

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

Department of State

2008 SEP 24 PM 12:48

PROTHONOTARY

Commonwealth of Pennsylvania  
Bureau of Professional and  
Occupational Affairs

vs.

Steven Michael Lipschutz, M.D.  
Respondent

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: Docket No. 1258 -49-08  
: File No. 07-49-09765  
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**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania ("Commonwealth") and Steven Michael Lipschutz, M.D. ("Respondent") stipulate as follows in settlement of the above-captioned case.

1. This matter is before the State Board of Medicine ("Board") pursuant to the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, as amended, ("Act"), 63 P.S. § 422.1 et seq. and the Medical Care Availability and Reduction of Error ("MCARE") Act, Act of March 20, 2002, P.L. 154, No. 13, 40 P.S. §§ 1303.101 - 1303.910.

2. At all relevant and material times, Respondent held a license to practice as a medical physician and surgeon in the Commonwealth of Pennsylvania, license number MD021526E, which was originally issued on October 13, 1978.

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

a. Respondent's license is current through December 31, 2008 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 1012 West 9th Street, King Of Prussia, PA 19406.

c. Patient A was under the care of Respondent until the closure of Respondent's practice located at 120 West Olney Avenue, Philadelphia, PA 19120.

d. Patient A requested copies of all of his medical records from the Respondent before Respondent closed his practice at 120 West Olney Avenue, Philadelphia, PA 19120.

e. Patient A was charged an amount of approximately ten dollars (\$10.00) for copies of all of his medical records.

f. Patient A paid the Respondent approximately \$10.00 for copies of all of his medical records.

g. Respondent advised Patient A to call in two (2) weeks to find out if the copies of his medical records were ready.

h. Patient A called the Respondent's office in 2 weeks and was told that the copies of all of his medical records were not yet ready.

i. Patient A called after another 2 weeks and was told that the copies of all of his medical records were ready.

j. Patient A picked up his medical records and took them to his home.

k. After Patient A was able to schedule an appointment with his new physician, he inspected the copies of his medical records obtained from Respondent's former office.

l. Upon inspection of the copies of the medical records obtained from the Respondent, Patient A found that the records contained a number of discrepancies.

m. Upon inspection of the copies of the medical records obtained from the Respondent, Patient A discovered that his medical records were incomplete.

n. Patient A called the Respondent at telephone number 215-549-3100.

o. Respondent's telephone number of 215-549-3100 forwarded all calls to the office of Gary Salzman, D.O.

p. Only the most recent laboratory test results were copied for Patient A.

q. Patient A's older test results were not copied and provided to him.

r. Respondent is unable to account for the rest of Patient A's medical records.

4. The actions of Respondent, described above, violated the Act at:

a. 63 P.S. § 422.41(6) through his violation of the regulations of the Board at 49 Pa. Code § 16.95(e) in that Respondent failed to retain a patient's medical record for at least seven (7) years from the date of the last medical service for which a medical record entry was required.

b. 63 P.S. § 422.41(8) in that Respondent was guilty of unprofessional conduct through his violation of the regulations of the Board at 49 Pa. Code § 16.61(a)(18) when Respondent failed to make available to a patient or to another designated health care practitioner, upon a patient's written request, the medical record or copy of the medical record relating to the patient which is in the possession or under the control of the Respondent.

5. Intending to be legally bound, the participants consent to issuance of the following

Order in settlement of this matter:

a. Respondent violated the Act at:

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(1) 63 P.S. § 422.41(6) through his violation of the regulations of the Board at 49 Pa. Code § 16.95(e) in that Respondent failed to retain a patient's medical record for at least seven (7) years from the date of the last medical service for which a medical record entry was required.

(2) 63 P.S. § 422.41(8) in that Respondent was guilty of unprofessional conduct through his violation of the regulations of the Board at 49 Pa. Code § 16.61(a)(18) when Respondent failed to make available to a patient or to another designated health care practitioner, upon a patient's written request, the medical record or copy of the medical record relating to the patient which is in the possession or under the control of the Respondent.

b. Respondent shall pay a **CIVIL PENALTY** of two hundred and fifty dollars (\$250.00) by cashier's check, certified check, U.S. Postal money order or attorney's check, valid no less than 90 days from date of issuance and made payable to "Commonwealth of Pennsylvania." Respondent shall return the full Civil Penalty with the signed Consent Agreement.

6. Respondent acknowledges receipt 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. This Consent Agreement is between the Commonwealth and Respondent only.

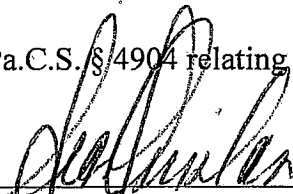
Except as otherwise noted, this Agreement is to have no legal effect unless and until the Office of General Counsel approves the contents as to form and legality and the Board issues the stipulated Order.

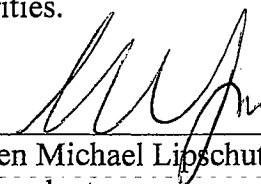
8. Should the Board not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Board shall not prejudice the Board or any of its members from further participation in the adjudication of this matter. This paragraph is binding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

9. 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.

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.

  
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Sean P. Quinlan  
Prosecuting Attorney

  
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Steven Michael Lipschutz, M.D.  
Respondent

Department of State

DATED: 7/31/08

DATED: 7/29/08

**ORDER**

AND NOW, this <sup>23<sup>rd</sup></sup> day of <sup>September</sup> 2008, the State Board of Medicine ("Board")

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.

**BUREAU OF PROFESSIONAL AND  
OCCUPATIONAL AFFAIRS**



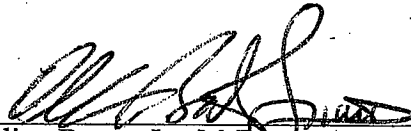
Basil L. Merenda  
Commissioner

For the Commonwealth:

Respondent:

Date of mailing:  
SPQ/cat

**BY ORDER:  
STATE BOARD OF MEDICINE**



Ollice Bates, Jr., M.D.  
Chair

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Harrisburg, PA 17105-2649

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1012 West 9th Street  
King Of Prussia, PA 19406  
**September 24, 2008**