

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Edward Peter Durling, PA-C)
) Docket No. MPC 172-0713
)

STIPULATION AND CONSENT ORDER

NOW COME Edward Peter Durling, PA-C, and the State of Vermont, by and through Vermont Attorney General William H. Sorrell, and hereby stipulate and agree to the following in the above-captioned matter:

1. Edward Peter Durling, PA-C (“Respondent”) holds Vermont medical license number 055-0030945, originally issued on January 7, 2009.
2. Jurisdiction in this matter rests with the Vermont Board of Medical Practice (“the Board”), pursuant to 26 V.S.A. §§ 1353-1357, 1732-1744, 3 V.S.A. §§ 809-814, and other authority.

FINDINGS OF FACT

3. The Board opened the above-captioned matter in August 2013 based upon information it received concerning Respondent. The matter was assigned to the Central Investigative Committee (“the Committee”) of the Board.
4. The Committee’s investigation revealed that Respondent had been using an account with a medical supply company to purchase medications for personal use, and specifically, Fioricet, Zolpidem and Triazolam, allegedly for an immediate family member.
5. Respondent surrendered his United States Drug Enforcement Agency (“DEA”) certificate, which permitted him to prescribe controlled substances, effective July 19, 2013.

CONCLUSIONS OF LAW

6. The Board may find that “prescribing, selling, administering, distributing, ordering, or dispensing any drug legally classified as a controlled substance for the licensee’s own use or to an immediate family member” constitutes unprofessional conduct. 26 V.S.A. § 1354(a)(37); *see also* 26 V.S.A. § 1736(a).
7. Board Rule 4.3 provides that “it is unacceptable medical practice and unprofessional conduct for a licensee to prescribe Schedule II, III and IV controlled substances to a member of his or her immediate family, except in a bona fide emergency, of short-term and unforeseeable character.”
8. The Board may find that the “failing to comply with provisions of federal or state statutes or rules governing the profession” constitutes unprofessional conduct. 26 V.S.A. § 1736(a)(4).
9. Respondent acknowledges that it is the Board’s position 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)(37) and 26 V.S.A. § 1736(a)(4).
10. In this matter, Respondent admits all facts set forth in paragraphs 1 through 5, above, and agrees that the Board may enter as its facts and/or conclusions paragraphs 1 through 5 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.

11. Respondent acknowledges that he is knowingly and voluntarily agreeing to this Stipulation and Consent Order with the Board. He acknowledges and agrees that at all times and in all communications and proceedings related to this matter before the Board he has had the right to be represented and advised by counsel. Respondent has carefully reviewed and considered this Stipulation and Consent Order.
12. 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.
13. 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.
14. 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.

15. 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. 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.
16. The parties therefore jointly agree that should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Vermont Board of Medical Practice, the Board 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:

- a. Respondent shall be **REPRIMANDED** for the conduct set forth above;
- b. Respondent shall attend and successfully complete three continuing medical education (“CME”) classes by **July 1, 2014**. The subjects of the three CME class shall be: (1) medical ethics; (2) prescribing best practices; and (3) medical record keeping. Respondent is encouraged to submit the names of CME classes which he proposes to attend to the Central Committee to ensure that the classes meets the expectations of the Board.

c. Following the completion of the CME courses listed, Respondent shall provide written proof of attendance, along with a written summary of the class and what he learned. The written summary shall also describe any changes he intends to implement in his professional practice as a result of what he has learned. The written summaries and proofs of attendance shall be submitted to the ~~North~~ ^{Central} Investigative Committee for review. The Board will accept a recently completed medical ethics course (attended on July 26, 2013 at the University of California Irvine) as satisfaction of the first course required by this Stipulation, provided that Respondent complete the written summary and proof of attendance required by this paragraph to the satisfaction of the ~~North~~ ^{Central} Investigative Committee.

SIGNATURES

DATED at Montpelier, Vermont, this 24th day of September, 2013.

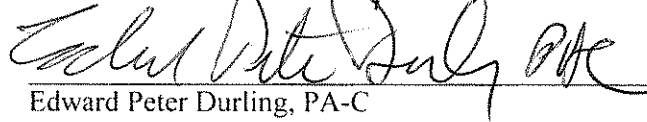
STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By: 

Robert F. McDougall
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609

DATED at Verwon, Vermont, this 21 day of September 201213

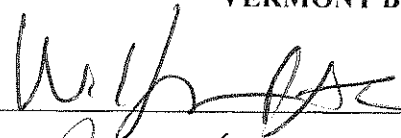
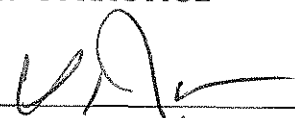
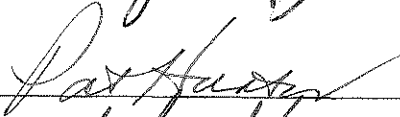
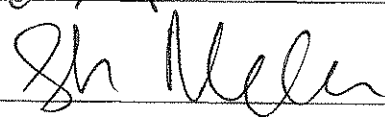

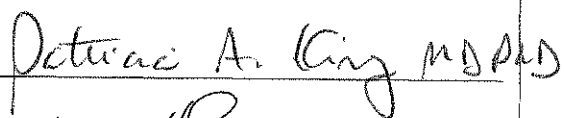


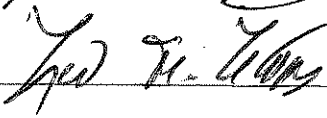
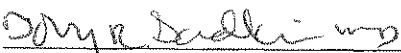
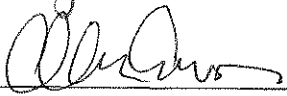

Edward Peter Durling, PA-C

Respondent

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

AS TO EDWARD PETER DURLING, PA-C

APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Dated: October 2, 2013

ENTERED AND EFFECTIVE: October 2, 2013

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609