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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania,  
Bureau of Professional and  
Occupational Affairs

vs.

John Francis Mitchell, MD,  
Respondent

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Docket No. <sup>0563</sup>-49-06  
File No. 05 49 00515

PROHONOTARY  
2006 MAR 31 AM 9:54  
Department of State

CONSENT AGREEMENT AND ORDER

The Commonwealth and Respondent stipulate as follows in settlement of the above-captioned case.

1. This matter is before the State Board Of Medicine pursuant to Medical Practice Act of 1985, Act of December 20, 1985, P.L. 457, as amended 63 PS 422.1 et. seq.

2. At all relevant and material times, John Francis Mitchell, MD ("Respondent") held a license to practice medicine in the Commonwealth of Pennsylvania, License No. MD 020824E.

3. The Respondent admits that the following facts are true:

a. Respondent's license is current through December 31, 2006 and may be renewed thereafter upon the filing of the appropriate documentation and payment of the necessary fees.

b. Respondent's last known address on file with the Board is 555 Harrison Street, Emmaus PA, 18049.

signed

c. At all times relevant herein Respondent has been licensed to practice medicine specializing in psychiatry.

d. On or about November 12, 1999 Respondent began treating a female patient, PVK, a married woman for mental health related issues.

e. Respondent continued to treat PVK for mental health related issues until March 22, 2000.

f. During 2001 through 2003 Respondent continued to prescribe medications to PVK including but not limited to Cipro, Celexa, Lamisil, Doxycycline, Sonata, and Effexor but did not maintain medical records for the medications prescribed.

g. From 2000 through 2003 Respondent and PVK had a close relationship which included but is not limited to Respondent assisting PVK with college course work, and socializing such as meeting for lunch, dinner or going to the movies.

h. From in or about 2001 through 2003 Respondent and PVK have been observed and have admitted to hugging and cuddling.

4. The activities of Respondent, described above, violated the Act at 63 PS §§422.41 (6) and (8) as well as the Board's regulations at 49 Pa. Code §16.95 in that Respondent engaged in a personal, and romantic relationship with a female patient and prescribed medications to a patient but failed to maintain medical records.

5. The parties, intending to be legally bound, consent to the issuance of the following Order in settlement of this matter:

a. Respondent violated the Act at 63 PS §§422.41 (6) and (8) as well as the Board's regulations at 49 Pa. Code §16.95 in that Respondent engaged in a personal, and romantic relationship with a female patient, and prescribed medications to a patient but failed to maintain medical records.

b. Respondent's license, No. MD 020824E, is **SUSPENDED** for a period of three years; however, the suspension shall be immediately stayed in favor of Probation subject to certain terms and conditions.

c. Respondent shall pay a civil penalty of Seven Thousand Dollars (\$7,000.00) by cashier's check, certified check, U.S. Postal money order or attorney's check made payable to the "Commonwealth of Pennsylvania." Respondent shall return the full Civil Penalty with the signed Consent Agreement.

### **GENERAL**

(1) Respondent shall abide by and obey all laws of the United States, the Commonwealth of Pennsylvania and its political subdivisions and all rules and regulations and laws pertaining to the practice of the profession in this Commonwealth or any other state or jurisdiction in which Respondent holds a license to practice. Provided, however, summary traffic violations shall not constitute a violation of this Order.

(2) Respondent shall at all times cooperate with the Bureau of Professional and Occupational Affairs ("Bureau"), any of its agents or employees and the Bureau of Enforcement and Investigation ("BEI")

and its agents and employees, in the monitoring, supervision and investigation of Respondent's compliance with the terms and conditions of this Order, including Respondent causing to be submitted at his own expense written reports, records and verifications of actions that may be required by the Bureau, BEI or any of its agents or employees.

(3) Respondent's failure to fully cooperate with and successfully comply with the terms and conditions of this probation shall be deemed a violation of this Consent Agreement and Order.

(4) Respondent shall not falsify, misrepresent or make material omission of any information submitted pursuant to this Order.

(5) Respondent may not be absent from the Commonwealth of Pennsylvania for any period exceeding twenty (20) days unless Respondent seeks and receives prior written permission from the prosecuting attorney, subject to any additional terms and conditions required by the prosecuting attorney.

(6) Respondent shall notify BEI, in writing, within twenty (20) days of the filing of any criminal charges, the initiation of any other legal action pertaining to the practice of Respondent's profession, the initiation, action, restriction or limitation relating to Respondent by the professional licensing authority of any state or

jurisdiction, or the Drug Enforcement Agency of the U.S. Department of Justice, or any investigation, action, restriction or limitation relating to Respondent's privilege to practice the profession.

(7) Respondent shall notify BEI by telephone within 72 hours and in writing within ten (10) days of the change of his home address, phone number, place(s) of employment and/or practice.

### **CONTINUING EDUCATION**

(8) Respondent shall successfully complete a continuing education course in boundary violations within six months of the stayed suspension as more fully set forth herein. Failure to complete said course within six months will result in the active suspension of Respondent's license to practice medicine. Any course is first subject to approval of the Board.

(9) Respondent shall also comply with all the following terms and conditions pertaining to completion of the continuing education hours.

(i) The courses shall be of the type normally provided by non-profit or profit organizations or companies and shall be pre-approved by the Board.

(ii) Respondent shall submit acceptable proof of completion of the hours of continuing education credits specified in this Order to:

Administrative Assistant  
State Board Of Medicine  
P.O. Box 2649  
Harrisburg, PA 17105-2649

within six months of the date of this agreement. Acceptable proof shall consist of a certificate or letter of completion prepared by the sponsor of the continuing education courses, a listing printout prepared by the sponsor indicating the completed courses, or the Board's CPE reporting form if prepared by the sponsor of the completed courses. Proof shall contain course titles, completion dates, Board course approval number (if one exists) and number of continuing professional education (CPE) credits awarded. Acceptable proof **shall not** consist of receipts, course outlines or agendas, cancelled checks, payment acknowledgements, the Board's CPE reporting form if self-prepared, or other self-prepared records, among other documents.

(iii) Respondent shall authorize the course provider to send a course assessment to the Board's Administrative Assistant.

(iv) The hours of continuing education shall consist of hours attended or completed.

(v) The hours of continuing education in this Order shall be completed in addition to the hours that

Respondent shall take in this or subsequent reporting periods for the renewal of his/her license. Credit hours required in this Order may not be used from any previous reporting period and may not be used in any subsequent biennial period for the renewal of license.

### **COSTS**

(10) Respondent shall bear the responsibility of all costs incurred by Respondent in complying with the terms of this Order, including production of records.

### **VIOLATION OF THIS ORDER**

d. Notification of a violation of the terms or conditions of this Consent Agreement and Order shall result in the **IMMEDIATE VACATING** of the stay order, **TERMINATION** of the period of probation, and **ACTIVATION** of the entire period of suspension of Respondent's license to practice the profession in the Commonwealth of Pennsylvania as follows:

(1) The prosecuting attorney for the Commonwealth shall file with the Board a Petition which indicates that Respondent has violated any terms or conditions of this Consent Agreement and Order.

(2) Upon a probable cause determination that Respondent has violated any of the terms or conditions of this Consent Agreement and Order, the Board shall, without holding a formal hearing, issue a

preliminary order vacating the stay of the suspension in this matter, terminating the period of probation and activating the entire period of suspension of Respondent's license.

(3) Respondent shall be notified of the Board's Preliminary Order within three (3) days of its issuance by certified mail and first class mail postage prepaid, sent to the last registered address on file with the Board.

(4) Within twenty (20) days of mailing of the notification of the Board's action, Respondent may answer the Commonwealth's Petition and request that a formal hearing be convened concerning Respondent's violation of probation, in which Respondent may seek relief from the Preliminary Order activating the suspension. Respondent shall serve the prosecuting attorney for the Commonwealth with a copy of the answer and all subsequent filings in this matter.

(5) If a request for a formal hearing is received from Respondent, the Board shall convene a formal hearing within forty-five (45) days from the date of the Board's receipt of Respondent's request for a formal hearing.

(6) If Respondent files an answer and request for a hearing within the twenty (20) day period, the Preliminary Order activating the suspension shall remain in effect unless and until the Board issues



a determination favorable to Respondent after holding the formal hearing.

(7) The facts and averments in this Consent Agreement and Order shall be deemed admitted and uncontested at this hearing.

(8) If the Board after such hearing makes a determination adverse to Respondent, the Board will issue a Final Order activating the suspension of Respondent's license and imposing any additional disciplinary measures it deems appropriate.

(9) If a request for a formal hearing is not received from Respondent within the prescribed twenty (20) day period, the Board's Preliminary Order shall become a Final Order twenty (20) days after the date of its mailing.

e. If the stay is terminated, Respondent shall still comply with all terms and conditions of probation during the active suspension, other than those terms and conditions pertaining to practicing the profession. Continued failure by Respondent to comply with the unaffected terms and conditions of probation shall result in further disciplinary action against Respondent.

f. Respondent's failure to fully comply with any terms of this Order may also constitute grounds for additional disciplinary action.

g. Nothing in this Order shall preclude the Prosecuting Attorney for the Commonwealth from filing charges or the Board from imposing disciplinary or corrective measures for violations or facts not contained in this Consent Agreement.

h. Upon successful completion of probation, Respondent may petition the Board to reinstate Respondent's license to unrestricted, non-probationary status upon an affirmative showing that Respondent has complied with all terms and conditions and that Respondent's resumption of unmonitored practice does not present a threat to the public health and safety. Respondent shall include with the petition a summary of Respondent's Criminal History Record Information (a/k/a "Criminal Record Check") obtained at Respondent's expense.

i. This case shall be deemed settled and discontinued upon the Board's adoption of the consent agreement.

j. This Order shall take effect immediately upon the Board's adoption of the Consent Agreement.

6. Respondent waives the filing and service of an Order to Show Cause in this matter. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and to the following rights related to that hearing: to be represented by counsel at the hearing; the right to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

7. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

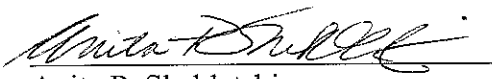
8. This Consent Agreement is between the Commonwealth and Respondent only.


Except as otherwise noted, this Agreement is to have no legal effect unless and until the Office of General Counsel approves the contents as to form and legality and the Board issues the stipulated Order.

9. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Board does not approve this Consent Agreement.

10. This agreement contains the whole agreement between the participants. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

11. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Agreement are made subject to the criminal penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

  
Anita P. Shekletski  
Prosecuting Attorney  
Department of State

  
John Francis Mitchell, MD  
Respondent

DATED: 2/24/06

DATED: 2-22-06

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**ORDER**

AND NOW, this 28<sup>th</sup> day of March, 2006, the State Board Of Medicine adopts and approves the foregoing Consent Agreement and incorporates the terms of paragraph 5, which shall constitute the Board's Order and is now issued in resolution of this matter.

This Order shall take effect immediately.

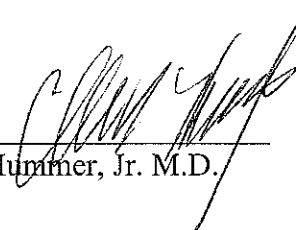
**BY ORDER:**

**BUREAU OF PROFESSIONAL AND  
OCCUPATIONAL AFFAIRS**

**STATE BOARD OF MEDICINE**



Basil L. Merenda  
Commissioner



Charles D. Hummer, Jr. M.D.  
Chairman

File No. 05 49 00515

Date of Mailing:

March 31, 2006

For the Commonwealth:

Anita P. Shekletski  
P. O. Box 2649  
Harrisburg, PA 17105-2649

For Respondent:

John Francis Mitchell, MD  
555 Harrison Street  
Emmaus, PA 18049

APS