STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

In re: Peter Gunther, MD	)	Docket No. MPC 162-1017

STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr., and Peter Gunther, MD, and agree and stipulate as follows:

1. Peter Gunther, MD of South Burlington, Vermont holds Vermont medical license number 042.0007238 first issued by the Vermont Board of Medical Practice on March 13, 1985.
2. Jurisdiction in this matter vests with the Vermont Board of Medical Practice ("the Board") pursuant to 26 V.S.A. §§ 1353-1354, 1370-74 and 3 V.S.A. §§ 809-814, and other authority

FINDINGS OF FACT

3. Dr. Gunther has been a physician for thirty-five years. He currently practices internal medicine at GoodHEALTH Internal Medicine Community Health Centers of Burlington in South Burlington, Vermont. Dr. Gunther's practice areas include comprehensive health care, prevention, and health promotion.
4. The Board opened this matter in November of 2017, upon information that Dr. Gunther was prescribing pain medication to a patient who was being investigated by law enforcement for diverting medication. The patient had a long history of chronic pain arising out of two motor vehicle accidents and had been on chronic opioid therapy for

years. The matter was assigned to the Central Investigative Committee of the Board ("Committee").

5. The Committee's investigation included identification of several patients who received prescriptions for greater quantities of controlled substances than expected and thorough analysis of the medical records for those patients obtained from Dr. Gunther's practice. All five of these patients, hereafter designated as Patients 1-5, were treated by Dr. Gunther for chronic pain, among other chronic conditions. The Committee initially noted that Dr. Gunther did not conduct physical examinations of the body parts corresponding to the reports of chronic pain for these five patients.
6. Dr. Gunther has treated Patient 1 for multiple years for numerous medical issues including Patient 1's complaints of chronic pain due to a back injury. Dr. Gunther prescribed Patient 1 large quantities of opioid medication, which in December 2014 totaled 21 pills of oxycodone a day at a morphine milligram equivalent ("MME") of 710.
7. Dr. Gunther prescribed early refills for Patient 1 for multiple reasons including overseas travel, and escalating dosages of opioids without instituting safety measures such as urine drug screens or pill counts. Dr. Gunther repeatedly asked Patient 1 to undergo imaging, but an MRI was not performed until June 2018. That MRI confirmed L4-5 severe bilateral foraminal stenosis.
8. Dr. Gunther did not follow Vermont Department of Health ("VDH") Rules governing opioid treatment for Patient 1 by not documenting annual copies of controlled substance contracts in Patient 1's medical records for the years 2015 and 2016.
9. Dr. Gunther prescribed Patient 1 oxycodone at 150 MME from July 2017 through February 2018. During this period he did not prescribe Narcan to Patient 1 despite the

requirement in the Vermont Department of Health Rule Governing the Prescribing of Opioids for Pain, effective on July 1, 2017, that all patients prescribed opioids at quantities greater than 90 MME receive this prescription.

10. Dr. Gunther prescribed opioids to Patient 2 to treat chronic pain. Prior to September 2016, Dr. Gunther prescribed an MME of 585 for this patient, and as recently as September 2020 was prescribing an MME of 450.
11. Dr. Gunther did not wean down Patient 2's medication when Patient 2 reported taking less than the prescribed dose, institute pill counts, or document discussions with Patient 2 about what was happening to the extra medication.
12. Dr. Gunther only conducted urinalysis testing for Patient 2 on two occasions: once in 2013 and again in 2014. The results of both tests did not correspond with the medication prescribed to Patient 2. Notwithstanding these aberrant results, Dr. Gunther did not document any discussions with Patient 2 about why prescribed fentanyl and benzodiazepine were not in Patient 2's urine or make changes to his prescription practice for this patient.
13. Dr. Gunther did not comply with VDH opioid prescription rules for Patient 2 as he did not include annual copies of controlled substance contracts in Patient 2's medical records for the years 2015, 2016 or 2017.
14. Dr. Gunther did not prescribe Narcan for Patient 2. Patient 2 was prescribed an opioid and a benzodiazepine with an MME in excess of 90 MME. The Vermont Department of Health Rule Governing the Prescribing of Opioids for Pain, effective on July 1, 2017 mandated a Narcan prescription given both this polypharmacy and the patient's MME.

15. Dr. Gunther treated Patient 3 with a high dosage of opioids. Patient 3 had numerous concurrent medical problems, including insulin dependent diabetes, liver transplant, hypertension, depression, and avascular necrosis of his hip. Dr. Gunther's opioid prescriptions for Patient 3 was 780 MME from August 2016 to January 2017, at which time Patient 3 was admitted to inpatient treatment for detoxification related to alcohol and opioid abuse.
16. Between July 20, 2016 and January 2017, Dr. Gunther increased Patient 3's pain medication dosing by adding a fentanyl patch, although there is no record that Dr. Gunther saw Patient 3 in person during this time. Telephone records show calls between the patient and Dr. Gunther's office during that time period, but there is no record showing discussions with Dr. Gunther about chronic pain management during any call.
17. Dr. Gunther documented a urinalysis test for Patient 3 in 2013 that was positive for nonprescribed opioids but did not document any discussion of the aberrant results.
18. Dr. Gunther prescribed Patient 3 alprazolam without documenting this prescription in the patient's medical record. He also prescribed Adderall for Patient 3 without documentation in the patient's record of the medication's effectiveness, side effects, and use.
19. Patient 4 was prescribed a complex polypharmacy including controlled substances, which in January 2018 constituted 37-45 pills a day including as-needed medications. Many of these medications were prescribed at high dosages. Dr. Gunther did not document how he planned to manage or reduce the interactions between the multitude of prescribed medications.

20. In November 2017, Patient 4 reported to Dr. Gunther taking less than the dose of oxycodone which Dr. Gunther had prescribed. Dr. Gunther did not reduce Patient 4's prescription of oxycodone until May 2018, then stopped the prescription a month later without adequate documentation of his clinical decision making in the patient's medical record. Patient 4 has been off all opioids since approximately June 2018.
21. Dr. Gunther did not include an annual copy of a controlled substance contract in Patient 4's records from 2015 to 2016 as required by the Vermont Department of Health Rule.
22. Dr. Gunther treated Patient 5, who had a substance abuse history, for chronic pain, among other conditions. He prescribed Patient 5 an MME of 780 from 2014 to 2017 as well as a benzodiazepine, without adequately documenting the rationale or safety of this course of treatment.
23. Dr. Gunther did not keep accurate prescription records for Patient 5, including correct medication names and prescribed dosages. He did not record refills of Patient 5's opioid or benzodiazepine prescriptions in this patient's medical record for a period of over a year from April 24, 2013 – April 30, 2014.
24. Dr. Gunther prescribed tramadol, clonazepam and zolpidem for Patient 5 during a gap in office visits from August 2014 - January 2015, and prescribed the controlled substances lorazepam, clonazepam and zolpidem and the opioids oxycodone and OxyContin during another gap in office visits from January – October 2017. The latter gap in office visits occurred two months after a November 2016 office visit at which Patient 5 reported to Dr. Gunther that she had been consuming alcohol and using heroin.
25. Dr. Gunther prescribed Patient 5 the opioids OxyContin and oxycodone-acetaminophen as well as the benzodiazepines clonazepam (for restless leg syndrome) and lorazepam

(for anxiety) from July 2017 through July 2018. During this period he did not prescribe Narcan to Patient 5 despite the requirement in the Vermont Department of Health Rule Governing the Prescribing of Opioids for Pain, effective on July 1, 2017, that he do so for patients prescribed a combination of an opioid and a benzodiazepine.

26. After the initiation of the Board's investigation in this matter, Dr. Gunther made practice improvements including the following:

a. Dr. Gunther included the required contracts and consent forms for Patient 1 in 2017 and 2018.

b. In January 2018, he also began to wean this patient's Oxycodone and by December 2019 weaned the dosage from 12 pills per day to 4 per day, a reduction from 180 to 80 MME's.

c. Dr. Gunther began to wean Patient 2 from fentanyl after a negative urine drug screen on February 8, 2019. Patient 2 was fully weaned from fentanyl on March 6, 2019, however, he continues to prescribe Patient 2 Oxycodone at an MME of 450.

d. Contracts and informed consents were signed for Patient 2 in 2018 and 2019.

e. Patient 3 has been off all narcotics since the early spring of 2019.

27. In addition, Dr. Gunther has provided two comprehensive letters to the Committee outlining the changes he has made to his practice. Those changes include the development of a written template for all patients with chronic pain on opioid medications that follows the requirements in the VDH Rule Governing the Prescribing of Opioids for Pain. Dr. Gunther has conferred with three subject matter experts on his management of patients who are prescribed opioid medications for chronic pain, one of whom is double boarded in Addictive Medicine and Family Medicine. Dr. Gunther has

met regularly with the double boarded physician to review his charts for the past sixteen months. These conferrals have focused on Dr. Gunther's adherence to opioid prescribing protocols. Dr. Gunther completed an intensive American Society of Addiction Medicine (ASAM) electronic learning CME approved course, as well as a course on using electronic health records to improve his practice.

CONCLUSIONS OF LAW

28. The Board may find "that failure to practice competently by reason of any cause on a single occasion or on multiple occasions constitutes unprofessional conduct." 26 V.S.A. § 1354(b). "Failure to practice competently includes, as determined by the board… (1) performance of unsafe or unacceptable patient care; or (2) failure to conform to the essential standards of acceptable and prevailing practice." 26 V.S.A. § 1354(b)(1) and (2).

29. Dr. Gunther acknowledges that if this matter were to proceed to a contested hearing, the State could prove that he did not conform to the essential standards of acceptable and prevailing practice by:

    a. not regularly conducting and documenting physical examinations corresponding to the areas of chronic pain for the five patients whose files were reviewed by the Committee.

    b. not regularly implementing adequate safety protections to monitor for opioid medication diversion such as pill counts or frequent urinalysis testing.

c. not sufficiently documenting aberrant test results and the response thereto when those tests were administered and yielded results inconsistent with the patient's prescribed medications.

d. prescribing high dosages of opioids for two patients during lengthy gaps in office visits.

e. not maintaining adequate patient medical records for three patients including documenting all prescribed medication, medication dosages, and refills in the patient record.

30. The Board may find that "failure to comply with provisions of … State statutes or rules governing the practice of medicine or surgery" constitutes unprofessional conduct. 26 V.S.A. § 1354(a)(27).

31. Section 6.1.1 of the Vermont Department of Health's Rule Governing the Prescribing of Opioids for Pain mandates that a prescriber shall "conduct and document a thorough medical evaluation and physical examination as part of the patient's medical record when prescribing opioids for chronic pain."[1]

32. Prescribers are also required by the VDH Opioid Rule 6.2.2.1 to schedule and undertake periodic follow-up with patients receiving treatment for chronic pain with opioids. This frequency should be determined by the patient's risk factors, medication dose, and other clinical indicators, however, the Rule warns that "[p]atients who are stable in terms of the

[1] Unless otherwise noted, references to the Vermont Department of Health Rules Governing the Prescribing of Opioids for Pain refer to the rules effective July 1, 2017. Provisions such as this one, which were also present in the prior version of the Rule effective August 1, 2015, will be so noted. See Section 4.1 of the Rule Governing the Prescribing of Opioids for Chronic Pain effective August 1, 2015.

medication dose and its effectiveness in managing chronic pain must be reevaluated no less than once every 90 days…"[2]

33. Prescribers are also responsible for ensuring that their chronic pain patients complete and sign a Controlled Substance Treatment Agreement which is reviewed between the prescriber and patient no less frequently than annually, and that the initial agreement and these reviews are documented in the patient's medical record. See VDH Opioid Prescribing Rule §§ 6.2.1.5 and 6.4.1[3]
34. Section 7.1 of the VDH Opioid Rule mandates that prescribers co-prescribe naloxone (Narcan) for all patients who receive opioid prescriptions exceeding 90 MME. Per § 7.2, Prescribers are also mandated to prescribe naloxone for patients prescribed opioids and a concurrent benzodiazepine prescription.
35. Dr. Gunther acknowledges that if this matter were to proceed to a contested hearing, the State could prove that he did not follow all of the applicable Opioid Prescription Rules, constituting non-compliance with Vermont state statutes and rules of practice.
36. Consistent with Dr. Gunther's cooperation with the Board, he acknowledges that if the State were to file charges it could satisfy its burden at a hearing and a finding adverse to him could be entered by the Board, pursuant to 26 V.S.A. §§ 1354(a)(22), 1354(a)(27) and § 1354(b)(1) and (2).

[2] This provision reflects an amendment to the August 1, 2015 Rule Section 5.3.3 which mandated reevaluation for chronic pain patients who were stable in terms of their medication dose annually.

[3] The 2015 VDH Rule Governing the Prescribing of Opioids for Pain §§ 5.3, 5.3.2, required that a Controlled Substance Treatment Agreement needed to be included in the patient's medical record for all patients prescribed opioids for 90 days or more for chronic pain. Section 7.1 of the Rule mandated review of this Agreement between the provider and patient at least annually with this review documented in the patient record. Per § 8.1.6 of the 2015 Rule, patients receiving extended release oxycodones or hydrocodones not manufactured as abuse deterrent opioids must have a documented Controlled Substance Agreement which included urine testing at a frequency determined by the patient's risk assessment and ongoing behavior but no less frequently than annually.

37. Dr. Gunther agrees that the Board adopts and incorporates as its facts and/or conclusions in this matter Paragraphs 1 through 36 above, and further agrees that this is an adequate basis for the Board actions set forth herein. Any representation by Dr. Gunther herein is made solely for the purposes set forth in this agreement.
38. Therefore, in the interest of Dr. Gunther's desire to fully and finally resolve the matter presently before the Board, he has determined that he shall enter into this agreement with the Board. Dr. Gunther enters no further admissions here, but to resolve this matter without further time, expense and uncertainty; he has concluded that this agreement is acceptable and in the best interest of the parties.
39. Dr. Gunther agrees and understands that by executing this document he is waiving any right to challenge the jurisdiction and continuing jurisdiction of the Board in this matter, to be presented with a specification of charges and evidence, to cross-examine witnesses, and to offer evidence of his own to contest any allegations by the State.
40. The parties agree that upon their execution of this Stipulation and Consent Order, and pursuant to the terms herein, the above-captioned matter shall be resolved by the Board. Thereafter, the Board will take no further action as to this matter absent non-compliance with the terms and conditions of this document by Dr. Gunther.
41. This Stipulation and Consent Order is conditioned upon its acceptance by the Vermont Board of Medical Practice. If the Board rejects any part of this document, the entire agreement shall be considered void. Dr. Gunther agrees that if the Board does not accept this agreement in its current form, he shall not assert in any subsequent proceeding any claim of prejudice from any such prior consideration. If the Board rejects any part of this agreement, none of its terms shall bind Dr. Gunther or constitute an admission of any of

the facts of the alleged misconduct, it shall not be used against Dr. Gunther in any way, and it shall be kept in strict confidence. And it shall be without prejudice to any future disciplinary proceeding and the Board's final determination of any charge against Dr. Gunther.

42. Dr. Gunther acknowledges and understands that this Stipulation and Consent Order shall be a matter of public record, shall be entered in his permanent Board file, shall constitute an enforceable legal agreement, and may and shall be reported to other licensing authorities, including but not limited to: the Federation of State Medical Boards Board Action Databank and the National Practitioner Data Bank. In exchange for the actions by the Board, as set forth herein, Dr. Gunther expressly agrees to be bound by all terms and conditions of this Stipulation and Consent Order.

43. The parties therefore jointly agree that should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board, it may enter an order implementing the terms and conditions herein.

ORDER

WHEREFORE, based on the foregoing and the consent of Dr. Gunther, it is hereby ORDERED that:

1. Dr. Gunther's medical license shall be CONDITIONED as follows:
    a. Dr. Gunther shall successfully complete AMA PRA Category 1 continuing medical education ("CME") courses on the following topics: controlled substance pain management, and medical recordkeeping. Each CME course must be completed no later than one (1) year after this Stipulation is approved by the

Board. Dr. Gunther shall seek prior approval, in writing, from the Committee for each CME course. These courses must be live in-person or live interactive courses offered remotely. Upon successful completion of each CME course, he shall provide the Committee with proof of attendance. Dr. Gunther shall also provide the Committee with a brief written narrative of each CME course which will document what he learned from each course, and how he will apply that knowledge to his practice. Dr. Gunther shall provide proof of attendance and the written narrative to the Committee. Dr. Gunther shall be solely responsible for all costs associated with meeting these CME requirements.

b. Dr. Gunther shall provide a letter to the Committee outlining the changes he made in his treatment of chronic opioid pain management cases to address the identified practice concerns within sixty (60) days of the Board's approval of this order.

c. Dr. Gunther shall have a "practice monitor," for three (3) years subject to the terms and conditions set forth in the attached Practice Monitoring Agreement ("Agreement"), which is incorporated by reference and attached hereto as Exhibit A. The practice monitoring requirement will not begin until the official "start date" as defined in the attached Agreement. Dr. Gunther shall comply with the terms and obligations of the Agreement. Dr. Gunther shall provide a copy of this Stipulation and Consent Order to the practice monitor. Dr. Gunther shall be responsible for ensuring that the practice monitor complies with the terms and obligations of the Agreement. The practice monitoring requirement will not cease until the Committee has approved, in writing, Dr. Gunther's request to end the monitoring. Dr.

Gunther may apply to the Committee for relief from the practice monitoring condition if he is no longer prescribing controlled substances or if he is no longer practicing primary care internal medicine. The decision whether to grant or deny the requested relief shall be solely within the discretion of the Committee. The practice monitoring requirement will not cease until the Committee has approved, in writing, Dr. Gunther's request to end the monitoring.

d. Dr. Gunther shall pay a $5,000 administrative penalty consistent with 26 V.S.A. § 1374(b)(2)(A)(iii). Payment shall be made to the "State of Vermont Board of Medical Practice," and shall be sent to the Vermont Board of Medical Practice office, at the following address: David Herlihy, Executive Director, Vermont Board of Medical Practice, P.O. Box 70, Burlington VT 05402-0070. Payment shall be due no later than one (1) month after this Stipulation and Consent Order is approved by the Board.

SIGNATURES

Dated at Montpelier, Vermont, this ____ day of _____, 2021.

STATE OF VERMONT
THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

by: E-SIGNED by Megan Campbell on 2021-02-26 13:01:24 EST

Megan Campbell, Esquire
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001

Dated at _____, Vermont, this ____ day of _____, 2021.

Peter Gunther, MD

Dated at Burlington, Vermont, this ____ day of _____, 2021.

Nicole Andreson, Esquire
Dinse P.C.
209 Battery Street
P.O. Box 988
Burlington, VT 05402-0988
Counsel for Dr. Gunther

SIGNATURES

Dated at Montpelier, Vermont, this ____ day of _____, 2021.

STATE OF VERMONT
THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

by:

_____
Megan Campbell, Esquire
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001

Dated at South Burlington, Vermont, this 26 day of February, 2021.

_____
Peter Gunther, MD

Dated at Burlington, Vermont, this 26 day of FEBRUARY, 2021.

_____
Nicole Andreson, Esquire
Dinse P.C.
209 Battery Street
P.O. Box 988
Burlington, VT 05402-0988
Counsel for Dr. Gunther

AS TO PETER GUNTHER, MD
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Signed on Behalf of the Vermont Board of Medical Practice

By: _____
Sarah McClain, Public Member
Vice-Chair
Vermont Board of Medical Practice

Vote documented in the Vermont Board of Medical Practice meeting minutes, dated April 7, 2021.

Dated: 4·14·21

PRACTICE MONITORING AGREEMENT

Vermont Board of Medical Practice

Peter Gunther, M.D.

Docket No. MPC 162-1017

1. Pursuant to a Stipulation and Consent Order entered into by Peter Gunther, M.D. ("Dr. Gunther") and the Vermont Board of Medical Practice ("the Board") in Docket No. MPC 162-1017, Dr. Gunther has agreed to retain a practice monitor to monitor his treatment of patients with chronic pain. The purpose of this Practice Monitoring Agreement ("Agreement") is to set forth the terms of the practice monitoring component of Dr. Gunther's Stipulation and Consent Order (attached and incorporated by reference). This Agreement will be signed by Dr. Gunther and the practice monitor approved by the Central Investigative Committee ("the Committee").
2. Dr. Gunther is responsible for selecting a practice monitor.
3. The practice monitor chosen by Dr. Gunther shall be a Vermont licensed physician with an unconditioned license who has experience in the treatment of chronic pain with opioids, ideally in a primary care/internal medicine practice setting.
4. Dr. Gunther shall obtain approval from the Committee for his choice of practice monitor. Dr. Gunther shall submit in writing to the Committee the practice monitor's name, contact information, and curriculum vitae. The Committee retains discretion to approve or disapprove the choice of practice monitor for any reason. The Committee shall communicate in writing its decision to Dr. Gunther. If the proposed practice monitor is not approved, Dr. Gunther remains responsible for using the procedure

outlined in this paragraph to submit his choice of another proposed practice monitor for Committee consideration.

5. The Board shall not bear any of the costs associated with the practice monitor.
6. Dr. Gunther shall provide the practice monitor with a copy of the fully executed Stipulation and Consent Order.
7. The practice monitoring shall start within sixty (60) days of the date that the Board approves the Stipulation and Consent Order (hereinafter referred to as the "start date").
8. The practice monitor will follow all state and federal health privacy regulations and statutes, including, but not limited to, HIPAA, and will review and sign any necessary HIPAA authorizations, business associate agreements, or any other required documents to enable access to, and review of, patient protected health information.
9. The practice monitor shall perform a record review every sixty (60) days of ten (10) of Dr. Gunther's patients who are receiving opioid medications for chronic pain unless there are fewer than ten patients, in which case it shall be a total of ten including patients who are prescribed other controlled substances. The practice monitor shall select the patients whose records are to be reviewed. If during any sixty (60) day period Dr. Gunther has no patients receiving controlled substances, the practice monitor shall notify the Committee in writing, and the practice monitoring requirements shall be suspended until Dr. Gunther notifies the Committee that he is again prescribing controlled substances.
10. The practice monitor may review any other documents, records, files, logs, etc. for information needed to prepare written monitoring reports.

11. The practice monitor may speak with Dr. Gunther's co-workers to obtain information needed to prepare the written monitoring reports.
12. The practice monitor shall meet with Dr. Gunther every sixty (60) days to discuss the findings of his/her record review. Dr. Gunther is responsible for ensuring that there is appropriate documentation of each sixty (60) day record review and discussion. Such documentation shall include the date of each record review, and the date and length of time of each discussion between the practice monitor and Dr. Gunther regarding the findings of each chart review. This documentation shall be submitted with each sixty (60) day practice monitoring report.
13. The practice monitor shall report his/her findings in a detailed written report to the Committee for three (3) full years excluding all periods in which practice monitoring is suspended because Dr. Gunther is not prescribing controlled substances. The first report shall be submitted no later than sixty (60) days after the practice monitoring agreement is signed.
14. If at any time during the three-year practice monitoring period, Dr. Gunther is no longer prescribing controlled substances or he is no longer practicing primary care internal medicine, he may submit a written request to the Committee to end the requirement for monitoring. The practice monitoring requirement will not cease unless or until the Committee approves, in writing, Dr. Gunther's request to end the monitoring.
15. Dr. Gunther shall be responsible for ensuring that the following is reviewed by the practice monitor and discussed and documented in the practice monitoring reports:

a. The number of chronic pain patients Dr. Gunther is currently treating with opioid medications;

b. Documentation of each chart review performed by the practice monitor during that review period including the findings of the chart review;

c. Whether Dr Gunther's prescribing of opioid medications meets the standard of care and is in accordance with the current Vermont Rule Governing the Prescribing of Opioids for Pain and the Vermont Prescription Monitoring System Rule;

d. Whether Dr. Gunther's clinical monitoring of patients to whom he is prescribing opioid medications meets the standard of care;

e. Whether Dr. Gunther's medical recordkeeping is in accordance with the standard of care;

f. Whether Dr. Gunther's general medical treatment meets the applicable standard of care; and

g. Any recommended improvements to Dr. Gunther's practice. Although the practice monitor will need to review patient charts to become familiar with patient medical history, the focus of the practice monitoring will be improving Dr. Gunther's practice prospectively.

16. Dr. Gunther shall be responsible for ensuring that the practice monitor's reports are timely submitted to the Committee, directed to the attention of the Vermont Board of Medical Practice at the following address: P.O. Box 70, Burlington VT 05402-0070.

17. After the Committee has received consecutive, favorable and timely sixty (60) day practice monitoring reports for one (1) full year, Dr. Gunther may submit a written

request to the Committee to reduce the record reviews, and submission of practice monitoring reports to occur on a quarterly basis.

18. The practice monitoring shall continue for a total of three (3) years from the start date and shall include three years of active monitoring, unless a modification to the monitoring requirement is approved by the Committee. Any time periods in which Dr. Gunther is not prescribing controlled substances shall not be counted toward the three-year minimum. At the end of the monitoring period, Dr. Gunther shall submit a written request to the Committee to end the requirement for monitoring. Such a request shall not be considered by the Committee until Dr. Gunther has provided favorable and timely monitoring reports for the monitoring period. The practice monitoring requirement will not cease until the Committee has approved, in writing, Dr. Gunther's request to end the monitoring.
19. In the event that the practice monitor can no longer monitor Dr. Gunther's practice, Dr. Gunther shall notify the Committee in writing within five (5) business days. Within thirty (30) days of providing notice to the Committee, Dr. Gunther shall submit the name of an additional proposed practice monitor which will be subject to the approval process outlined in paragraph four.
20. Upon notice to the Committee that the practice monitor can no longer serve, Dr. Gunther has sixty (60) days to obtain Committee approval for a new practice monitor. If a new practice monitor is not approved in that time, Dr. Gunther shall cease prescribing any opioid and/or benzodiazepine medications. Dr Gunther shall not resume prescribing opioid and/or benzodiazepine medications until a new practice monitor is approved by the Committee and can begin monitoring his practice. The

Committee will endeavor to communicate their decision regarding the approval of a new proposed practice monitor to Dr. Gunther in writing within thirty (30) days of when he submits the proposed monitor's name, contact information, and curriculum vitae to the Committee. In the event that the Committee's response is delayed beyond thirty (30) days, that additional response time will not count toward the 60-day limit that Dr. Gunther has to find a new practice monitor or cease prescribing opioid and/or benzodiazepine medications.

21. The Committee retains the unfettered discretion to disapprove Dr. Gunther's practice monitor at any time. If the Committee disapproves of Dr. Gunther's practice monitor, it will provide Dr. Gunther with written notice of the disapproval and a brief explanation of reasons for its decision. Upon receiving this notice Dr. Gunther shall immediately notify his practice monitor that he/she is no longer approved to monitor his practice under this Agreement. Consistent with paragraph nineteen above, Dr. Gunther will seek Committee approval for a new practice monitor. He will cease prescribing opioid and/or benzodiazepine medications if a new monitor is not approved by the Committee within sixty (60) days until such time as the Committee approves a new monitor.
22. Dr. Gunther and the practice monitor agree that they have both read this Agreement in its entirety and agree to all of its terms and obligations.
23. Dr. Gunther and the practice monitor agree that the terms of this Agreement cannot be amended or modified in any way without written approval of the Committee.

Signatures

DATED at _____, Vermont, this _____ day of _____, 2021.

_____
Peter Gunther, MD

DATED at _____, Vermont, this _____ day of _____, 2021.

_____
Practice Monitor