

**STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS**

**DEPARTMENT OF HEALTH
BOARD OF MEDICAL
LICENSURE AND DISCIPLINE**

**IN THE MATTER OF:
PHILIP OPALENSKI, M.D.
License Number MD05679
BMLD Case Number C11-675**

CONSENT ORDER

Philip Opalenski, M.D. (hereinafter "Respondent") is licensed as a physician in Rhode Island. The Board of Medical Licensure and Discipline (hereinafter the "Board") received a complaint regarding Respondent, and after investigation and review of the complaint, the Board makes the following:

FINDINGS OF FACT

1. Respondent has been a licensed physician in the State of Rhode Island since June 18, 1980. Respondent's primary specialty is gastroenterology (internal medicine).
2. Respondent treated a patient, (hereinafter "Patient A") for a period of over 20 years. The patient was diagnosed with gastroparesis and bile reflux.
3. Respondent prescribed Reglan for Patient A's condition starting in 1985 continuously until 2002. Respondent had conversations with Patient A during this time period regarding the risks and benefits of long term use of

PHILIP OPALENSKI, M.D.

Page 2 of 5

Reglan. The FDA did not issue a “black box” warning regarding long term use of Reglan until 2009.

4. Starting in 2002, Patient A failed to keep appointments with Respondent despite repeated requests to come to the office, but he continued to refill her Reglan prescriptions until 2005 without seeing her or examining her. During this same time period, Respondent repeatedly asked Patient A during numerous telephone calls about her condition, and Patient A continuously informed Respondent that the Reglan was controlling her gastroparesis and bile reflux and that she was not experiencing side effects, or new or unusual symptoms. Patient A informed Respondent that Reglan was the only treatment that controlled her symptoms and requested that Respondent refill her prescription despite her failure to appear for office visits. Based on Patient’s A’s long term use of Reglan without any problems and her repeated promises to return to Respondent’s office for a checkup, Respondent agreed to continue refilling her prescription.
5. Patient A ultimately developed tardive dyskinesia, a serious movement disorder which is caused by the longterm use of Reglan.
6. Respondent is in civil violation of Rhode Island General Laws § 5-37-5.1(19) for failure to conform to the minimal standards of acceptable and prevailing medical practice in Respondent’s area of specialty.

PHILIP OPALENSKI, M.D.

Page 3 of 5

7. As a result of this experience, Respondent voluntarily instituted a policy of not refilling prescriptions for patients unless they kept their office appointments.

Based on the foregoing, the parties agree as follows:

1. Respondent admits to the jurisdiction of the Board;
2. Respondent has reviewed this Consent Order and understands that it is subject to final approval of the Board; and this Consent Order is not binding on Respondent until final ratification by the Board;
3. If ratified by the Board, Respondent hereby acknowledges and waives:
 - a. The right to appear personally or by counsel or both before the Board;
 - b. The right to produce witnesses and evidence on his behalf at a hearing;
 - c. The right to cross examine witnesses;
 - d. The right to have subpoenas issued by the Board;
 - e. The right to further procedural steps except for those specifically

contained herein;

- f. Any and all rights of appeal of this Consent Order; and
 - g. Any objection to the fact that this Consent Order will be presented to the Board for consideration and review.
4. Respondent agrees to a Reprimand by the Board based on the above findings.
 5. Respondent agrees to pay an administrative fee to the Board within thirty (30) days of the date of ratification of this Order for costs associated with investigation and review of the complaint. Respondent shall submit a check made payable to the Rhode Island General Treasury in the amount of \$500.00.
 4. In the event that any term of this Consent Order is violated, after signed and accepted, the Director of the Department of Health shall have the discretion to summarily suspend the Respondent's license and/or impose further disciplinary action. If the Director suspends the license and/or imposes further disciplinary action, Respondent shall be given notice and shall have the right to request an administrative hearing within twenty (20) days of the suspension and/or further discipline. The Director of the Department of Health shall also have the discretion to request an administrative hearing after notice to Respondent of a violation of any

PHILIP OPALENSKI, M.D.

Page 5 of 5

term of this Consent Order. The Administrative Hearing Officer may suspend Respondent's license, or impose further discipline, for the remainder of Respondent's licensing period if the alleged violation is proven by a preponderance of evidence.

Signed this 9 day of August, 2013


Philip Opalenski, M.D.

Ratified by the Board of Medical Licensure and Discipline on the 11 day of September, 2013.


Michael Fine, M.D.

Director of Health
Rhode Island Department of Health
Cannon Building, Room 401
Three Capitol Hill
Providence, RI 02903
Tel. (401) 222-2231
Fax (401) 222-6548