

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF OSTEOPATHIC PHYSICIANS AND SURGEONS**

IN RE:

**EVAN MUSMAN, D.O.
License No. 032-0000427**

) **Docket No.: OS09-0605**
)

Stipulation and Consent

NOW COMES the State of Vermont through State Prosecuting Attorney Robert H. Backus, and the Respondent, in person, and through Attorney Joshua Simonds, and enter into the following stipulation and consent order.

Agreement

The Respondent agrees that if a hearing were held in this matter the State could introduce evidence from which the Board could find that the facts as alleged below were established and based on these facts the Board could enter the Order set out below.

Board Authority

1. The Board of Osteopathic Physicians and Surgeons ("the Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Osteopathic Physicians pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §§1792, 1842 and 1843; the Board Administrative Rules and the Rules of the Office of Professional Regulation.

Facts

2. The Respondent, Evan Musman, is licensed by the State of Vermont as an Osteopathic Physician under license number 032-0000427. This license was originally issued on or about September 27, 1994 and is currently set to expire on September 30, 2006.

3. On or about April 1, 2004, the Respondent called in a prescription for patient M.S. for Hydrocodone/APAP 10-325. M.S.'s patient records indicate that the Respondent's initial evaluation of M.S. did not occur until April 14, 2004.

4. M.S.'s pharmacy records indicate that Respondent wrote three (3) prescriptions for M.S. for Hydrocodone/APAP 10-325 which were filled or refilled on the following dates; April 23, 2004; May 12, 2004 (refill); May 29, 2004 (refill); June 19, 2004; June 26, 2004 (refill); and July 16, 2004 (refill). Respondent failed to document the above mentioned prescriptions in M.S.'s medical records .

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

Charges

5. The above acts, circumstances and/or omissions, alone or in combination, constitute unprofessional conduct in violation of:
- i. 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);
 - ii. 3 V.S.A. § 129a(b)(2) (failing to practice competently by reason of any cause on a single occasion or on multiple occasions, which includes failure to conform to the essential standards of acceptable and prevailing practice).

Understandings

6. The parties understand that the terms of this Stipulation and Consent Order are contingent upon review and acceptance by the Board and that if the Board rejects any portion the entire Stipulation and Consent Order shall be null and void.
7. The Respondent has read and reviewed this document fully and agrees that it contains the entire agreement between the parties.
8. This Stipulation and Consent Order is entered into voluntarily by the Respondent after the opportunity to consult with legal counsel. The Respondent has not been coerced by anyone into signing this Stipulation and Consent Order.
9. The Respondent is voluntarily waiving his right to a contested hearing before the Board.
10. Respondent agrees that the State has sufficient evidence for the Board to find that Respondent has engaged in unprofessional conduct and that the Order set forth below may be entered by the Board.
11. WHEREFORE, the parties agree that the following constitutes a reasonable resolution given the above violations:

CONSENT ORDER

Based upon the above stipulation, it is **ORDERED AND ADJUDGED** as follows:

- A. The Respondent has engaged in unprofessional conduct as set out above.
- B. The Board of Osteopathic Physicians and Surgeons hereby **WARNS** Respondent and imposes an Administrative Penalty in the amount of eighteen thousand dollars (\$18,000.00) to be paid within six months of the entry of this order. Upon payment of that penalty this order is satisfied.

STATE OF VERMONT



Prosecuting Attorney
Office of
Professional Regulation
9 Baldwin Street
Montpelier, VT
05609-1107

AGREED TO:

Dated:

9/17/06

STATE OF VERMONT
SECRETARY OF STATE

By:

Robert H. Backus
State Prosecuting Attorney

Dated:

9/11/06

By:

Evan Musam
Respondent

Approved as to from:

Dated:

9-11-06

By:

Joshua L. Simonds
Attorney for Respondent

APPROVED AND SO ORDERED:

VERMONT BOARD OF OSTEOPATHIC
PHYSICIANS AND SURGEONS

Dated:

9/14/06

By:

Chairperson
Acting Chairperson

Date of Entry:

9/15/06

STATE OF VERMONT



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**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF OSTEOPATHIC PHYSICIANS AND SURGEONS**

IN RE:)
EVAN MUSMAN, D.O.) Docket No.: OS09-0605
License No. 032-0000427)

AMENDED SPECIFICATION OF CHARGES

NOW COMES the State of Vermont and makes the following Charges against the Respondent, Evan Musman, D.O. These charges constitute the sole charging document in this matter.

Board Authority

1. The Board of Osteopathic Physicians and Surgeons ("the Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Osteopathic Physicians pursuant to 3 V.S.A. §§129 and 129a; 26 V.S.A. §§1792, 1842 and 1843; the Board Administrative Rules and the Rules of the Office of Professional Regulation.

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Charges

5. The above acts, circumstances and/or omissions, alone or in combination, constitute unprofessional conduct in violation of:

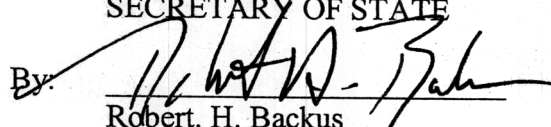
- i. 3 V.S.A. §129a(a)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);
- ii. 3 V.S.A. § 129a(b)(2) (failing to practice competently by reason of any cause on a single occasion or on multiple occasions, which includes failure to conform to the essential standards of acceptable and prevailing practice).

Relief Requested

WHEREFORE, the license of Evan Musman should be revoked, suspended, reprimanded, conditioned or otherwise disciplined.

Dated at Montpelier, Vermont this 28th day of August, 2006.

STATE OF VERMONT
SECRETARY OF STATE

By: 

Robert. H. Backus
State Prosecuting Attorney

os.musman.soc

STATE OF VERMONT



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