

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Christopher Robert Macaluso, M.D.)
) Docket No. MPC 116-1014
)

STIPULATION AND CONSENT ORDER

NOW COME Christopher Robert Macaluso, M.D. and the State of Vermont, by and through Vermont Attorney General William H. Sorrell, and hereby stipulate and agree to the following in the above-captioned matter:

1. Christopher Robert Macaluso, M.D. (“Respondent”) holds Vermont medical license number 042-0012597, first issued on March 6, 2013.
2. Jurisdiction in these matters vests with the Vermont Board of Medical Practice (“the Board”), pursuant to 26 V.S.A. §§ 1353-1357, 3 V.S.A. §§ 809-814, and other authority.

Findings of Fact

3. The Board opened the above-captioned matter in October 2014 based upon receipt of a report from the National Practitioner Data Bank that Respondent had voluntarily surrendered his clinical privileges with Southwestern Vermont Medical Center on September 16, 2014, while he was under a Focused Professional Practice Evaluation (“FPPE”) for “failure to maintain timely medical records which had the potential to adversely affect the health and welfare of patients.” There was no evidence, however, that the health and welfare of any of Respondent’s patients had been adversely affected by the delay in maintaining timely medical records.
4. Respondent cooperated fully with the Board’s investigation, inter alia, providing a written response concerning his practice and voluntary resignation of employment at Southwestern Vermont Medical Center. Respondent acknowledged that, in early

May of 2014, there were at one time over 75 patient encounters for which he had not maintained timely medical records. Respondent also acknowledged that he was under a FPPE to monitor his chart completion from June of 2014 through his resignation on September 16, 2014, during which he maintained timely medical records for his patient encounters, with only two exceptions when there were delays due to extenuating circumstances.

5. This Stipulation and Consent Order is in full satisfaction and settlement of all allegations arising from the misconduct relating to Respondent's maintenance of timely medical records.

Conclusions of Law

6. The Board may find "that failure to practice competently by reason of any cause on a single occasion or on multiple occasions constitutes unprofessional conduct." 26 V.S.A. § 1354(b). And "[f]ailure to practice competently includes, as determined by the board... (2) failure to conform to the essential standards of acceptable and prevailing practice." *Id.* § 1354(b)(2).
7. A failure to maintain timely medical records which had the potential to adversely affect the health and welfare of patients does not conform to the essential standards of acceptable and prevailing practice.
8. Respondent acknowledges that it is the Board's position that if the State were to file charges against him, it could satisfy its burden at a hearing and a finding adverse to him could be entered by the Board, pursuant to 26 V.S.A. § 1354(b)(2).
9. Respondent agrees that the Board may enter as its facts and/or conclusions paragraphs 1 through 5, above, and further agrees that this is an adequate basis for

the Board actions set forth herein. Any representation by Respondent herein is made solely for the purposes set forth in this agreement.

10. Therefore, in the interest of Respondent's desire to fully and finally resolve the matter presently before the Board, he has determined that he shall enter into the instant agreement with the Board. Respondent enters no further admission here, but to resolve this matter without further time, expense, and uncertainty, he has concluded that this agreement is acceptable and in the best interest of the parties.
11. Respondent acknowledges that he is knowingly and voluntarily agreeing to this Stipulation and Consent Order. He acknowledges and agrees that he has had the advice of counsel regarding this matter, and in the review of this Stipulation and Consent Order. Respondent is fully satisfied with the legal representation he has received in this matter.
12. Respondent agrees and understands that by executing this document he is waiving any right to challenge the jurisdiction and continuing jurisdiction of the Board in this matter, to be presented with a specification of charges and evidence, to cross-examine witnesses, and to offer evidence of his own to contest any allegations by the State.
13. The parties agree that upon their execution of this Stipulation and Consent Order and pursuant to the terms herein, the above-captioned matter shall be administratively closed by the Board. Thereafter, the Board will take no further action as to this matter absent non-compliance with the terms and conditions of this document by Respondent.
14. This Stipulation and Consent Order is conditioned upon its acceptance by the Vermont Board of Medical Practice. If the Board rejects any part of this document,

the entire agreement shall be considered void. Respondent agrees that if the Board does not accept this agreement in its current form, he shall not assert in any subsequent proceeding any claim of prejudice from any such prior consideration. If the Board rejects any part of this agreement, none of its terms shall bind Respondent or constitute an admission of any of the facts of the alleged misconduct, it shall not be used against Respondent in any way, it shall be kept in strict confidence, and it shall be without prejudice to any future disciplinary proceeding and the Board's final determination of any charge against Respondent.

15. Respondent acknowledges and understands that this Stipulation and Consent Order shall be a matter of public record, shall be entered in his permanent Board file, shall constitute an enforceable legal agreement, and may and shall be reported to other licensing authorities, including but not limited to, the Federation of State Medical Boards Board Action Databank, the National Practitioner Data Bank, and the Healthcare Integrity and Protection Data Bank. In exchange for the actions by the Board, as set forth herein, Respondent expressly agrees to be bound by all terms and conditions of this Stipulation and Consent Order.

16. The parties therefore jointly agree that should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Vermont Board of Medical Practice, the Board may enter an order implementing the terms and conditions herein.

ORDER

WHEREFORE, based on the foregoing, and the consent of Respondent, it is hereby

ORDERED that:

- a. Respondent shall notify all employers during the term of this Stipulation and Consent Order of the contents of this Order by providing a copy of said document to the Chief of Staff, Chief Executive Officer, Chair of the Department of Emergency Medicine, or other appropriate designee, at any hospital or facility where Respondent engages in the practice of medicine.
- b. Respondent shall timely and accurately document all patient encounters during the term of this Stipulation and Consent Order.
- c. Respondent shall be responsible for ensuring that the Central Investigative Committee receives written reports from his current employer on a quarterly basis documenting whether Respondent is current and timely with his medical record keeping. Respondent shall ensure that the Central Investigative Committee receives the first quarterly report no later than ninety (90) days from the date that this Stipulation and Consent Order is approved by the Board. Respondent is responsible for ensuring that the Central Investigative Committee receives such timely, consecutive reports from his current employer for a period of one year from the date that this Stipulation and Consent Order is approved by the Board.
- d. After the Central Investigative Committee has received timely, consecutive and favorable reports from his employer for one year, Respondent can petition the Central Investigative Committee to request that he be discharged from the requirements set forth in Paragraphs (a) and (c) hereinabove.

SO ORDERED.

SIGNATURES

DATED at Montpelier, Vermont, this 1st day of September, 2015.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: Kassandra P. Diederich
Kassandra P. Diederich
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609

DATED at Saratoga Springs New York, this 10th day of September,
2015.

Christopher R. Macaluso, M.D.
Christopher Robert Macaluso, M.D.
Respondent

Approved as to form:

DATED at Burlington, Vermont, this 14th day of September.
2015.

Nicole Andreson, Esq.
Nicole Andreson, Esq.
Dinse, Knapp & McAndrew, P.C.
209 Battery Street
PO Box 988
Burlington, VT 05402
Counsel for Respondent

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

AS TO CHRISTOPHER ROBERT MACALUSO, M.D.

APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Deborah

Robert Gray MD

John Doe

Dr. Benjamin

Margaret

Pat Hunter

John

John M. Doe

John

John

DATED: October 7th, 2015

ENTERED AND EFFECTIVE: October 7th, 2015