

**STATE OF VERMONT
OFFICE OF PROFESSIONAL REGULATION
OCCUPATIONAL THERAPISTS**

IN RE:)
CHRISTOPHER J. DAVIS) **Docket No.: OT01-1102**
License No.: 072-0000238)

STIPULATION AND CONSENT ORDER

STIPULATION

NOW COMES the State of Vermont, by and through State Prosecuting Attorney Edward G. Adrian, and Respondent Christopher J. Davis who stipulate and agree as follows:

Jurisdiction

- 1) The administrative law officer has jurisdiction to adjudicate complaints of unprofessional conduct pursuant to 26 V.S.A. §3361; 3 V.S.A. §§129 and 129a; and the Administrative Rules of the Office of Professional Regulation and the Rules of Occupational Therapy.
- 2) In the course of practice, gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions, that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent occupational therapist or occupational therapy assistant engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred and whether or not committed within or without the state is a basis upon which the administrative law officer can impose disciplinary action. 26 V.S.A. §3361(b)(7); 3 V.S.A. §129a(a)(10).
- 3) Failing to keep written occupational therapy records justifying a course of treatment for a patient, including patient histories, examination results and test results is a basis upon which the administrative law officer can impose disciplinary action. 26 V.S.A. §3361(b)(4).
- 4) Conduct which evidences unfitness to practice is a basis upon which the administrative law officer can impose disciplinary action. 26 V.S.A. §3361(b)(9).
- 5) Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is a basis upon which the administrative law officer can impose disciplinary action. 3 V.S.A. §129a(a)(3).

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Montpelier, VT 05602

Facts

- 6) The Respondent is licensed by the State of Vermont as an Occupational Therapist holding License Number 072-0000238.
- 7) Respondent was originally licensed on May 4, 1998 and Respondent's license is currently set to expire on May 31, 2004.
- 8) At all times relevant, the Respondent was employed as an Occupational Therapist at Southwestern Vermont Medical Center located in Bennington, Vermont.
- 9) On or about September 30, 2002, Dr. Block gave orders for Respondent to provide Occupational Therapy to F.H. Respondent provided no care.
- 10) On or about September 30, 2002, Dr. Dundas gave orders for Respondent to provide Occupational Therapy to C.J. Respondent provided no care.
- 11) On or about October 3, 2002, Dr. Whittum gave orders for Respondent to provide Occupational Therapy to G.R. Respondent provided no care.
- 12) On or about October 16, 2002, Dr. Rogge gave orders for Respondent to provide Occupational Therapy to J.R. Respondent provided no care.
- 13) On or about October 26, 2002, Dr. Raskin gave orders for Respondent to provide Occupational Therapy to M.C. Respondent provided no care.
- 14) On or about October 28, 2002, Dr. Tock gave orders for Respondent to provide Occupational Therapy to N.B. Respondent provided no care.
- 15) On or about October 29, 2002, Dr. Block gave orders for Respondent to provide Occupational Therapy to M.M. Respondent provided no care.
- 16) On or about October 29, 2002, Dr. Albus gave orders for Respondent to provide Occupational Therapy to B.P. Respondent provided no care.
- 17) On or about December 16, 2002, Respondent admitted to the State's Investigator that he had not provided Occupational Therapy to the patients and that he did not keep their patient records up to date.
- 18) Respondent admits the conclusions as set forth in the Administrative Law Officer's ("A.L.O.") Order.

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- 19) Respondent understands that the A.L.O. must review and accept the terms of the Consent Order. If the A.L.O. rejects any portion, the entire Stipulation and Consent Order shall be null and void.
- 20) Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
- 21) Respondent waives any notification period and agrees to have this document reviewed by the A.L.O. at the next available date. Respondent specifically waives any claims that any disclosures made to the A.L.O. during his/her review of this agreement have prejudiced his rights to a fair and impartial hearing in future hearings if this agreement is not accepted by the A.L.O.
- 22) Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
- 23) Respondent voluntarily enters this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.
- 24) Respondent voluntarily waives his right to a contested hearing before the A.L.O.
- 25) Respondent agrees that the A.L.O. may set forth the order below.

ORDER

Based on the Stipulation above it is **ORDERED AND ADJUDGED** as follows:

- A. By committing the above act(s) and/or omission(s) alleged above, the Respondent has committed unprofessional conduct in that the Respondent has violated: 26 V.S.A. §3361(b)(7) and 3 V.S.A. §129a(a)(10) (In the course of practice, gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions, that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent occupational therapist or occupational therapy assistant engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred and whether or not committed within or without the state); 26 V.S.A. §3361(b)(4) (Failure to keep written occupational therapy records justifying a course of treatment for a patient, including patient histories, examination results and test results); 26 V.S.A. §3361(b)(9) (Conduct which evidences unfitness to practice); 3 V.S.A. §129a(a)(3) (Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession).

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B. The Respondent's license is hereby **CONDITIONED** for a period of **ONE (1) YEAR**. The conditions are as follows:

(1) Completion of Course on Ethics and Course on Documentation.

Within one (1) year of the entry of this order, Respondent must complete (i.e. receive a passing grade, if applicable) a course on ethics and on documentation, at the certificate level or at college level, with prior approval by the Director of the Office of Professional Regulation or her designee, and then submit written documentation (e.g. certificate of completion) to verify the same to the satisfaction of the Director of the Office of Professional Regulation or her designee.

(2) Notification to Employers

Respondent shall provide a copy of this Stipulation and Consent Order to all employers in any current or future setting in which Respondent practices as an occupational therapist and inform them of Respondent's conditional license status. Within ten (10) days of the date of entry of this Consent Order or of any subsequent employment, Respondent shall cause Respondent's immediate supervisor to write to the Board, on the supervisor's letterhead, acknowledging receipt of the Stipulation and Consent Order and the ability to comply with the conditions in the Consent Order.

(3) Supervision by Occupational Therapist.

Respondent shall be supervised, while working at the Vermont Veterans Home in Bennington, Vermont, by Colin David Moore, a Vermont Licensed Occupational Therapist, on a weekly basis reviewing Respondent's client load and treatment records. Supervisor Moore shall file monthly reports based on the weekly reviews with the Director of the Office of Professional Regulation or her designee.

Respondent shall be supervised, while working at Southwest Supervisory Union, by Anne Mele, a Vermont Licensed Occupational Therapist, on a weekly basis reviewing Respondent's client load and treatment records. Supervisor Mele shall file monthly reports based on the weekly reviews with the Director of the Office of Professional Regulation or her designee.

(4) Change of Practice.

If during the period of license conditions, the Respondent begins employment with an employer other than the Vermont Veterans Home or the Southwest Supervisory Union, he shall obtain prior approval from the Director of the Office of Professional Regulation or her designee. Additionally, the

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Respondent shall obtain prior approval for any supervision by an occupational therapist supervisor that may occur as a result of the new employment.

(5) Out of State Practice/Residence.

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, Respondent shall first obtain approval from the Director of the Office of Professional Regulation or her designee prior to Respondent leaving the State of Vermont. If Respondent fails to receive such approval before leaving the State, none of the time spent out-of-state will be credited toward the fulfillment of the terms and conditions of this Consent Order. The Director of the Office of Professional Regulation or her designee will approve out-of-state practice so long as the Respondent can still comply with the provisions of this Consent Order.

(6) Notification of Place of Employment/Personal Address/Telephone Number.

Within five (5) days of the date of entry of this Consent Order, Respondent shall notify the Director of the Office of Professional Regulation or her designee, in writing, of his current place of employment, personal address, and telephone number. Respondent shall further notify the Director of the Office of Professional Regulation or her designee, in writing, within forty-eight (48) hours of any change in employment, personal address, or telephone number. Respondent shall provide a copy of this Consent Order to all employers, current and future, and shall inform them of the conditional status of his license.

during the period of conditional licensure

(7) License Renewal.

If the Respondent's license expires while this Order is still in effect, this Order does not automatically extend the license. In that situation, in order to continue to practice occupational therapy, the Respondent must timely apply for renewal, pay the applicable fee and demonstrate that he has otherwise complied with the requirements for license renewal.

(8) Costs.

Respondent shall bear all costs of complying with this Consent Order.

(9) Violation of this Order.

If the Respondent violates the terms of this Consent Order in any respect, the Office of Professional Regulation, after giving Respondent notice and an opportunity to be heard, may revoke the terms of the conditional license and take further disciplinary action; if a complaint or charges are filed against

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Respondent during the term of the Consent Order, the conditional license period shall be extended until the matter is final.

- C. This Stipulation and Consent Order is a matter of public record and may be reported to other licensing authorities as provided in 3 V.S.A. §129(a).
- D. This Stipulation and Consent Order will remain part of Respondent's Licensing file and may be used for purposes of determining sanctions in any future Disciplinary matter.

State of Vermont
Secretary of State

Date: 11/19/03

By: [Signature]
Edward Adrian
State Prosecuting Attorney

Approved as to Form

Date: 11/18/03

By: [Signature]
Stephen L. Saltonstall, Esq.
Attorney for Respondent

CHRISTOPHER J. DAVIS
RESPONDENT

Dated: 11-18-03

By: [Signature]
Christopher J. Davis

APPROVED AND SO ORDERED: ADMINISTRATIVE LAW OFFICER

Dated: 12/1/03

By: [Signature]
Administrative Law Officer

Date of entry: 12/10/03

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