

VERMONT BOARD OF MEDICAL PRACTICE

In re: John M. Severinghaus, M.D.)
) Docket No. MPN 135-0916
)

STIPULATION AND CONSENT ORDER

NOW COME John M. Severinghaus, and the State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr., and hereby stipulate and agree to the following in the above-captioned matter:

1. John M. Severinghaus (“Respondent”) holds Vermont medical license number 042.0008270 originally issued by the Vermont Board of Medical Practice on December 5, 1990. Respondent is a physician.
2. Jurisdiction in this matter rests with the Vermont Board of Medical Practice (“the Board”), pursuant to 26 V.S.A. §§ 1353-1357, 3 V.S.A. §§ 809-814, and other authority.

FINDINGS OF FACT

3. The Board opened this matter in September of 2016 upon receipt of a complaint concerning Respondent’s psychiatry and prescribing practices. The matter was assigned to the North Investigative Committee of the Board (“the Committee”).
4. Respondent is a physician who is board certified in both psychiatry and addiction medicine. Earlier in his career he maintained a general psychiatry practice, however at this point he limits his practice to substance abuse patients, including the prescribing of buprenorphine. As of the operative date

of this Stipulation, he treats patients exclusively through a group practice called Bradford Psychiatric Associates (“BPA”).

5. The Committee conducted a thorough investigation into Respondent’s psychiatry and prescribing practices, which included an analysis of six patient records from his previous general psychiatry practice and three patient records from his current substance abuse treatment practice at BPA.
6. With respect to the Committee’s review of Respondent’s prior general psychiatric patient records, the Committee determined that Respondent’s records of the six patients¹ were not in conformance with prevailing standards for medical documentation. In particular, the Committee was concerned by either absent or inconsistent records of: (a) summaries containing the patients’ presenting symptoms, past history, medical/family or social history, mental status exams, lab results, and initial assessments and diagnoses; (b) documentation of a formal assessment, diagnosis, relevant mental status exam findings, and treatment plan for each office visit; (c) descriptions of the type of psychotherapy practiced and the rationale therefor; (d) a master medications list for each patient; and (e) failure to include documentation of all out-of-office patient contact, for example, by phone or email.
7. Additionally, the Committee found that Respondent was unavailable and non-responsive to multiple inquiries from a patient whom he was actively treating²,

¹ The time period of treatment by Respondent reflected in the patient records reviewed by the Committee varied from patient to patient. However, the overall time span of records reviewed reflected treatment by Respondent that occurred between 2012 and 2017.

² Respondent treatment of this patient spanned approximately from 2006 through April of 2016.

which included the prescribing of medications, from January through March of 2016. Respondent also did not arrange for any coverage for his patients while he was unavailable.

8. With respect to Respondent's substance abuse patients, the Committee had concerns with Respondent's documentation of: (a) rationale for controlled substances, particularly opioids, being prescribed; (b) rationale for prescribing atypically high doses of buprenorphine to patients; (c) how Respondent handled non-compliance such as urine screens that were either negative for prescribed drugs or positive for non-prescribed substances; (d) how Respondent handled inappropriate alcohol consumption by patients using buprenorphine and tramadol; and (e) how Respondent handled active drug use by patients as evidenced by concerning urine drug screens and other relevant information in the patient records.

9. On March 6, 2019, Respondent entered into a Temporary Voluntary Limitation of Practice Agreement with the Board. Such Agreement provides that Respondent shall voluntarily and temporarily cease and desist from the prescribing of Schedule II controlled substances; and that he shall not prescribe any controlled substances to any patient who is also prescribed buprenorphine.

CONCLUSIONS OF LAW

10. The Board may find, "that failure to practice competently by reason of any cause on...multiple occasions constitutes unprofessional conduct." 26 V.S.A. § 1354(b). And "[f]ailure to practice competently includes, as

determined by the board . . . (1) performance of unacceptable patient care; or (2) failure to conform to the essential standard of acceptable and prevailing practice." 26 V.S.A. § 1354(b)(1) & (2). The Board interprets this subsection to include deficient documentation.

11. Respondent's substandard medical recordkeeping and unreliable and untimely response to a patient as described in paragraphs six, seven and eight above was not in conformance with the applicable standard of care for psychiatric and substance abuse treatment and constitutes unprofessional conduct as defined in 26 V.S.A. § 1354(b)(1) & (2).

12. Respondent agrees that the Board may enter as facts and/or conclusions paragraphs 1 through 11 above, and further agrees that this is an adequate basis for the Board's actions set forth herein. Any representation by Respondent herein is made solely for the purposes set forth in this Stipulation and Consent Order.

13. 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 Stipulation and Consent Order 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.

14. Respondent acknowledges that he is knowingly and voluntarily entering into this Stipulation and Consent Order 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.

15. Respondent agrees and understands that by executing this Stipulation and Consent Order 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.

16. 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 Stipulation and Consent Order by Respondent.

17. 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 Stipulation and Consent Order, the entire agreement shall be considered void. Respondent agrees that if the Board does not accept this Stipulation and Consent Order 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 Stipulation and Consent Order, 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.

18. 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 shall be reported to other licensing authorities either directly or through medical licensing information sharing centers, 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.

19. 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:

1. Upon Board approval of this Stipulation, Respondent is hereby relieved from the Voluntary Limitation of Practice Agreement that went into effect on March 6, 2019.
2. Respondent's Vermont medical license shall be temporarily

CONDITIONED as follows:

- a. Respondent shall be REPRIMANDED for the conduct set forth above for a period of five years.
- b. Respondent shall pay an administrative penalty of \$3,000.00 consistent with 26 V.S.A. § 1361(b). 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. The payment shall be due no later than one year after this Stipulation is approved by the Board.
- c. Respondent shall retain the services of a "practice monitor" for a minimum of three years, subject to the terms and conditions set forth in the attached "Practice Monitoring Agreement," which is incorporated by reference and attached hereto as Exhibit A. The three-year practice monitoring requirement will not begin until

the official "start date" as defined in the attached Practice Monitoring Agreement. Respondent shall comply with the terms and obligations of the Practice Monitoring Agreement.

Respondent shall provide a copy of this Stipulation to the practice monitor. Respondent shall be responsible for ensuring that the practice monitor complies with the terms and obligations of the Practice Monitoring Agreement.

- d. Respondent shall temporarily surrender, on his Drug Enforcement Administration registration, privileges to prescribe Schedule II controlled substances to all patients for a period of no less than three years from the date that this Stipulation is approved by the Board. Respondent shall not seek relief from this condition until after he has obtained relief from the Board from the practice monitoring condition as described above in paragraph d and the attached Practice Monitoring Agreement (Exhibit A). Once Respondent's petition for relief from the temporary surrender of his privileged to prescribe Schedule II controlled substances is granted by Board Order, Respondent's DEA prescribing privileges shall thereafter be unencumbered. In addition, two years after Board approval of the Stipulation, Respondent can petition for relief from this condition by providing specific details on why relief from this condition is necessary.

e. No later than one year from the date of approval of this Stipulation and Consent Order, Respondent shall successfully complete a comprehensive course on medical recordkeeping that qualifies for AMA PRA Category 1 continuing medical education ("CME") credit, and a course on the topic of patient communication. Each CME course shall be a live, in-person course. CME credits obtained through online CME courses are not acceptable for this requirement and will not be approved by the Committee. The course on medical recordkeeping must include a pre-course assessment of records previously prepared by Respondent and a post-course review of later-created records. Results of the post-course review shall be provided to the practice monitor and to the Committee. Respondent shall seek prior approval, in writing, from the Committee for the CME course. Upon successful completion of each CME course, he shall provide the Committee with proof of attendance. Respondent 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. Respondent shall provide proof of attendance and the written narratives to the Committee within 30 days of completion of each course. Respondent shall be solely responsible for all costs associated with the CME courses.

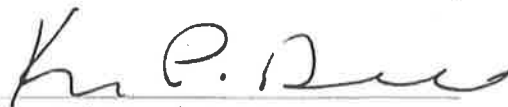
SIGNATURES

DATED at Montpelier, Vermont, this 31st day of January, 2020.

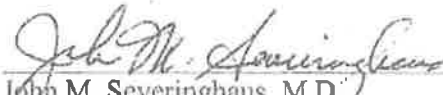
STATE OF VERMONT

THOMAS J. DONOVAN, JR
ATTORNEY GENERAL


By:


Kassandra P. Diederich
Assistant Attorney General
Office of the Attorney General
109 State Street
Montpelier, VT 05609-1001

2020. DATED at Burlington, Vermont, this 31st day of January


John M. Severinghaus, M.D.
Respondent

2020. DATED at Norwich, Vermont, this 30 day of January

 for
Ian Carleton, Esquire
Counsel for Respondent
SHEEHEY FURLONG & BEHM P.C.
30 Main Street, 6th Floor
PO Box 66
Burlington, VT 05402-0066

AS TO JOHN M. SEVERINGHAUS, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

[Handwritten signatures on lined paper]

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DATED: February 5th, 2020
ENTERED AND EFFECTIVE: February 5th, 2020