DINSE KNAPP McANDREW
ATTORNEYS AT LAW

Burlington, Vermont / Plattsburgh, New York

December 9, 2011

VIA HAND DELIVERY

David Herlihy, Esq., Director
Vermont Board of Medical Practice
108 Cherry Street
P.O. Box 70
Burlington, VT 05401

Re: MPS 61-0710

Dear Mr. Herlihy:

Enclosed for filing is the Petition to Amend Stipulation and Consent Order Dated April 6, 2011, with supporting documents.

I understand that the South Investigative Committee is scheduled to meet on December 21, 2011, and ask that this Petition be presented to the Committee for consideration at that time. I will plan on attending that meeting if you would kindly provide me with a time and location.

Thank you and please call if you have any questions.

Very truly yours,

DINSE, KNAPP & McANDREW, P.C.

Ritchie E. Berger, Esq.

REB/djw

Enclosures

cc: Susanne Young, Esq.

209 Battery Street PO Box 988 Burlington, Vermont 05402 ☎ 802-864-5751 www.dinse.com

STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

In re: Anne M. Johnston, M.D.	)))	Docket No.: MPS 61-0710

PETITION TO AMEND STIPULATION AND CONSENT ORDER DATED APRIL 6, 2011

Respondent Anne M. Johnston, M.D., by and through counsel, Dinse, Knapp & McAndrew, P.C., hereby Petitions the Board of Medical Practice to modify and amend the Stipulation and Consent Order dated April 6, 2011, as follows:

MEMORANDUM

On April 6, 2011, the Board of Medical Practice issued an Order approving and accepting the Stipulation and Consent Order negotiated and agreed to by the State of Vermont and Respondent. Since that date, Respondent has fully complied with all conditions of that Order. To bring all additional legal issues to a conclusion, Respondent and the State of Vermont have agreed to certain amendments of the existing Order. The essence of those modifications is to extend the conditions on Respondent's license to practice medicine from the existing five year term to a ten year term.

Wherefore, Respondent respectfully requests that the Board of Medical Practice grant this Petition and approve and enter the Amended Stipulation and Consent Order attached as Exhibit A.

Dinse,
Knapp & McAndrew, P.C.
209 Battery Street
P.O. Box 988
Burlington, VT
05402-0988
(802) 864-5751

DATED at Burlington, Vermont this 9th day of December, 2011.

DINSE, KNAPP & McANDREW, P.C.

By: _____

Ritchie E. Berger, Esq., Attorney for Respondent
Anne M. Johnston, M.D.

cc: Susanne Young, Esq.

Dinse,
Knapp & McAndrew, P.C.
209 Battery Street
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STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

In re: Anne M. Johnston, M.D.	))))	**Docket No.: MPS 61-0710**

AMENDED STIPULATION AND CONSENT ORDER

The State of Vermont, by and through Attorney General William H. Sorrell, and the undersigned Assistant Attorney General, Susanne Young and Respondent Anne M. Johnston, M.D., stipulate and agree to amend the Stipulation and Consent Order entered in this matter on April 6, 2011, as follows.

1. A Stipulation and Consent Order (the "Order") was entered by the Board of Medical Practice on April 6, 2011. To date, Respondent has fully complied with all conditions of that Order. To bring all additional legal issues to a conclusion, Respondent and the State of Vermont have agreed to certain amendments of the existing Order.

2. Anne M. Johnston, M.D. (hereafter "Respondent") holds Vermont medical license No. 042-0007569, issued by the Board of Medical Practice (hereafter "the Board") Respondent is a neonatologist treating newborn infants suffering from opiate addiction.

3. This matter came to the attention of the Board as a self-referral to Vermont Practitioners Health Program (hereafter "VPHP") on June 21, 2010.

4. The Vermont Board of Medical Practice has jurisdiction in this matter pursuant to 26 V.S.A. §§ 1353-1361, 1398, and other authority.

Relevant Background

5. On July 12, 2010, the Board opened a complaint, Docket No. MPS 67-0710, and began an investigation following receipt of a letter from VPHP to the Board to report that Respondent had entered a five year contract. ("The Contract"). The Board was contacted at the Respondent's request and may be characterized as a self-disclosure.

6. The complainant alleges Respondent self-prescribed controlled substances.

7. Board Investigator, Philip Ciotti, conducted an investigation into the facts as self-reported by Respondent through VPHP. The investigation by Mr. Ciotti, summarized in his attached affidavit, disclosed that:

> A) Respondent entered into a stipulation with the Vermont Board of Medical Practice in 1998 which included a monitoring agreement to manage Respondent's addiction to pain medications. As part of that Stipulation, Respondent admitted that she wrote prescriptions for controlled substances for her own use. Dr. Suzy Parker, a specialist in the treatment of such conditions, provided care for Respondent in 1998, and in the present matter as VPHP Medical Director.
>
> B) Respondent petitioned the Board in 2002 for relief from the conditions of her 1998 stipulation. Her petition was granted and Respondent was released from monitoring by the Board and conditions on her medical license were removed.
>
> C) Respondent and others who had answered "yes" to certain questions on their license renewal applications were "screened" in 2004 by telephone. Respondent was contacted by Dr. William Stouch and a Board investigator. That inquiry disclosed that Respondent, although not enrolled in VPHP, remained drug-free and continued to see Dr. Parker, for treatment/maintenance.
>
> D) Respondent's current Board complaint alleges that she self-prescribed controlled substances, constituting unprofessional conduct and contrary to Vermont law; that Respondent wrote prescriptions for herself and for others which were filled by pharmacies in the Williston area; that Respondent paid for those prescriptions; and that Respondent kept the

medication for her personal use contrary to Rules[1] promulgated by the Vermont Board of Medical Practice and Vermont law[2].

8. On August 20, 2010, Investigator Ciotti interviewed Respondent and reported that Respondent admitted that she wrote the prescriptions in question and that the medication was intended for her personal use.

Agreement

9. Respondent knowingly and voluntarily agrees that in lieu of the time, expense, and uncertainty of a public hearing and the possibility of Board disciplinary action, she has voluntarily accepted a public reprimand, previously issued by the Board, and the placement of certain conditions upon her Vermont medical licensure. Respondent enters no admission here, but concludes that this agreement is appropriate and in the best interest of all parties. All parties agree that the fair and appropriate disciplinary action in this matter shall consist of the following:

> **A.** The express intent of this agreement is to ensure that the Respondent is engaged in a substance abuse treatment plan, a component of which must include random drug testing, until June 21, 2020. The substance abuse treatment plan must be approved by the South Investigative Committee (hereinafter referred to as the Committee). This agreement requires the Respondent to sign all releases necessary to consent to the release of any and all information, as requested, including quarterly progress reports to the Committee and to the Attorney General's Office, including the Criminal Division.
>
> **B.** Respondent shall continue her VPHP contract according to its terms and conditions until the contract term is fully satisfied or until release by VPHP.
>
> **C.** Respondent's license to practice medicine shall be designated as "conditioned" for a period of ten years beginning June 21, 2010. Respondent may petition the Board for closure of this matter or modification or relief from specific conditions only after June 21, 2020. Respondent shall comply fully and in good faith

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[1] See Rules of the Board of Medical Practice, Rule 4.3.

[2] See Title 18, Chapter 83, 26 V.S.A. Section 1354 and others.

with each of the terms and conditions of licensure set forth herein, wherever she may practice.

D. Respondent has accepted a public reprimand, previously issued by the Board, for the conduct set forth above, in addition to the imposition of the terms and conditions set forth herein and below.

E. Respondent has partially and voluntarily surrendered her controlled substance privileges with the DEA, specifically schedules II and III. Respondent may petition the Board for relief from this specific condition only after June 21, 2020. Respondent shall not seek reinstatement of these privileges from the DEA prior to June 21, 2020 and thereafter until the Board closes this matter or grants relief from this specific condition. Respondent retains the unrestricted right to prescribe medication from schedules IV and V.

F. Respondent agrees to sign all releases necessary to consent to the release of quarterly progress reports by VPHP directly to the Committee and as requested, to the Attorney General's Office, including the Criminal Division. It is Respondent's responsibility to ensure that quarterly reports are received timely by the Committee. If Respondent's contract with VPHP concludes for any reason before release from this agreement, Respondent shall continue to provide quarterly reports through her private physician, therapist, A.A. Counselor or other entity as approved by the Committee, until she is released from that condition.

G. Respondent agrees to voluntarily continue to provide quarterly progress reports to the Committee after she is released from all conditions of this Stipulation and her VPHP contract. Respondent shall continue to provide the Committee with quarterly reports until June 21, 2020 and thereafter until the Board closes this matter or grants relief from this specific condition. The Committee shall immediately notify the Office of the Attorney General, including the Criminal Division, of any violation of the terms of this Stipulation.

10. Respondent agrees that she has read and carefully considered all terms and conditions in Paragraph's #9 (A-G) above with assistance of counsel and agrees to accept and be bound by these while licensed to practice medicine in the State of Vermont or elsewhere.

Respondent is satisfied with all counsel and representation she has received. She agrees and understands that by executing this document she is waiving any right to challenge the jurisdiction and continuing jurisdiction of the Board in this matter, to be presented with any evidence adverse to her, to cross-examine witnesses, and to offer evidence of her own to contest the State's allegations. 26 V.S.A. § 1356; 3 V.S.A. §§ 809, & 814.

11. Respondent's license to practice medicine in the State of Vermont shall be designated as conditioned until at least June 21, 2020. Respondent acknowledges that it is her duty to petition the Board to close this matter after demonstrating full compliance with paragraphs 9(A-G) above. Respondent further agrees that she shall not file such a petition for closure or any petition for modification or other relief from conditions prior to June 21, 2020.

Confidentiality of Information

12. The parties agree that all records or materials prepared pursuant to this agreement for the purposes of evaluation or assessment, as described above and pursuant to this agreement shall be treated as confidential, absent Respondent's signed release or pursuant to an evidentiary hearing on the merits under 26 V.S.A. §§ 1355-1361. See 26 V.S.A. § 1317 (accessibility and confidentiality of disciplinary matters).

13. Respondent shall bear all costs associated with this agreement.

14. Respondent acknowledges that substantial or repeated failures to comply with the terms and conditions of this agreement or the VPHP contract may constitute unprofessional conduct and may result in such further disciplinary action as the Board may deem appropriate under the circumstances and in light of those agreements. Respondent expressly agrees that she shall abide by and follow all reasonable recommendations that are presented to her by any treating physician, counselor or therapist. The South Investigative Committee or its investigators also may

communicate directly, with appropriate release forms, with any and all treatment providers regarding their observations, opinions and recommendations.

15. In lieu of the Board requiring random drug screening for Respondent, the Board will defer to VPHP's, or any subsequent treatment providers drug screening process, however, in no instance shall the drug screening occur less than quarterly within a twelve month time period. Respondent expressly agrees that she shall promptly sign any and all needed consents, releases and/or waivers of confidentiality, so as to permit full and complete disclosure of test results to the Committee and the Office of the Attorney General, including the Criminal Division. Likewise, Respondent expressly agrees to provide a prompt urinalysis drug screen for narcotics if requested by the Committee or the Board for any reason at any time.

May Conditionally Continue to Practice

16. Respondent understands and agrees that despite her licensure being conditional upon compliance with this Stipulation and Consent Order, she may continue to practice medicine. Respondent shall petition the Board in advance for formal, written approval of any proposed change of employment. Respondent agrees that she shall not practice medicine or see patients at any other site or location without the prior written approval of the South Investigative Committee.

17. Respondent agrees that she shall provide a complete copy of this Amended Stipulation and Consent Order to her supervising physician/Department Chair, any prospective employer with which she may be seek affiliation, and any state medical board or other licensing authority in any location or jurisdiction where she may seek to practice or where she may make application, so long as this agreement remains in effect.

Meetings with Board or Investigative Committee

18. Respondent agrees that she shall meet with the Board or the South Investigative

Committee, if requested, following reasonable notice, for the purpose of discussing her compliance with this agreement. Respondent shall have the right to be accompanied by and assisted by legal counsel of her choosing during any such meeting.

Other Terms and Conditions.

19. Consistent with Respondent's continuing desire to cooperate with the Board in its public responsibilities, Respondent agrees that if the State were to satisfy its burden at hearing as to certain of the facts alleged in the complaint and by admissions made by Respondent, a finding adverse to her could be entered by the Board, pursuant to 26 V.S.A. § 1354. The resulting possible sanctions could include revocation of her Vermont medical license.

20. Respondent understands that failure by her to abide by any of the terms and conditions of this Stipulation and Consent Order may be deemed to constitute unprofessional conduct under 26 V.S.A. § 1354(a)(25) and other authorities and could subject Respondent to such further disciplinary action as the South Committee may recommend and the Board deems appropriate.

21. Respondent expressly acknowledges and agrees that engaging in unprofessional conduct, as set forth in 26 VSA §§ 1354 & 1398 may constitute evidence of a violation by her of this agreement and may be sufficient to support findings by the Board that the present terms and conditions of this agreement are inadequate to protect the health, safety and welfare of the public, and thus, could result in a motion by the State for the immediate suspension of Respondent's Vermont medical license.

22. This amended stipulation is conditioned upon its acceptance by the Vermont Board of Medical Practice. Should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board, the parties request that the Board enter an order conditioning

Respondent's license to practice medicine as set forth above, that such license be subject to each of the terms and conditions as set forth herein by the Board for the unprofessional conduct set forth herein. Should the Board reject the stipulation as amended, in whole or in part, the Stipulation and Consent Order entered into this matter by the Board on April 6, 2011 shall remain in full force and effect.

Dated at Montpelier, Vermont, this 9th day of December, 2011.

STATE OF VERMONT
WILLIAM H. SORRELL
ATTORNEY GENERAL

by: _____
SUSANNE YOUNG
Assistant Attorney General

Dated at Berlin, Vermont, this 9 day of December, 2011.

Anne M Johnston, MD
ANNE M. JOHNSTON, M.D.
Respondent

Dated at Burlington, Vermont, this 9 day of December 2011.

RITCHIE E. BERGER, ESQ.
Counsel for Respondent

ACKNOWLEDGED AND ACCEPTED AS TO REPORTING REQUIREMENTS:

Dated at _____, Vermont, this ____ day of _____, 2011.

_____
Vermont Practitioner Health Program

FOREGOING, AS TO ANNE M. JOHNSTON, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

DATED: _____

Attachment to

Amended Stipulation and Consent Order

MPS 61-0710

STATE OF VERMONT

BOARD OF MEDICAL PRACTICE

In Re: Anne M. Johnston, MD **Docket No. MPS 61-0710**
VT Medical License # 042-0007569

AFFIDAVIT OF PHILIP J. CIOTTI

Now comes Affiant, Philip J. Ciotti, Board Investigator, Vermont Board of Medical Practice, and, under penalties of perjury, does depose and state that I have reasonable grounds to believe that **Anne M. Johnston, MD, VT Medical License # 042-0007569** has violated **VT Title 26 VSA 1354 (a) (5), Addiction to narcotics; (8) willfully making and filing false reports or records in his or her practice as a physician; (27) failure to comply with provisions of federal or state statutes or rules governing the practice of medicine or surgery.** I also have probable cause to believe that **Anne M. Johnston, MD** has violated and committed the crimes of **Title 18 VSA 4223 (a) Obtaining a regulated drug, (1) by fraud, deceit, misrepresentation, or subterfuge; (3) by the concealment of a material fact; or (4) by the use of a false name or the giving of a false address, (18 counts), based upon the following facts:**

1. I am an Investigator for the Vermont Board of Medical Practice and have been since 2001. As Board Investigator, I am responsible for gathering information, evidence, and testimony regarding complaints and allegations against practitioners in the field of medicine who may have engaged in unprofessional conduct or that may have committed criminal acts. I am certified as a Full Time Law Enforcement Officer by the VT Criminal Justice Training Counsel and have been since 1980. I am also certified by CLEAR, Counsel of Licensure Enforcement and Regulation. CLEAR is a nationally recognized entity that trains and certifies Investigators and Inspectors in regulatory oversight. I completed both the CLEAR Basic Investigator Program as well as their Advanced Training Program. My past experience includes being a VT and/or NH law enforcement office since 1977. I worked for the St. Johnsbury Police Dept., Caledonia

Co. Sheriff's Office and Northern NH Drug Task Force. Most of those years were spent working investigations including undercover work in drug investigations.

2. I am familiar with the above-captioned matter involving Anne M. Johnston, MD. Dr. Johnston currently holds, and at all times during the course of these events, did hold a valid Vermont Medical License issued by the Vermont Board of Medical Practice. She also held and still possesses a DEA registration. This allows her to prescribe controlled substances in the course of her medical practice, subject to the federal and state laws and regulations governing said practice. Dr. Johnston is employed by Fletcher Allen Hospital in their Pediatric Unit. Her specialty is as a Neonatologist working with newborn infants of mothers that have substance abuse issues.

3. As a matter of public record, in 1998 Dr. Johnston entered into a stipulation with the Vermont Board of medical Practice. This was due to an admitted drug addiction, (narcotics), by Dr. Johnston. She entered into a monitoring agreement with the Board with certain conditions upon her license to ensure her compliance and sobriety. Dr. Johnston's addictionologist at the time was Suzanne Parker, MD. Dr. Parker would later become the clinical director of the VT Practitioner Health Program, (hereinafter referred to as VPHP). VPHP is an entity within the VT Medical Society in which VT physicians can enroll to assist them with their own substance abuse issues.

4. As part of the 1998 Stipulation, Dr. Johnston admitted she, "did wrongfully write prescriptions for controlled substance for her own use." Although this would also constitute criminal conduct there is no documentation at the VT Medical Board files to indicate that a referral for criminal prosecution was ever made.

5. In 2002 upon petition for relief, Dr. Johnston had her licensing conditions removed by the VT Medical Board after providing various assurances through counsel and supported by her treating addictionologist that she was sober and required no further monitoring.

6. On November 29th 2004 in conjunction with her VT Medical license renewal, as part of the renewal process at that time, certain members of the VT Medical Board were asked to "screen" renewal applications that had "yes" answers to questions on the renewal form that might be of concern. Dr. Johnston's renewal application correctly documented "yes" in answer to having prior discipline or substance abuse issues. At that time, Board Member William Stouch, MD was one such "screener" and he requested follow-up with Dr. Johnston as to her sobriety. At this time, Ruth Whitney, a retired VT State Police Detective on temporary assignment to the VT Medical Board conducted a phone interview with Dr. Johnston. At that time Dr. Johnston advised that although she was not enrolled in VPHP, she had remained sober and she was still seeing Dr. Parker in a private capacity. Dr. Johnston's medical license was renewed with no further inquiry.

7. On July 6th 2010, the VPHP sent a letter to the VBMP upon request of Dr. Johnston that she had recently enrolled and signed a 5 yr contract with VPHP. I called VPHP and spoke to Dr. Parker. She confirmed that Dr. Johnston was now in treatment at a rehab facility outside of VT. I asked her if there was any recent unprofessional conduct of Dr. Johnston's that we should be aware and I was ensured that there was not.

8. An investigation was opened at the VT Medical Board and I was assigned. I began a search in pharmacies in the greater Burlington area looking for any prescriptions that were written by Dr. Johnston for controlled substances to persons of "adult" age since her known medical practice was focused on infants. I soon found that Dr. Johnston had prescriptions on file in pharmacies for adult persons with the last name of Hodgson. I had previously noted from case reviews that Dr. Johnston's original medical license was issued under the name Anne Johnston Hodgson. Dr. Johnston's current physical address is 1562 Jericho Rd. Richmond, VT.

9. Results of my inquiry showed numerous prescriptions written to persons residing at 1562 Jericho Rd. Richmond, VT. The prescriptions were mostly for Oxycodone and Hydrocodone. Both of which are controlled substances in VT and highly diverted to street use and abused based upon my years as a law enforcement officer and

current information from other law enforcement that I work with. Some of the prescriptions were for Propoxyphene, (a DEA schedule IV pain reliever and controlled substance).

Persons getting prescriptions and all attributed to the same Jericho Rd. address were:

[redacted]

10. There were no VT Dept of Motor Vehicle records found for [redacted] or [redacted] with those DOB's.

11. There were VT Dept. of Motor Vehicle records for both [redacted] and it was then my belief that they are Dr. Johnston's children.

12. On July 14th 2010 at 1205 hrs. DEA Diversion Agent Chris Paquette and I went to Kinney Drugs on Pearl St. in Essex Jct. VT. I obtained originals of three prescriptions written by Dr. Johnston.

02/22/10 [redacted] for 60 Oxycodone 5mg. tablets.

03/03/10 [redacted] for 60 Oxycodone 5mg. tablets

03/31/10 [redacted] for 60 Oxycodone 5mg. tablets

All prescriptions were paid for by cash. Receipt of the prescriptions was signed by a name that was fairly illegible. (Note; as we proceeded through our investigation I later came to recognize this signature as A or Anne Hodg). Pharmacy staff did not know [redacted], Anne Hodgson or the prescriber, Anne Johnston, MD.

13. At 1345 hrs we went to Rite Aid at Cornerstone Dr. in Williston, VT. I obtained originals of seven prescriptions written by Dr. Johnston.

07/21/09 [redacted] for 60 Oxycodone 5mg. tablets.

08/03/09 [redacted] for 60 Oxycodone 5mg. tablets.

09/29/09 [redacted] for 60 Oxycodone 5mg. tablets.

01/22/10 [redacted] for 60 Propoxyphene 65mg. tablets. (Note this was phoned in with two refills authorized by Dr. Johnston.

02/09/10 [redacted] for 60 Propoxyphene 65mg. tablets. (This was refill of the 01/22/10 prescription.

02/17/10 [redacted] for 60 Oxycodone 5mg. tablets.

03/11/10 [redacted] for 60 Oxycodone 5mg. tablets.

All prescriptions were paid for by cash. Receipt of the prescriptions was signed by a name that appeared to be Anne Hodgson. Pharmacy staff did not know [redacted] Anne Hodgson or the prescriber, Anne Johnston, MD. In this instance a RITE AID RX Savings card was used in the purchase. Card number 8644386450.

14. At 1500 hrs we went to Osco Pharmacy at Shaw's Market in Williston, VT. I obtained one original prescription written by Dr. Johnston.

02/27/10 [redacted] for 60 Percocet 5/325mg. tablets.

The prescription was paid for by cash. Receipt of the prescription was signed by a name that appeared to be Anne Hodgson. Pharmacy staff did not know [redacted] Anne Hodgson or the prescriber, Anne Johnston, MD.

15. On July 15th 2010 at 0930 hrs. DEA Diversion Agent Chris Paquette and I went to Rite Aid on the Williston Rd. in S. Burlington , VT. I obtained originals of seven prescriptions written by Dr. Johnston.

04/29/09 [redacted] for 30 Hydrocodone 10/325mg. tablets

05/28/09 [redacted] for 30 Hydrocodone 10/325mg. tablets

08/15/09 [redacted] for 80 Oxycodone 5mg. tablets.

08/26/09 [redacted] for 90 Oxycodone 5mg. tablets

11/12/09 [redacted] for 60 Oxycodone 5mg. tablets

03/05/10 [redacted] for 60 Percocet 5/325mg. tablets

03/23/10 [redacted] for 80 Oxycodone 5mg. tablets

The prescriptions for [redacted] and [redacted] were paid for by cash. [redacted] prescriptions were paid for by Re-Stat or Blue Cross Blue Shield #835505137. Receipt of the prescriptions was signed by a name that appeared to be Anne Hodgson. Pharmacy staff did not know [redacted] Anne Hodgson or the prescriber, Anne Johnston, MD.

16. On August 2nd2010 at approx. 1120hrs Agent Paquette and I went to FAHC 111 Colchester Ave, Burlington VT. We went to the Children's Center and asked to see Dr. Johnston. After a few moments Dr. Johnston came out into the lobby and met us. She escorted us to an exam room where we could speak privately. Once we were in the room we produced our credentials. She told me she was surprised that we would be there. She asked if I got her letter. I asked which letter? She said she knew I spoke to Suzy Parker and that she is presently enrolled in VPHP and is being compliant in her treatment. She said she "hand wrote" her own letter advising that she was self-enrolling in VPHP. I said yes I have seen that letter.

17. I said that we had some questions if she had time. She said she had time and said that she wanted to be completely honest and cooperative with us. She asked if she needed her lawyer. I informed her that she absolutely could speak to a lawyer first if she wanted. I asked if she already had one. She said she had the same lawyer as last time, Ritchie Berger. I offered to let her call him and she again stated she wanted to cooperate and be honest with us. She did not opt to call her attorney.

18. I opened my file folder and said "well I'd like to ask you about a bunch of prescriptions if you are willing to talk about that and I also have a subpoena for some patient charts that I need to serve. She said OK. I said "[redacted], Oxycodone"? Dr. Johnston said, "She's my sister-in law, but not a patient." I only looked quizzically at Dr. Johnston. She said, "Those drugs were for me". I asked, "[redacted] is a real person"? She said, "Yes". I asked if [redacted] lived in VT. Dr. Johnston told me "no she lives in Vancouver, British Columbia". I asked if [redacted] was aware that she was using her name to obtain drugs. Dr. Johnston said "no".

19. Dr. Johnston said she was not proud of what she did. She said "I recognize I have a disease and this is part of it but I'm in treatment and doing what I need to do and working very hard". I asked if [redacted] was a real person. Dr. Johnston replied "She is a friend in Toronto, Canada." I said and you used your kid's names to get drugs as well? She said "well, [redacted] I got prescriptions for myself." I said, "And [redacted]". She admitted, "Yes that is my other child I got prescriptions with that name as well." Agent Paquette asked, "All of the Oxys were for you and it was always you that picked them up"? Dr. Johnston said, "Yes". She again asked if she needed a lawyer but also continued to state she wanted to be cooperative. I told her that I was a little uncomfortable and wanted to make it quite clear that she can speak to a lawyer. I said, "You know you're talking to us and I appreciate it, but you are also asking about a lawyer. I want to make it clear that you have every right to talk to one. You are free to leave and in fact, this is your office so if you want us to leave we'll get out of your hair." I said "I would like to speak to you further about these prescriptions and I do need to serve this Subpoena, although I understand now that you have no patient charts."

20. At this point she asked to excuse herself to make a call to Attorney Berger. We said that was fine and waited in the exam room. Dr. Johnston came back approx. 10 min later saying she was waiting for a call back and then stepped out of the room again. She returned approx. 5 min. later and told us that she had not yet heard back from Attorney Berger but was "told" she probably should not answer any more of our questions. I told her that was fine and handed her the Subpoena.

21. On September 1st 2010 the VT Board of Medical Practice received a letter from Attorney Ritchie Berger confirming that his client, Anne M. Johnston, MD had no records pertaining to the four named individuals in the Subpoena.

PHILIP J. CIOTTI
Board Investigator,
Vermont Board of Medical Practice

At Burlington, this 29 day of June, 2011, personally appeared before me Philip Ciotti

and made oath to (affirmed under penalty of perjury) the truth of the foregoing.

Before me: _____
Notary Public

My commission expires, 2/10/15