

**STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
PHYSICAL THERAPISTS**

IN RE: THOMAS GIAMMATTEO)
License No. 040.0002365)

DOCKET No. 2010-642

STIPULATION AND CONSENT ORDER

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

BOARD AUTHORITY

1. The Office of Professional Regulation (the "OPR") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct, by and through a duly appointed administrative law officer (the "ALO"), committed by Physical Therapists pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 38 and; the Administrative Rules for Physical Therapists (the "PTR") and the Rules of the Vermont Office of Professional Regulation.
2. Failing to comply with provisions of federal or state statutes or rules governing the practice of the profession is unprofessional conduct. 3 V.S.A. § 129a(a)(3).
3. "Licensing board" or "board" refers to the boards, commissions and professions listed in section 122 of this title, and in the case of disciplinary matters or denials of licensure, an administrative law officer appointed under subsection 129(j) of this title. Notwithstanding statutory language to the contrary, this subchapter shall apply to all those boards. 3 V.S.A. § 121(2).
4. Failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. 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. 3 V.S.A. § 129a(b).
5. Delegating professional responsibilities to a person whom the licensed professional knows, or has reason to know, is not qualified by training, experience, education or licensing credentials to perform them. 3 V.S.A. § 129a(a)(6).
6. The ALO may discipline any licensee or refuse to license any person who has had a license application denied or a license revoked, suspended, limited, conditioned, or otherwise disciplined by a licensing agency in another jurisdiction for conduct which would constitute unprofessional conduct in this state, or has surrendered a license while under investigation for unprofessional conduct. 3 V.S.A. § 129(a)(5).

STIPULATED FACTS

7. Thomas Giammatteo (the "Respondent") of Bloomfield, Connecticut is a licensed physical therapist holding license number 040.0002365, issued by the State of Vermont. This license was originally issued on or about November 8, 1987 and is set to expire on September 30, 2012..
8. On or about July 8, 2010 the Massachusetts Board of Registration of Allied Health Professionals suspended the Respondent's license for a period of two (2) years with the second year stayed and placed the Respondent's license on probation for a period of two years with the first year of the conditioned license running concurrent with the year of stayed suspension. Attachment A.
9. The Massachusetts Board of Registration of Allied Health Professionals disciplined the Respondent's Physical Therapist license for 1) improper charging of clients; 2) improper record keeping; and 3) improper delegation to physical therapy aids. Attachment A.
10. The Massachusetts Board of Registration of Allied Health Professionals July 8, 2010 decision is being appealed by the Respondent to the Supreme Judicial Court of the Commonwealth of Massachusetts.
11. All of the conduct referenced in paragraph 8 above would constitute unprofessional conduct in the State of Vermont. Consequently, because the Respondent was disciplined in Massachusetts, he is subject to discipline in Vermont.

VIOLATIONS

By committing the above act(s), circumstance(s) and/or omission(s), the Respondent has engaged in unprofessional conduct by violating the Vermont Statutes and Rules, as outlined above in paragraphs 2-5. Specifically all of the conduct referenced in paragraph 8 above and in Attachment A would constitute unprofessional conduct in the State of Vermont in that it constitutes unsafe or unacceptable patient care; a failure to conform to the essential standards of acceptable and prevailing practice and an improper delegation of professional responsibilities. Consequently, because the Respondent was disciplined in Massachusetts, he is subject to discipline in Vermont.

UNDERSTANDINGS

12. Respondent understands that the ALO must review and accept the terms of the Stipulation and Consent Order. If the ALO rejects any portion of the same, it shall be void in its entirety.
13. Respondent has reviewed the Stipulation and Consent Order, agrees that it sets out the entire agreement of the parties, and is freely and voluntarily entered into.
14. Respondent waives any notification period and agrees to have this document reviewed by the ALO during its next meeting. Respondent specifically waives any claim that presentation of this stipulation to the ALO would prejudice his right to a

fair and impartial hearing should the ALO reject this stipulation.

15. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation.
16. Respondent voluntarily waives his right to appeal the decision and order of the ALO entered under this stipulation.
17. The Respondent has had the opportunity to consult with able and competent counsel in respect to this matter.
18. The Respondent acknowledges that he understands that this document and its attachments is a public record and may be used for any legal purpose.
19. Respondent voluntarily waives his right to a contested hearing before the ALO.

CONSENT ORDER

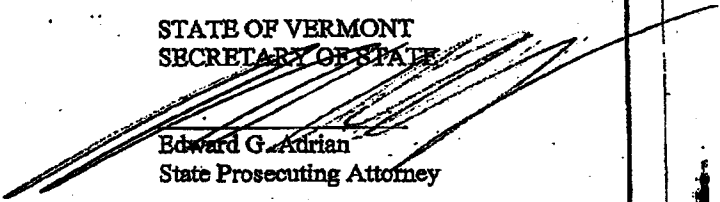
Based upon the stipulations above, it is **ORDERED AND ADJUDGED** as follows:

- A. Respondent's license is here by **SUSPENDED** for a **PERIOD OF TWO (2) YEARS** to run concurrent with the two year suspension levied by the Massachusetts Board of Registration of Allied Health Professionals. Attachment A.
- B. After the suspension period has run, the Respondent's license will be placed on **INACTIVE CONDITIONED** status.
- C. Should the Respondent apply for license reinstatement at some point in the future, his license may be conditioned by the ALO, based on recommendations suggested by the Director of the Office of Professional Regulation or the Director's representative, consistent with the monitoring requirements set forth in the decision from the Massachusetts Board of Registration of Allied Health Professionals. Attachment A.
- D. 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). This Stipulation and Consent Order will be posted on the Vermont Secretary of State's website.
- E. This Stipulation and Consent Order will remain part of the Respondent's licensing file and may be used for purposes of determining sanctions in any future disciplinary matter.

**STATE OF VERMONT
SECRETARY OF STATE**

STATE OF VERMONT
SECRETARY OF STATE

Date: 3/29/12


Edward G. Adrian
State Prosecuting Attorney

RESPONDENT
THOMAS GIAMMATTEO

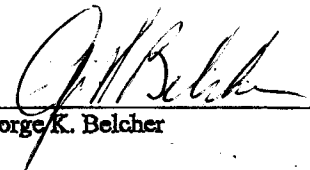
Date: 3/28/12


Thomas Giammatteo

ACCEPTED AND SO ORDERED

ADMINISTRATIVE LAW OFFICER

Date: March 29, 2012

By: 

George K. Belcher

Date entered: 4/3/12

STATE OF VERMONT



Prosecuting Attorney
Office of
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