

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Richard E. Kast, M.D.)
) Docket No. MPS 102-0711
)

STIPULATION AND CONSENT ORDER

NOW COME the State of Vermont, by and through Attorney General William H. Sorrell, and Richard E. Kast, M.D., and stipulate and agree as follows:

1. Richard E. Kast, M.D. ("Respondent") holds Vermont medical license No. 042-0008320, issued on May 1, 1991.
2. Jurisdiction in these matters vests with the Vermont Board of Medical Practice ("Board"), pursuant to 26 V.S.A. §§ 1353-1361, 3 V.S.A. §§ 809-814, and other authority.

Findings of fact

3. The Board opened the above-captioned matter after a counselor called to report that a client provided information suggesting that Respondent may have inappropriately prescribed buprenorphine to treat opiate dependence.
4. Respondent provided psychiatric care to Patients A, B, C, D, and E.
5. The hand-written entries in the charts for patients A-E were not legible enough that a non-medically trained person could read them.
6. The hand-written entries in the charts for patients A-E were not

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legible enough that a medically trained person could read and interpret them in a relatively efficient manner.

7. The entries in the charts for patients A-E did not adequately and appropriately convey relevant, objective, accurate information concerning the patients, such as the standard elements of a mental status examination or documentation of psychiatric diagnoses.

8. The entries in the charts for patients A-E were not clear, concise, complete, unambiguous, and arranged in chronological order and are frequently characterized by non-standard abbreviations and ambiguous symbols.

9. The illegibility and unintelligibility of the charts for patients A-E precludes a determination of whether the care Respondent provided to the patients was of acceptable safety and quality.

10. Respondent prescribed narcotic medication to patients F, G, and H for the treatment of chronic pain.

11. Respondent did not perform or obtain comprehensive physical examinations for patients F-H and document them in their charts prior to prescribing them narcotic medications.

12. Respondent did not obtain and document Patients F-H's informed consent for long-term narcotic therapy for chronic pain prior to prescribing them narcotic medication.

13. Respondent did not obtain from Patients F-H signed, written

treatment agreements setting forth the conditions of their treatment with narcotic medication and outlining their responsibilities with respect to such medication prior to prescribing them narcotic medication; nor did Respondent document those conditions and responsibilities in the patients' charts.

14. Notwithstanding the concerns set forth in Paragraphs 4-13, the Board did not find evidence that Respondent's care and treatment harmed Patients A-H.

Conclusions of law

15. It is unacceptable medical practice for a licensee to inadequately document his treatment of patients and to improperly prescribe controlled substances. Such conduct may constitute unacceptable patient care and the failure to conform to the essential standards of acceptable and prevailing practice in violation of 26 V.S.A. §§ 1354(b)(1) and (2).

16. 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(b)(1) and (2).

17. Respondent agrees that the Board may enter as its facts and/or conclusions in this matter Paragraphs 1 through 14, 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.

18. 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 the 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.

19. Respondent acknowledges that he is knowingly and voluntarily entering into this agreement with the Board. He acknowledges he has had the advice of counsel regarding this matter and in the review of this Stipulation and Consent Order. Respondent is fully satisfied with the legal representation he has received in this matter.

20. 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.

21. The Board and Respondent 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 and except as otherwise provided herein.

22. This Stipulation and Consent Order is conditioned upon its acceptance by the Board. 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, and it shall be without prejudice to any future disciplinary proceeding and the Board's final determination of any charge against Respondent.

23. 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, the National Practitioner Data Bank, and the Healthcare Integrity and Protection Data Bank.

24. 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.

25. 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 Findings of Fact, Conclusions of Law, and the consent of Respondent, it is hereby ORDERED that:

a. Respondent shall successfully complete a continuing medical education course ("CME") approved by the South Investigative Committee ("Committee") or the Board that addresses medical record keeping.

Respondent shall seek the Committee's or Board's approval of a proposed CME course no later than 45 days prior to the date of the course. Respondent shall complete the course within one year of the entry of this Stipulation and Consent Order. Upon Respondent's successful completion of the class, she shall provide the Committee with official proof thereof and report to the Committee, in writing, what he learned from the course and how he will apply that knowledge to his practice. Respondent shall be solely responsible for all costs associated with the continuing medical education course.

b. Respondent shall retain the services of a "practice monitor," of his choosing, subject to preapproval by the Committee or the Board. The practice monitor shall report his/her findings to the Committee on a quarterly basis commencing on for a period of at least one year and until Respondent is relieved of this condition upon his petition to the Committee. The practice monitor's first report shall be submitted to the Committee no later than September 1, 2013. The practice monitor shall review the treatment records of

the two (2) patients that Respondent treats for chronic pain to determine whether Respondent's treatment and medical record keeping meets the applicable standards of care. In addition, practice monitor shall review the treatment records of five (5) additional patients for whom Respondent provides psychiatric care to determine whether Respondent's record keeping meets the applicable standards of care. The practice monitor shall select the five (5) additional patient records to be reviewed from a list prepared by Respondent that identifies all patients for whom Respondent provides psychiatric care the previous three months. After each quarterly review, Respondent shall meet with the practice monitor to discuss the quality of Respondent's chronic pain treatment and his medical record keeping. Respondent shall be solely responsible for all costs associated with the practice monitor. Respondent shall be responsible for ensuring that the practice monitor's reports are timely submitted to the Committee.

c. Respondent currently treats two patients for chronic pain. He shall not treat any additional patients for chronic pain for a period of at least one year and until Respondent is relieved of this condition upon his petition to the Committee.

d. Respondent shall not prescribe opiate or opioid controlled substances listed in Schedule II of the Controlled Substances Act. However, Respondent may prescribe such controlled substances to the two (2) patients he treats for chronic pain provided that such treatment is clinically indicated


and conforms to the applicable standard(s) of care. Respondent may petition the Committee for modification of or relief from this condition no earlier than one year from the entry of this Stipulation and Consent Order.

e. Respondent shall not prescribe buprenorphine for the treatment of opiate/opioid dependence.

Dated this 15th day of April, 2013 at Montpelier, Vermont.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

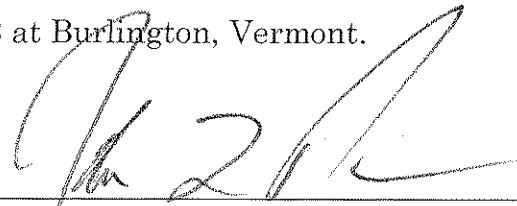
by: 
Kurt A. Kuehl
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001

Dated this 24th day of April, 2013 at Burlington, Vermont.


RICHARD E. KAST, M.D.
Respondent

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Dated this 20th day of April, 2013 at Burlington, Vermont.



John L. Pacht, Esq.
Hoff Curtis
P.O. Box 1124
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Counsel for Respondent

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AS TO RICHARD E. KAST, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

George R. Dellei MD
[Signature]

Jamie Hallant MD
[Signature]

[Signature]

[Signature]

[Signature]

Peter Phansawat, MD.

[Signature]

DATED: May 1, 2013

ENTERED AND EFFECTIVE: May 1, 2013

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