STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

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In re: Joseph H. Haddock, MD	)	Docket No. MPC 019-0218
	)	

STIPULATION AND CONSENT ORDER

NOW COME Joseph H. Haddock, MD, and the State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr. and the undersigned Assistant Attorney General Megan Campbell, and agree and stipulate as follows:

1. Joseph H. Haddock, MD, ("Respondent") of Williston, Vermont holds Vermont medical license number 042.0005909 first issued by the Vermont Board of Medical Practice on April 19, 1977. Respondent is a physician.

2. Jurisdiction in this matter vests with the Vermont Board of Medical Practice ("the Board") pursuant to 26 V.S.A. §§ 1353-1354, 1370-1374 and 3 V.S.A. §§ 809-814, and other authority.

FINDINGS OF FACT

3. Respondent is a practitioner at Thomas Chittenden Health Center in Williston, Vermont. His practice areas include family and internal medicine.

4. The Board opened the above-captioned matter in February of 2018, upon information that Respondent was prescribing pain medication to two patients who were being

investigated for diverting medication. The matter was assigned to the Central Investigative Committee of the Board ("the Committee").

5. The Committee conducted an extensive investigation of Respondent's prescription practice for patients receiving controlled substances. This investigation included, but was not limited to, the review of medical records and prescribing histories for six chronic-pain patients who receive opioid treatment from Respondent.

6. The Committee's investigation identified practice deficiencies in Respondent's treatment of chronic pain patients who receive opioids. The Committee's findings for the six patients whose records were reviewed, hereafter referred to as Patients 1-6, included the practice concerns which follow.

7. Respondent treated Patient 1 for chronic pain from a number of conditions including rheumatoid arthritis. He prescribed a high daily morphine milligram equivalent ("MME") of over 700 to Patient 1. Respondent knew another medical provider treating Patient 1 had concerns about this patient's potential diversion of medication.

8. Respondent conducted annual urine drug screens for Patient 1. Over six years of testing, four of the six tests were negative for prescribed opioids (2012, 2015, 2016, 2017). Despite these aberrant results, Respondent did not increase Patient 1's clinical monitoring by instituting pill counts or performing more frequent urinalysis testing.

9. From 2015 to 2018 Respondent treated Patient 2 for chronic pain by prescribing a large quantity of opioid medication at high dosages totaling a daily MME of 390.

10. Patient 2 had warning signs for potential medication misuse and diversion including: lost opioid medication, early refills of prescriptions, frequent out-of-state travel,

paying for prescriptions out of pocket rather than through insurance, and lengthy delays in obtaining consultations for surgery. Most concerning was a urine drug screen that Patient 2 completed in June of 2016 at Respondent's request which returned positive results for non-prescribed opioids. The test results indicated Patient 2 was using heroin and nonprescribed fentanyl. Respondent did not document a discussion with Patient about these results or other warning signs of diversion and misuse, nor did he increase his clinical monitoring of this patient.

11. Respondent was the treating physician for Patient 3, a patient with severe pain related to temporomandibular jaw syndrome ("TMJ"). Respondent provided Patient 3 with opioids at a daily dosage of 540 MME from 2015 through 2018.

12. Respondent inherited Patient 3's care from a colleague in 2015. His colleague warned him that Patient 3 failed to bring her oxycodone prescription in for a requested pill count with an explanation that she had disposed of the medication, and also paid for her prescription in cash despite prior approval from insurance. His colleague advised Respondent not to treat Patient 3 with oxycodone, but to instead maintain her on a fentanyl patch due to concerns of drug diversion. Contrary to this advice, Respondent continued to prescribe Patient 3 oxycodone over the next three years. He did so without pill counts or frequent urinalysis testing. Respondent maintained Patient 3's high MME notwithstanding the patient's multiple requests for early refills and failure to follow up with specialty care for her TMJ.

13. Respondent prescribed Patient 4 high dosages of opioids for several chronic conditions including osteoarthritis. Respondent prescribed Patient 4 a daily MME between 360 and 420 from June 2014 until May 2016. Respondent did not document any urine drug screens for this patient.

14. Respondent also did not document a risk assessment in Patient 4's chart as required by the Vermont Department of Health's Rule Governing the Prescribing of Opioids for Chronic Pain section 4.3, effective August 1, 2015. Nor did Respondent document a Controlled Substance Agreement and Informed Consent for this time period as required by sections 7.1 and 7.2.4 of the Rule.

15. Respondent prescribed opioids to Patient 5, who had a prior history of substance use disorder. Respondent began to prescribe opioids for Patient 5 after the patient's release from jail without a diagnosis justifying the prescription. He did not alter his prescription practice for this patient in 2010 when multiple pharmacies reported that Patient 5 was tampering with his prescriptions, nor did he document in the patient's chart a urinalysis test in 2011 which was positive for cocaine.

16. Respondent failed to document discussions with Patient 5 about warning signs of medication diversion and misuse such as Respondent and his wife calling for early refills of the medication, paying cash for prescriptions, and Patient 5's multiple excuses over a period of years for delaying a medication taper. Patient 5 was prescribed a daily MME of 840 by March 2015 and remained on that MME through February 2018 without a diagnosis warranting opioid treatment, and despite the patient's lack of improvement.

17. Respondent treated Patient 6 for back pain and hypertension with opioid medication. He continued to prescribe escalating opioid dosages for this patient despite evidence of diversion. Patient 6 had abnormal urine drug screens in 2013 and 2016 that were both positive for nonprescribed oxycodone and buprenorphine. In addition, Patient 6's prescribed hydromorphone was not present in his urine in the 2013 urinalysis result. Respondent did not

document any discussions with Patient 6 about these aberrant results which are highly concerning for diversion.

18. Respondent continued to prescribe increasing opioid dosages for Patient 6 from a daily MME of 238 in 2015 to an MME of 675 in 2018 without evidence of a corresponding increase in Patient 6's functioning.

CONCLUSIONS OF LAW

19. 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).

20. Respondent failed to conform to the essential standards of acceptable and prevailing practice in his care of Patient 2, Patient 5, and Patient 6. As detailed above, he maintained these three patients on high dosages of opioids while failing to respond in a safe and acceptable manner to indicators of potential medication diversion or misuse.

21. The Board may further find that "gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions, that degree of care, skill, and proficiency that is commonly exercised by the ordinary skillful, careful, and prudent physician engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred." 26 V.S.A. § 1354(a)(22).

22. Respondent failed to meet this standard in his medical treatment for Patient 1, Patient 2, Patient 3, Patient 5, and Patient 6. He prescribed these patients high dosages of

opioids without adequate clinical monitoring, and in the cases of Patients 5 and 6 without evidence that these medications had a positive effect on the patient's functioning.

23. 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).

24. Section 4.3 of the Vermont Department of Health's Rule Governing the Prescribing of Opioids for Pain mandates that a prescriber shall "evaluate and document benefits and relative risks, including the risk for misuse, abuse, diversion, addiction, or overdose, for the individual patient of the use of opioids prior to writing an opioid prescription for chronic pain. The evaluation shall include but not be limited to a Risk Assessment..."[1]

25. Prescribers were also required by section 7.1 and 7.2.4 of the Rule to include certain documentation for patients prescribed opioids for chronic pain in the patient's chart. Prescribers are 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. For patients prescribed over 120 MME daily, the Rule also required a prescriber to obtain an Informed Consent document prior to prescribing opioids.[2]

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[1] This Rule is cited because it pertains to deficiencies in the care of Patient 4 between 2014 -2016. For this reason, the Rule Governing the Prescribing of Opioids for Chronic Pain adopted on August 1, 2015 is quoted in the provisions above. This Rule was subsequently amended on July 1, 2017, and again on March 1, 2019, but the cited provisions was not substantively changed.

[2] This stipulation cites the 2015 Rule given the timeframe of the relevant patient care, however, these documentation requirements can be found in sections 6.2.1.5, 6.4.1, and 6.4.2.4 of the Rule as amended in 2017 and 2019. The requirement for an annual review of the documentation was applied to patients receiving a daily dose of 90 MME in the 2017 Rule and continued at that MME in 2019.

26. Respondent did not follow these requirements in his care of Patient 4. Respondent's violations of the above referenced Opioid Prescription Rule constitutes failure to comply with the Vermont state statutes and rules governing the practice of medicine.

27. Consistent with Respondent's cooperation with the Board, he agrees that if the State were to file charges against him 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).

28. Respondent agreed that the Board may enter as its facts and/or conclusions in this matter any one or more of Paragraphs 1 through 27 above, and further agrees that this is an adequate basis for the Board actions set forth herein. Any representation by Respondent herein is made solely for the purposes set forth in this agreement.

29. Therefore, in the interest of Respondent's desire to fully and finally resolve the matter presently before the Board, he has determined that he shall enter into this instant agreement with the Board. Respondent enters no further admission 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.

30. Respondent 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.

31. 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 administratively closed 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 Respondent.

32. 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. Respondent 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 Respondent or constitute an admission of any of the facts of the alleged misconduct, it shall not be used against Respondent in any way, 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 Respondent.

33. Respondent 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, Respondent expressly agrees to be bound by all terms and conditions of this Stipulation and Consent Order.

34. 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 Respondent, it is hereby ORDERED that:

[redacted]

2. Upon Board approval of this Stipulation, Respondent is hereby relieved from the Voluntary Limitation of Practice Agreement that went into effect on May 6, 2020, but his license will thereupon be conditioned according to the terms below.

3. Respondent's medical license shall be CONDITIONED as follows:

   a. Respondent shall not prescribe opioids or benzodiazepines on a permanent basis.

   b. Respondent shall successfully complete an AMA PRA Category 1 continuing medical education ("CME") course on the topic of medical recordkeeping. The CME course must be completed no later than one (1) year after this Stipulation is approved by the Board. Respondent shall seek prior approval, in writing, from the Committee for the CME course. The course must be live in-person or a live interactive course offered remotely. Upon successful completion of the CME course, he shall provide the Committee with proof of attendance. Respondent shall also provide the Committee with a brief written narrative of the CME course which will document what he learned from the course, and how he will

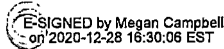
apply that knowledge to his practice. Respondent shall provide proof of attendance and the written narrative to the Committee. Respondent shall be solely responsible for all costs associated with meeting these CME requirements.

c. Respondent 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

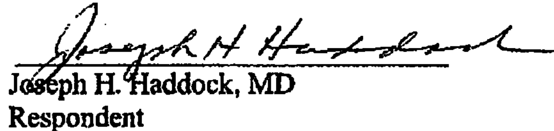
Dated at Montpelier, Vermont, this ____ day of __________, 2020.

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

by: 

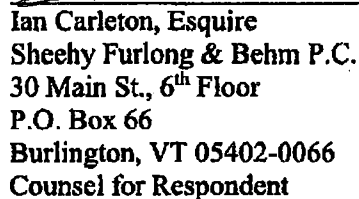
Megan Campbell, Esquire
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001

Dated at Williston, Vermont, this 21st day of December, 2020.



Joseph H. Haddock, MD
Respondent

Dated at Burlington, Vermont, this 28th day of December, 2020.



Ian Carleton, Esquire
Sheehy Furlong & Behm P.C.
30 Main St., 6th Floor
P.O. Box 66
Burlington, VT 05402-0066
Counsel for Respondent

AS TO JOSEPH H. HADDOCK, MD
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Signed on Behalf of the Vermont Board of Medical Practice

By:

Rick Hildebrant MD
Acting Chair
Vermont Board of Medical Practice

Vote documented in the Vermont Board of Medical Practice meeting minutes, dated January 6, 2021.

Dated: 1/7/20