No hearing shall be required. Applicant agrees that the Board shall retain sole discretion to approve or disapprove any such motion from him.

III. Other Terms and Conditions as to Implementation.

A. Dissemination of this Agreement..

38. The parties agree that this Stipulation and Consent Order shall be a public document and shall be made part of Applicant's licensing file. The parties agree that this Stipulation and Agreement constitutes neither discipline nor punishment, and shall **not** be interpreted as an adjudication by the Vermont Board of Medical Practice. The parties agree that this Stipulation and Agreement is intended only to establish Applicant's terms of licensure.

B. Board Approval Required.

39. This Stipulation and Consent Order 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 Stipulation and Consent Order, the

entire agreement shall be considered void. However, should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board, the parties request that the Board enter an order conditioning Applicant's license to practice medicine, as set forth herein, and issue to Applicant a conditioned license to practice medicine in the State of Vermont.

C. Compliance.

40. Applicant agrees to be bound by all terms and conditions of this Stipulation and Consent Order. Applicant agrees that the Board of Medical Practice shall retain jurisdiction to enforce all terms and conditions of this Stipulation and Consent Order. Applicant expressly agrees that any failure by him to comply with the terms of this Stipulation and Consent Order, specifically including, but not limited to, its record-keeping, reporting, approval, and abstention requirements may be deemed to constitute unprofessional conduct under 26 V.S.A. §1354(25) and shall subject Applicant to such disciplinary action as the Board may deem appropriate.

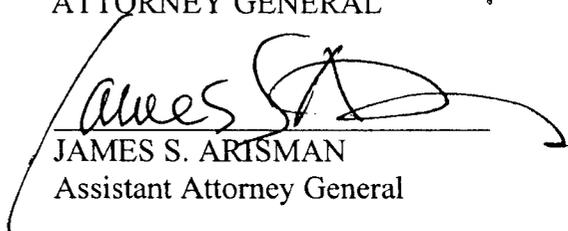
41. Applicant warrants his full understanding of the importance to his continued medical career of: (a) complete and uninterrupted compliance by him with all terms and conditions herein; and (b) full, good-faith compliance by him with all direction and recommendations from the Vermont Practitioner Health Program and his treating professionals.

Dated at Randolph, Vermont, this 6th day of April 2005.

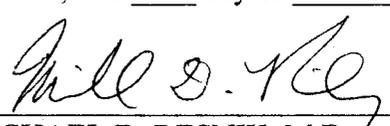
STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

by:

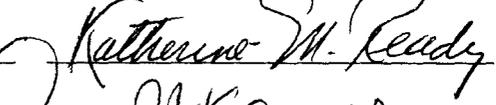
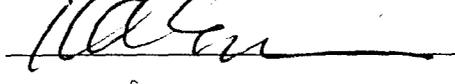
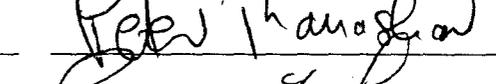
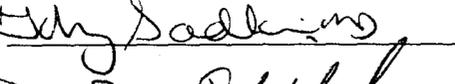
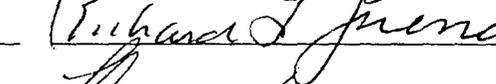

JAMES S. ARISMAN
Assistant Attorney General

Dated at BURLINGTON, Vermont, this 1ST day of APRIL 2005.


MICHAEL D. RESNIK, M.D.

Applicant

FOREGOING, AS TO MICHAEL D. RESNIK, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

DATED: 4/16/05

ENTERED AND EFFECTIVE: April 6, 2005