

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF OPTOMETRY**

IN RE:
MICHAEL TAUB
License No. 030.0000198

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)

**Docket Nos. 2012-704
& 2013-327**

STIPULATION AND CONSENT ORDER

NOW COMES the State of Vermont by and through its State Prosecuting Attorney Edward G. Adrian and the Respondent Michael Taub, OD who hereby stipulate and agree as follows:

Board Authority

1. The Vermont Board of Optometry (the "Board") has authority to issue warnings or reprimands; suspend, revoke, limit, or condition current licenses; or prevent the renewal of lapsed licenses if, after disciplinary hearing, the Board finds that the Respondent has engaged in unprofessional conduct. 3 V.S.A. §§ 129, 129(a), and 814(d); 26 V.S.A., Chapter 30; the Administrative Rules of the Board of Optometry; and the Rules of the Office of Professional Regulation.

Facts

2. Michael Taub (the "Respondent") of Waitsfield, Vermont is licensed by the State of Vermont as an Optometrist under license number 030.0000198. This license expires on or about July 31, 2014.
3. Respondent owned and operated Williston Vision Repair (the "Practice") in Williston, Vermont. Respondent closed the Practice in April of 2012. Respondent arranged to have his patient files transferred to K.B. at Irish Eyes in Essex, Vermont. Respondent did not notify his patients that the Practice was closing or that their records were being transferred.
4. B.M. was a patient at the Practice. She attempted to contact Respondent to have her eyeglasses repaired under her warranty through the Practice. B.M. found that the phone number for the Practice was no longer in service and the website had been taken down. B.M. was not notified that the Practice had closed or that her records had been transferred.
5. W.B. was a patient at the Practice. He was never notified that the Practice had closed or that his records had been transferred.

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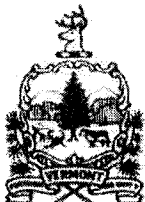
Violations

6. The act(s), omission(s), and/or circumstance(s) described above constitute grounds for discipline because the Respondent has committed unprofessional conduct in violation of:
 - a. 3 V.S.A. § 129a(b)(1) and (2) (Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct, whether actual injury to a client, patient, or customer has occurred. Failure to practice competently includes: (1) performance of unsafe or unacceptable patient or client care; or (2) failure to conform to the essential standards of acceptable and prevailing practice).
 - b. 3 V.S.A. § 129a(a)(9)(Failing to retain client records for a period of seven years, unless laws specific to the profession allow for a shorter retention period. When other laws or agency rules require retention for a longer period of time, the longer retention period shall apply).

Understandings

1. Respondent admits that the facts above are true and that the conditions below are appropriate to protect the public.
2. Respondent understands that the Board must review and accept the terms of the Consent Order. If the Board rejects any portion, the entire Stipulation and Consent Order shall be null and void.
3. Respondent specifically waives any claims that any disclosures made to the full Board during its review of this agreement prejudice his right to a fair and impartial hearing in future hearings if this agreement is not accepted by the Board.
4. Respondent has read and reviewed this entire document and agrees that it contains the entire agreement between the parties.
5. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order.
6. Respondent voluntarily enters into this agreement after the opportunity to consult with legal counsel and is not being coerced by anyone into signing this Stipulation and Consent Order.
7. Respondent voluntarily waives his right to a contested hearing before the Board of Pharmacy and waives any right to appeal from this Stipulation and Consent Order.
8. Respondent agrees that the Order set forth below may be entered by the Board.

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9. This Stipulation and Consent Order covers all patents treated as of April, 2012 who may also have complaints based on inability to obtain their records. The parties agree that this Stipulation and Consent Order covers all future complaints where inability to obtain records is the focus of the complaint and that no new charges will be brought if similar complaints are submitted to the Office of Professional Regulation.

ORDER

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

- A. The Board of Optometry hereby **REPRIMANDS** the Respondent's license.
- B. The Board of Optometry hereby **CONDITIONS** for **ONE (1) YEAR** from the date of entry below, Respondent's license to practice optometry pursuant to the following conditions:
- a. Within six (6) months of the date of entry below the Respondent must provide evidence of his having notified all patients who were treated at his practice as of April, 2012 of the closure of his practice and the current location of their optometry records. Evidence of such notification may include a list of all patients, preapproved public notices published in a newspaper of general circulation serving patients who were treated at the practice, copies of the letter Respondent sent to patients and printing/postal receipts.
 - b. Upon being notified of the Respondent's completion of the notification of all patients required in paragraph (a) above, the Office of Professional Regulation shall conduct an audit or cause an audit to be conducted verifying that such notification occurred and was successful.
 - c. Within one (1) year of the date of entry below, the Respondent must successfully complete sixteen (16) hours of continuing education in the area of practice management (including recordkeeping standards) or the equivalent which must be approved in advance by the Board or its designee. These sixteen (16) hours may not be used to satisfy the forty (40) hours of continuing education needed for licensure renewal. The 17 Credit Professional Boundaries Incorporated Medical Record Keeping Course found at - <https://professionalboundaries.com/medical-record-keeping-course.php> shall satisfy this requirement.
- 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. The Respondent shall bear all costs of complying with this Consent Order.
- E. If the Respondent violates the terms of this Order in any respect, the Board, after giving the Respondent notice and an opportunity to be heard, may rescind or modify this Order and impose additional appropriate disciplinary actions. If a complaint of

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unprofessional conduct is made against the Respondent during the term of this Order, this Order shall be automatically extended until the unprofessional conduct matter is concluded.

F. 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.

AGREED TO:

STATE OF VERMONT
SECRETARY OF STATE

10/16/13

By:

Edward G. Adrian
State Prosecuting Attorney

APPROVED AS TO FORM:

Dated:

8/2/13

By:

Eric G. Parker, Esq.
Attorney for the Respondent

MICHAEL TAUB
RESPONDENT

Dated:

8/2/13

By:

Michael Taub

APPROVED AND SO ORDERED:

VERMONT BOARD OF
OPTOMETRY

Dated:

10/16/13

By:

Chairperson

Date of Entry:

10/16/13

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