

STATE MEDICAL BOARD
OF OHIO
2006 JUL 11 A 10:47

**CONSENT AGREEMENT
BETWEEN
JAMES A. O'NEILL, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO**

This Consent Agreement is entered into by and between James A. O'Neill, M.D., and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. O'Neill enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B)(22), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(22), Ohio Revised Code, as set forth in Paragraph E, below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. O'Neill states that his license to practice medicine and surgery in the State of Ohio, License # 35-023297, expired on April 1, 2004, due to non-renewal.
- D. Dr. O'Neill states that he is also licensed to practice medicine and surgery in the State of Michigan.

- E. Dr. O'Neill admits that, on or about March 17, 2005, an Administrative Complaint was filed against him by the State of Michigan Board of Medicine Disciplinary Subcommittee [Michigan Board]. Dr. O'Neill admits that he subsequently entered into a Consent Order and Stipulation with the Michigan Board, and that such order became effective on or about July 20, 2005. Dr. O'Neill further admits that, pursuant to such Consent Order and Stipulation, he was reprimanded and fined by the Michigan Board. Dr. O'Neill further admits that the Michigan Board found that he had failed to exercise due care in his treatment of a patient, in violation of Section 16221(a) of the Public Health Code, 1978 PA 368, as amended, MCL 333.1101 *et seq.* Copies of the Administrative Complaint, Consent Order, and Stipulation are attached hereto and fully incorporated herein.
- F. Dr. O'Neill states, and the Board acknowledges receipt of information to support, that prior to entering into the Consent Order and Stipulation with the Michigan Board, he completed 13 hours of continuing medical education in the area of controversies in cardiovascular disease, with the approval of the Michigan Board, and that such hours did not count toward the number of credit hours required for license renewal.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Dr. O'Neill knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

1. Dr. O'Neill shall be and hereby is REPRIMANDED.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. O'Neill acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

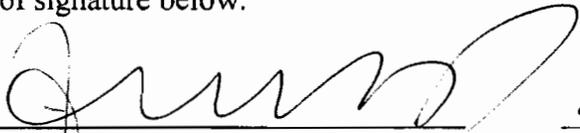
Dr. O'Neill hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. O'Neill acknowledges that his social

security number will be used if this information is so reported and agrees to provide his social security number to the Board for such purposes.

EFFECTIVE DATE

It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.



JAMES A. O'NEILL, M.D.



LANCE A. TALMAGE, M.D.
Secretary

6-28-06

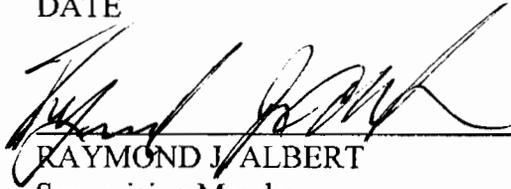
DATE

7-12-06

DATE



JOSEPH F. PAGE, III, ESQ.
Attorney for Dr. O'Neill



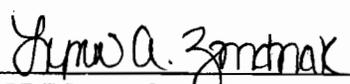
RAYMOND J. ALBERT
Supervising Member

6-30-06

DATE

7/12/06

DATE



LYNN A. ZONDORAK
Enforcement Attorney

07/11/2006

DATE

STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
BUREAU OF HEALTH PROFESSIONS
BOARD OF MEDICINE
DISCIPLINARY SUBCOMMITTEE

OHIO STATE MEDICAL BOARD

JAN 23 2006

In the Matter of

JAMES A. O'NEILL, M.D.
_____ /

Complaint No. 43-02-43204

CONSENT ORDER AND STIPULATION

CONSENT ORDER

An administrative complaint was filed with the Disciplinary Subcommittee of the Board of Medicine on March 17, 2005, charging James A. O'Neill, M.D., (Respondent) with having violated section 16221(a) of the Public Health Code, 1978 PA 368, as amended, MCL 333.1101 *et seq.*

The parties have stipulated that the Disciplinary Subcommittee may enter this consent order. The Disciplinary Subcommittee has reviewed the stipulation contained in this document and agrees that the public interest is best served by resolution of the outstanding complaint. Therefore, the Disciplinary Subcommittee finds that the allegations of fact contained in the complaint are true and that Respondent has violated section 16221(a) of the Public Health Code.

Accordingly, for this violation, IT IS ORDERED:

Respondent is REPRIMANDED.

STATE OF MICHIGAN – INGHAM COUNTY
We certify that the foregoing is a true copy
of the original on file in the office of the
Department of Community Health Bureau
of Health Professions.

Respondent is FINED \$2,500.00 to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 43-02-43204 clearly indicated on the check or money order) within 60 days from the effective date of this order. The timely payment of the fine shall be Respondent's responsibility.

THIS STATE WILL COLLECT

JAN 23 2006

Respondent shall mail any fine required by the terms of this order to: Sanction Monitoring, Bureau of Health Professions, Department of Community Health, P.O. Box 30185, Lansing, Michigan 48909.

Respondent shall be responsible for the timely compliance with the terms of this consent order and the failure to comply within the time limitations provided will constitute a violation of this order.

If Respondent violates any term or condition set forth in this order, Respondent will be in violation of 1996 AACRS, R 338.1632, and section 16221(h) of the Public Health Code.

This order shall be effective on the date signed by the Chairperson of the Disciplinary Subcommittee or the Disciplinary Subcommittee's authorized representative, as set forth below.

Signed on 7/20, 2005.

STATE OF MICHIGAN - INGHAM COUNTY
We certify that the foregoing is a true copy of the original on file in the office of the Department of Community Health Bureau of Health Professions.

MICHIGAN BOARD OF MEDICINE

By Michael K Helmer
Chairperson, Disciplinary Subcommittee

JAN 23 2006

STIPULATION

The parties stipulate as follows:

1. The facts alleged in the complaint are true and constitute a violation of the Public Health Code.

2. Respondent understands and intends that, by signing this stipulation, he is waiving the right under the Public Health Code, rules promulgated under the Public Health Code, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201 *et seq*, to require the Department to prove the charges set forth in the complaint by presentation of evidence and legal authority, and to present a defense to the charges before the Disciplinary Subcommittee or its authorized representative. Should the Disciplinary Subcommittee reject the proposed consent order, the parties reserve the right to proceed to hearing.

3. The Disciplinary Subcommittee may enter the above consent order, which Board conferee Scot F. Goldberg, M.D., supports. The Board conferee, the Department's representative, or an Assistant Attorney General from the Licensing and Regulation Division are free to discuss this matter with the Disciplinary Subcommittee in order to recommend acceptance of this resolution.

4. The Board conferee and the parties considered the following factors in reaching this agreement:
 - A. Respondent obtained approval from Board conferee Scot F. Goldberg, M.D., and completed 13.0 credit hours of continuing medical education in the area of controversies in cardiovascular disease. Respondent understands that these credit hours will not count toward the number of credit hours required for license renewal.

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JAN 23 2006

- B. Respondent has been licensed to practice medicine in Michigan since 1959 and no prior disciplinary action has been taken against his license.
- C. Respondent has taken comprehensive corrective action to assure that the problem which resulted in the filing of the Administrative Complaint at issue will not occur again.
- D. Respondent has expressed his extreme remorse with regard to this incident.

AGREED TO BY:

AGREED TO BY:

Virginia Herring Trzaskorna
 Virginia Herring Trzaskorna (P53352)
 Assistant Attorney General
 Attorney for Complainant
 Dated: 6-1-05

James A. O'Neill
 James A. O'Neill, M.D.
 Respondent
 Dated: 5-24-05

Joseph F. Page III
 Joseph F. Page III (P22883)
 Attorney for Respondent
 Dated: 5-26-05

State of Michigan
 County of Oakland

On 24th of May 2005, I observed James A. O'Neill, M.D. sign this stipulation.

SHARON A. VERDUCE
 Notary Public, Oakland County, MI
 My Commission Expires Mar. 13, 2007

Sharon A. Verduce
 Notary Public, Oakland County
 State of Michigan
 My commission expires: 3/13/2007

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JAN 23 2006

STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
BUREAU OF HEALTH PROFESSIONS
BOARD OF MEDICINE
DISCIPLINARY SUBCOMMITTEE

In the Matter of

JAMES A. O'NEILL, M.D.

Complaint No. 43-02-43204

ADMINISTRATIVE COMPLAINT

Attorney General Michael A. Cox, through Assistant Attorney General Virginia Herring Trzaskoma, on behalf of the Department of Community Health, Bureau of Health Professions (Complainant), files this complaint against James A. O'Neill, M.D. (Respondent), alleging upon information and belief as follows:

1. The Board of Medicine (Board) is an administrative agency established by the Public Health Code, 1978 PA 368, as amended; MCL 333.1101 *et seq.*, and is empowered to discipline licensees under the Code through its Disciplinary Subcommittee (DSC).
2. At all relevant times, Respondent was licensed to practice medicine pursuant to the Public Health Code.
3. Section 16221(a) of the Public Health Code authorizes the Board's DSC to take disciplinary action against Respondent for a violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, or any conduct, practice, or condition which impairs, or may impair, Respondent's ability to safely and skillfully practice as a medical doctor.
4. Section 16226 of the Public Health Code authorizes the Board's DSC to impose sanctions against persons licensed by the Board if, after opportunity for a hearing, the DSC determines that a licensee violated one or more of the subdivisions contained in section 16221 of the Public Health Code.

STATE OF MICHIGAN - INGHAM COUNTY
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5. On December 29, 1999, W.M. (initials are used to protect patient confidentiality) presented to Respondent with shortness of breath, chest pain, and light diarrhea. Respondent ordered x-rays, blood tests, and an electrocardiogram (ECG). The x-ray report indicated there was bronchitis and mild pneumonia in the lingula level of the left upper lobe and the heart was not enlarged. ECG report clearly stated in the upper-middle portion of the page "T wave abnormality, consider lateral ischemia" and "Abnormal ECG." Respondent, however, never reviewed the ECG. Respondent gave WM antibiotics and sent him home.
6. Ten days later, on January 8, 2000, the patient presented to Respondent again with chest pain. Respondent ordered a second chest x-ray which revealed that the bronchitis was still present, there was less pneumonia, and the heart was not enlarged. Respondent still did not review the ECG. Again, the patient was sent home.
7. On January 13, 2000, the patient appeared at the Respondent's clinic for a third visit regarding his chest pain. Respondent maintained a diagnosis of pneumonia and bronchitis, prescribed another antibiotic, and sent the patient home.
8. WM died on January 22, 2000. An autopsy stated the cause of death as arteriosclerotic cardiovascular disease, a heart attack.
9. In a deposition taken on December 11, 2001, Respondent acknowledged that he did not review the ECG from December 29, 1999. Respondent further admitted that it was his responsibility to have reviewed the ECG, and had he reviewed it, he would have admitted WM to the hospital immediately.

COUNT I

Respondent's conduct as described above constitutes a failure to exercise due care, in violation of section 16221(a) of the Public Health Code.

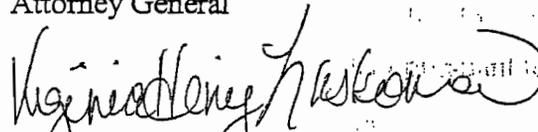
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RELIEF REQUESTED

The People request that this Complaint be served upon Respondent and that Respondent be offered an opportunity to show compliance with all lawful requirements for retention of the license. If compliance is not shown, the People further request that formal proceedings be commenced to determine if disciplinary action should be taken against Respondent pursuant to the Public Health Code, and the rules promulgated thereunder, and pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 et seq.

Pursuant to section 16231(7) of the Public Health Code, Respondent has 30 days from receipt of this Complaint to submit a written response to the allegations contained in it. Further, pursuant to section 16231(8) of the Public Health Code, failure to submit a written response within 30 days shall be treated as an admission of the allegations contained in the Complaint and shall result in transmittal of the Complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

MICHAEL A. COX
Attorney General



Virginia Herring Trzaskoma (P53352)
Assistant Attorney General
Licensing & Regulation Division
Cadillac Place
3030 W. Grand Boulevard
Detroit, Michigan 48202
Ph: (313) 456-0043
Fax: (313) 456-0041

Dated: March 17, 2005

STATE OF MICHIGAN - INGHAM COUNTY
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of Health Professions.