

STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

In re: Arthur J Esswein)
) Licensing Matter
)

STIPULATION AND CONSENT ORDER

NOW COME Arthur J Esswein, (“Applicant”) and the State of Vermont, by and through Attorney General, Thomas J. Donovan, Jr. and undersigned counsel, Assistant Attorney General, Margaret O. Vincent, and stipulate as follows:

1. Arthur J Esswein, Applicant, filed an application for a Vermont physician license in July of 2019. Applicant holds an unrestricted license in the State of Massachusetts.
2. Jurisdiction rests in the Vermont Board of Medical Practice (the “Board”) pursuant to 26 V.S.A. §§ 1353, 1391, 1398 and 3 V.S.A. §§ 809 and 814(c) and (d).

BACKGROUND

3. Applicant received his medical degree from SUNY Downstate Medical Center and post graduate training for Internal Medicine was at Nassau County Medical Center and for Gastroenterology at the University of Massachusetts and St. Vincent Hospital.
4. Applicant is Board Certified in Gastroenterology and Internal Medicine.
5. Applicant was a partner at Pulmonary and Primary Care Associates located in Plymouth Massachusetts until May of 2013. Applicant was a practicing Gastroenterologist from 1985 through 2013

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6. Applicant stopped practicing medicine in May 0f 2013 due to health issues.
7. Applicant holds an active license in the State of Massachusetts and continued with CME courses from 2013 to the present.
8. Green Mountain Gastroenterology has agreed to have Applicant do a reentry program at Green Mountain under the Supervision of Dr. Eric Asnis at Green Mountain Gastroenterology.
9. Applicant's plan is to practice at Green Mountain Gastroenterology.

II. AGREEMENT AS TO TERMS AND CONDITIONS OF LICENSURE

10. Applicant is knowingly and voluntarily agreeing to 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 with regard to the issuance to him of a Vermont medical license with accompanying terms and conditions. He agrees that the Vermont Board of Medical Practice possesses and shall continue to maintain jurisdiction in this matter, including any required action to enforce the terms herein.
11. Applicant acknowledges that at all times he has had the right to be represented by counsel in this matter. Applicant agrees that he personally has read and carefully reviewed this document. Applicant agrees to accept and fully abide by the terms and conditions set forth below while this agreement remains in force.
12. Applicant agrees that the terms and conditions of this agreement shall be imposed concurrently with the issuance of Applicant's Vermont medical license.
13. Applicant understands and agrees that that the Vermont physician license issued pursuant to this agreement shall be issued with the designation "conditioned".

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14. Applicant recognizes the responsibility of the Vermont Board of Medical Practice is to protect the health, safety and welfare of patients. He agrees to continue to provide his full cooperation with the Board in this matter and with regard to his practice and care of patients.
15. Applicant acknowledges that the sole purpose of this agreement is to establish terms and conditions governing his supervised return to the practice of medicine. Applicant agrees to and accepts all terms and conditions herein without reservations and to do so in exchange for the Board's approval of this Stipulation and Agreement.
16. Applicant further agrees that this Stipulation and Agreement, without more, does not create a right to an unconditioned Vermont physician license and does not constitute a promise of any kind by the Board of Medical Practice regarding continued or future licensure. However, it is acknowledged that the license is conditioned solely for the purpose of execution of the reentry plan described herein and successful completion of the specified reentry activities will result in a full, unrestricted license upon the approval of the Board of Medical Practice.
17. Applicant agrees that the Board of Medical Practice may adopt Paragraphs 1 through 16 as its findings of fact and/or conclusion of law in this matter. He accepts and agrees that these paragraphs provide a sufficient basis for entry and enforcement of this Stipulation and Agreement by the Vermont Board of Medical Practice.

A. SUPERVISION

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18. Applicant's agrees that his reentry program shall be with Green Mountain Gastroenterology, located in Barre, VT.
19. Applicant agrees that his primary supervising physician shall be Dr. Asnis. If Dr. Asnis relies on the input of any other licensed healthcare providers in the place of direct observation or chart review, he should note that in his reports and identify the healthcare provider who gave the input.
20. Phase I of the reentry program Applicant shall observe a minimum of 5 endoscopies and 5 colonoscopies performed by the primary supervising physician or other licensed healthcare provider in the practice properly privileged and credentialed to do the procedure and approved by the supervising physician. Applicant should observe at least 5 patient office visits with the primary supervising physician.
21. Applicant shall complete the following Continuing Medical Education (CME) requirements in Phase I;
 - a. one hour on the topics of hospice, palliative care, or pain management services;
 - b. one hour on the topic on safe and effective prescribing of controlled substances;
 - c. two hours on controlled substance; and,
 - d. all CME courses must be approved for American Medical Association's Physician Recognition Award Category 1 Credit or 2 Credits.
 - e. Applicant shall submit the certificates to the Board upon completion of the CME courses.

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22. Phase II of Applicant's reentry program, Applicant shall complete a minimum of 5 endoscopies and 5 colonoscopies in the presence of his primary supervisor or a supervising physician in the practice properly privileged and credentialed to do the procedure ("approved supervising physician") and approved by the primary supervisor.
23. During Phase II, the Applicant shall provide direct patient care in the office and shall be directly observed by the primary supervising or approved supervising physician for at least his first five patients.
24. The primary supervising physician shall consult with the approved supervising physician(s) as to whether the Applicant's minimum number of endoscopies, colonoscopies, and direct patient care were performed within the standard of care and that there were no notable deficiencies.
25. The primary supervising physician shall provide a written report to the Assigned Committee as to whether the Applicant has successfully met the requirements of Phase II. If the Applicant has successfully met the requirements of Phase II, and the written report has been sent to the Board, Applicant may proceed to Phase III.
26. The Vermont Board of Medical Practice, in its sole discretion and without need of notice or hearings, may extend the duration of Phases II described above, but only if reporting or information from Applicant's primary supervising physician indicates one or more areas of possible deficiency in Applicant's practice skills, knowledge or performance.

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27. All procedures and patient care, that Applicant personally provides, shall be separately logged and documented by him in writing, including the patient's name, date and time of care, a brief summary of the care rendered, and the name of the supervising physician(s) who is involved or on duty at the time.
28. Phase III of the reentry program shall consist of Applicant performing endoscopies, colonoscopies and direct patient care under supervision for 30 days. The supervision shall include the following;
- a. Applicant shall meet individually with his primary supervisor at least once a week.
 - b. Applicant shall maintain a written record of the date, place and duration of each meeting and consultation with his supervising physician. Upon request by the Board or its agents, Applicant shall produce without delay such written record for review and copying.
29. Each meeting during all three phases of this agreement between Applicant and the primary supervising physician shall be of sufficient duration and involve discussion in sufficient detail to permit them to do the following;
- a. Confer regarding the care of individual patients
 - b. Review charts and record keeping matters;
 - c. Discuss problems or concerns related to certain patients or complex cases;
 - d. Address general professional standards, expectations, and office-based practice;

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- e. Review, as needed, matters such as current research and studies, general fund of knowledge, patient safety, performance of procedures, prescribing, communication and counseling, and decision making; and
- f. Discuss areas of weakness that might be addressed through CME or self-study.

30. Applicant understands and agrees that his return to the practice of medicine shall occur and continue only if the Board of Medical Practice, in its sole discretion, determines at all times that such continuation is consistent with prevailing professional standards, patient safety and the public welfare.

B. SPEX EXAM

31. Applicant agrees that he shall arrange for and successfully pass the Special Purpose Exam (SPEX) of the Federation of State Medical Boards as a candidate sponsored by the Vermont Board of Medical Practice. Applicant understands and expressly agrees that he will take the SPEX exam and pass within the first three months of this signed Stipulation and Consent Order. Applicant understands and that he must have a reported SPEX examination score of at least 75. Applicant may request an extension of this requirement if he does not pass the SPEX exam within the first three months of this agreement. Applicant understands and agrees that he shall be limited to three attempts to successfully complete and pass the SPEX examination. Any subsequent examination attempts shall require
- a. Board approval and sponsorship, to be determined in the Board's sole discretion; and

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- b. a one year waiting period from the date of the last attempt. Applicant shall bear all costs.

C. REENTRY AGREEMENT

32. Applicant agrees to enter a reentry agreement with his primary supervisor, Dr. Eric Asnis. Any change in the reentry agreement shall be subject to the approval of the Assigned Committee or the Board.
33. Applicant shall be responsible for ensuring that the reentry complies with the terms and obligations of the Reentry Agreement that shall be signed by both Applicant and the primary supervisor. The Reentry Agreement is attached hereto as "Exhibit A".
34. Applicant shall not move to Phase III until his primary supervisor has provided to the Board, a written report from his primary supervisor. The report shall include information regarding Applicant's competency in performing endoscopies and colonoscopies, taking a medical history, and making a treatment plan, as well as Applicant's practice activities and workload, knowledge and skills, any problem or concerns, and ability to practice safely.
35. Applicant shall provide a copy of this Stipulation and Agreement to his primary supervisor.
36. Applicant shall provide to the Board at the end of Phase III a final written report from his primary supervisor. The report shall include information specified in paragraph 34.
37. After the Applicant successfully completes Phase III of the reentry program and has passed the SPEX exam, Applicant may request relief from the conditions on his

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license. The Board shall not take any action on that request without receiving the final written report from his primary supervisor.

38. Applicant shall comply with the terms and obligations of the Reentry Agreement.

39. Applicant shall be solely responsible for all costs associated with the reentry agreement. Applicant shall be responsible for ensuring that the primary supervisor's reports are timely submitted to the Assigned Committee.

40. Applicant agrees that his reentry agreement with the primary supervisor shall provide that the primary supervisor immediately notify the Board if the Applicant has engaged in practice that does not meet the standard of care. Applicant must also immediately notify the Board if the primary supervisor informs him of a belief that the Applicant may have engaged in practice that does not meet the standard of care.

41. Applicant agrees to allow a Board member, an investigator for the Board or an Assistant Attorney General to speak with applicant's primary supervisor regarding her ability to practice. The agreement with the primary supervisor must include Applicant's consent to having the primary supervisor speak with a Board representative and the primary supervisor's agreement to do so.

D. MODIFICATION OF TERMS

42. The Vermont Board of Medical Practice, in its sole discretion, may require that Applicant pursue an additional period of supervised practice, retraining or additional training in certain subjects or fields, but only if:



- a. reporting or information from Applicant's supervising physicians or practice site indicates one or more areas of possible deficiency in Applicant's practice skills, knowledge or performance;
 - b. The Board receives credible information regarding deficiency in Applicant's practice skills, knowledge, performance, or conduct. The Board will advise Applicant of the adverse information and provide Applicant an opportunity to respond before any final action by the Board.
43. The parties agree that Applicant's continuing formalized association with Green Mountain Gastroenterology a material term of this agreement. The parties agree that interruption or cessation of practice or employment during the required period shall constitute a circumstance of non-compliance by Applicant with the terms and conditions of this agreement and shall require Applicant to voluntarily and immediately cease any and all practice activities. The Board, in its sole discretion, shall promptly consider and approve or disapprove any petition from Applicant or the State, regarding such cessation.

E. ADDITIONAL TERMS

44. All terms and conditions of this agreement shall be imposed concurrently with Applicant's Vermont medical license.
45. The parties agree that this Stipulation and Consent Order shall be a public document, shall be made part of Applicant's licensing file, and shall be reported as a conditioned license to other licensing authorities and/or entities including, but not limited to, the National Practitioner Data Bank and the Federation of State Medical Boards.



46. 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 enters an order adopting the facts and/or conclusions herein and all terms and conditions of licensure as set forth herein, including that this license is conditioned.

47. Applicant agrees that all terms and conditions herein may be adopted as an enforceable order of the Board. Applicant agrees that the Board of Medical Practice shall retain continuing jurisdiction in this matter and may enforce as necessary all terms and conditions herein.

Dated at Burlington, Vermont, this 23 day of October, 2019.

STATE OF VERMONT
THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

by: Margaret O. Vincent
MARGARET O. VINCENT
Assistant Attorney General

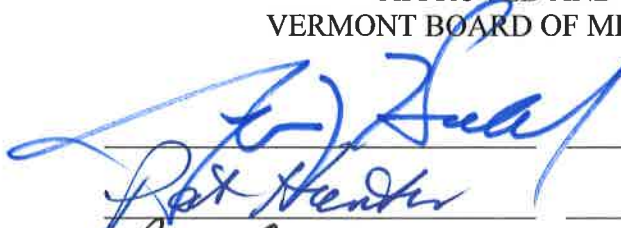
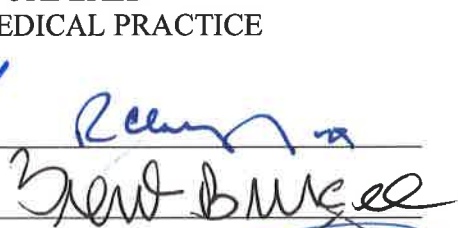


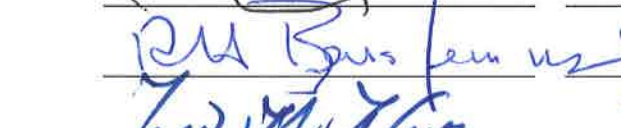
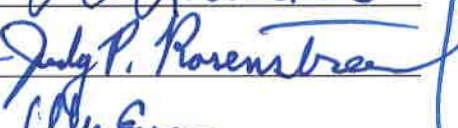
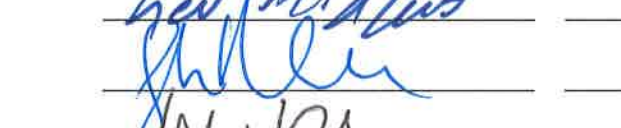
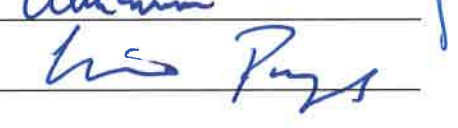


Dated at STOWE, VT, this 18 day of OCTOBER, 2019.

Arthur J. Esswein MD
Arthur J. Esswein, MD.
Applicant

ORDER

The Vermont Board of Medical Practice, so Orders, that the Vermont Physician License of Arthur J. Esswein, shall be a Conditioned License subject to the above Terms and Conditions.

FOREGOING, AS TO ARTHUR J. ESSWEIN, PHYSICIAN
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

DATED: November 6th, 2019

ENTERED AND EFFECTIVE: November 6th, 2019



REENTRY AGREEMENT

Vermont Board of Medical Practice

Arthur Esswein, Physician Licensing Matter

1. Pursuant to a Stipulation and Consent Order entered into by Arthur Esswein, MD and the Vermont Board of Medical Practice (“the Board”), Dr. Esswein has engaged a primary supervisor to provide direct and continued supervision in his reentry program. The purpose of this Reentry Agreement is to set forth the terms of the supervision for Dr. Esswein’s within the Stipulation and Consent Order. This Agreement will be signed by the primary supervisor approved by the assigned Committee (“the Committee”) and Dr. Esswein.
2. The Reentry Agreement shall cover all three phases of the reentry plan. The Reentry Agreement will cease upon the Board’s removing the conditions on Dr. Esswein’s license. (*See Stipulation and Consent Order*)
3. In the event that the primary supervisor can no longer supervise Dr. Esswein, Dr. Esswein shall immediately notify the Board in writing. Dr. Esswein will immediately terminate his practice until he has found a new primary supervisor that is approved by the Committee assigned to Dr. Esswein’s Agreement. Dr. Esswein shall provide the Committee with the name and curriculum vitae of the proposed new primary supervisor. The Committee will provide written notification to Dr. Esswein indicating whether it approves of the new proposed primary supervisor.
4. Dr. Esswein shall provide the primary supervisor with a copy of the fully executed Stipulation and Consent Order.

5. Dr. Esswein shall be responsible for ensuring that the primary supervisor does the following:
 - a. The primary supervisor shall oversee that Dr. Esswein observe a minimum of 5 endoscopies and 5 colonoscopies performed by the primary supervising physician or other licensed healthcare provider in the practice properly privileged and credentialed to do the procedure and approved by the supervising physician. Dr. Esswein should observe at least 5 patient office visits with the primary supervising physician.
 - b. During the second phase of Dr. Esswein's reentry plan the primary supervisor shall ensure that Dr. Esswein completes a minimum of 5 endoscopies and 5 colonoscopies in the presence of his primary supervisor or a supervising physician in the practice properly privileged and credentialed to do the procedure ("approved supervising physician") and approved by the primary supervisor.
 - c. The primary supervisor will also ensure that Dr. Esswein is directly observed by the primary supervisor or approved supervising physician while providing direct patient care for at least his first five patients.
 - d. Each meeting between Dr. Esswein and his primary supervisor shall be of sufficient duration and involve discussion in sufficient detail to include at least the following;
 - i. Confer regarding the care of individual patients;
 - ii. Review charts and record keeping matters;
 - iii. Discuss problems or concerns related to certain patients or complex cases;

- iv. Address general professional standards, expectations, and office-based practice;
 - v. Review, as needed, matters such as current research and studies, general fund of knowledge, patient safety, performance of procedures, prescribing, communication and counseling, and decision making; and
 - vi. Discuss areas of weakness that might be addressed through CME or self-study.
- e. Provide a written report to the Assigned Committee as to whether the Applicant has successfully met the requirements of Phase II. If the Applicant has successfully met the requirements of Phase II, and the written report has been sent to the Board, Applicant may proceed to Phase III.
- f. During Phase III of the reentry program the primary supervisor shall ensure that Dr. Esswein performs endoscopies, colonoscopies and direct patient care under supervision for 30 days. The supervision shall include the following;
- i. Dr. Esswein meeting individually with his primary supervisor at least once a week.
 - ii. Dr. Esswein maintaining a written record of the date, place and duration of each meeting and consultation with his supervising physician.
- g. The primary supervisor shall provide a monthly report during the third phase reentry. The reports shall at least include the following;
- i. Applicant's competency in performing endoscopies and colonoscopies,

- ii. taking a medical history, and making a treatment plan, as well as Applicant's practice activities and workload, knowledge and skills, any problem or concerns, and ability to practice safely.
6. Dr. Esswein and the primary supervisor agree that the primary supervisor shall discuss his observations regarding Dr. Esswein's ability to practice upon request by a Board member, investigators for the Board or an Assistant Attorney General.
7. Dr. Esswein and the primary supervisor agree that the primary supervisor will immediately notify the Board if there is any indication that Dr. Esswein has engaged in practice that does not meet the standard of care.
8. Dr. Esswein and the primary supervisor agree that they have both read this Agreement in its entirety and agree to all of the terms and obligations set forth herein.
9. Dr. Esswein and the primary supervisor agree that the terms of this Agreement cannot be amended or modified in any way without written approval of the Committee.

DATED at BERLIN, Vermont, this 22 day of OCTOBER, 2019.



Arthur Esswein, M.D.
Respondent

DATED at Berlin VT, Vermont, this 22 day of October, 2019.



Primary Supervisor