

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

**RHODE ISLAND DEPARTMENT OF HEALTH
BOARD OF MEDICAL LICENSURE AND DISCIPLINE
AND DAVID R. GIFFORD, MD, MPH, IN HIS CAPACITY
AS DIRECTOR OF HEALTH, STATE OF RHODE ISLAND**

**In the Matter of:
Robert M. Shalvoy, M.D.
License Number MD 07850**

Consent Order

The Board of Medical Licensure and Discipline (hereinafter "Board") received information that indicated that Robert M. Shalvoy MD (hereinafter referred to as the "Respondent") has violated Sections 5-37-5.1 of the R.I. General Laws, 1956, as amended. An Investigating Committee of the Board was convened to investigate these allegations. The following are the Findings of Fact of the Investigating Committee:

FINDINGS OF FACT

1. Respondent is a Board certified Orthopaedic surgeon born in 1958 and licensed to practice in Rhode Island since 1990. He is a graduate of New Jersey Medical School in 1984.
2. Respondent has hospital privileges at The Miriam Hospital.
3. The Board became aware of an occurrence of a wrong site arthroscopic surgical procedure on the wrong knee of a patient at The Miriam. The Department of Health undertook a multi-disciplinary investigation in order to determine the

root cause of the surgical error and to mandate appropriate corrective action.

Respondent is the attending surgeon in the case.

4. Related facility findings can be viewed at www.health.ri.gov/discipline/MiriamHospitalFindings1008.pdf
5. The hospital has signed a consent agreement to: Fix several problems related to their time-out process, Change the pens used to mark the surgical site to make sure the marking cannot be washed off during preparation of the surgical site, Hire a consultant to evaluate their policies and protocols for compliance with national best practices in safety and clinical outcomes, to complete on-sight inspections for the next 12 months and to submit reports to HEALTH and TMH Board of Trustees, Design and implement a near miss reporting program for its staff and Educate the Hospital Board by having patients and families come to Board meetings on a quarterly basis for the next 24 months to share their experiences. Additional conditions are described in the full consent agreement see www.health.ri.gov/discipline/MiriamHospitalCA1008.pdf
6. Respondent met with the patient in the preoperative area and appropriately marked the intended surgical site as per protocol. Later in the operating room he participated in the time-out procedure. The incorrect knee had been prepped and draped. The patient's right knee had been brought through the hole in the drape exposing the single extremity and marks were placed by the resident on the knee in anticipation of the surgery prior to Respondent entering the operating room. Respondent did not visualize his preoperative site-marking and proceeded with the procedure on the incorrect knee.
7. Respondent violated Rhode Island General Laws § 5-37-5.1 for his role as attending surgeon in this wrong site surgery.

The parties agree as follows:

The Respondent admits to the jurisdiction of the Board and hereby agrees to remain under the jurisdiction of the Board.

- (1) Respondent has read this Consent Order and understands that it is a proposal of an Investigating Committee of the Board and is subject to the final approval of the Board. This Consent Order is not binding on Respondent until final ratification by the Board.
- (2) 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 in 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 specifically contained herein;
 - f. Any and all rights of appeal of this Consent Order;
 - g. Any objection to the fact that this Consent Order will be presented to the Board for consideration and review;
 - h. Any objection to the fact that it will be necessary for the Board to become acquainted with all evidence pertaining to this matter in order to review adequately this Consent Order;

- i. Any objection to the fact that potential bias against the Respondent may occur as a result of the presentation of this Consent Order.
 - j. occur as a result of the presentation of this Consent Order.
- (3) Acceptance of this Consent Order constitutes an admission by the Respondent of the facts set forth herein.
 - (4) This Consent Order shall become part of the public record of this proceeding once it is accepted by all parties and by the Board.
 - (5) Failure to comply with this Consent Order, when signed and accepted, shall subject the Respondent to further disciplinary action.
 - (6) Respondent accepts the sanction of a Reprimand.

Signed this *3rd* day of *December* 2008.



Robert Michael Shalvoy, M.D.

Ratified by the Board of Medical Licensure and Discipline at a meeting held on *3 December, 2008.*



David R. Gifford, MD, MPH
Director of Health