

**STATE OF VERMONT
BOARD OF MEDICAL PRACTICE**

In re: Donald O. Kollisch, MD)
)
) Docket No. MPN 011-0121

STIPULATION AND CONSENT ORDER

NOW COME Donald O. Kollisch, MD and the Vermont Board of Medical Practice and agree and stipulate as follows:

1. Donald O. Kollisch, MD (“Respondent”) holds Vermont medical license number 042.0007058 originally issued by the Vermont Board of Medical Practice (“the Board”) on April 11, 1984.

2. Jurisdiction in this matter vests with the Board pursuant to 26 V.S.A. §§ 1353-1354, 1370-74, 3 V.S.A. §§ 809-814, and the Rules of the Board of Medical Practice, Section 38.1.2.

FINDINGS OF FACT

3. Respondent is a physician specializing in family practice.

4. Respondent worked as a physician for the White River Junction Veterans Affairs Medical Center from August 2013 to August 2021. For the majority of that time, he worked at its primary location in White River Junction, but also spent several years at a satellite clinic in Littleton, New Hampshire.

5. In November of 2018, Respondent disclosed to the Board a legal action regarding a prescription for terbinafine he prescribed to a patient (hereafter "Patient A"). The case was assigned to the Board's North Investigative Committee (hereafter "the Committee") for investigation. The Committee reviewed Patient A's medical records and found the following facts.

6. Respondent was Patient A's primary care provider. Patient A was an established patient of Respondent's at the White River Junction Veterans Affairs Medical Center. Respondent was aware that Patient A had multiple preexisting conditions including but not limited to diabetes, heart and vascular disease, hematological abnormalities, chronic pulmonary disease, ambulatory dysfunction secondary to joint disease, a history of alcohol abuse and severe depression.

7. On January 13, 2015 Patient A sought treatment from Respondent for pain in his right big toe that was impeding his ability to walk. Patient A's condition had been previously diagnosed by a podiatrist as onychomycosis, a fungal infection of the nail.

8. Respondent issued a prescription for terbinafine, an antifungal medication, to Patient A at the January 13, 2015 appointment to address his onychomycosis. Respondent wrote the terbinafine prescription at the medication's recommended dosage, which when taken orally for onychomycosis of the toenail is 250 mg taken once daily for twelve weeks.

9. Terbinafine has known potential side effects related to liver function that are part of the warning mandated by the FDA on the insert enclosed with the medication. Providers prescribing this medication are cautioned that patients with active or chronic

liver disease may be at greater risk from this medication, and that patients should be assessed for liver disease prior to prescribing it. Hepatotoxicity, also known as toxic liver disease, may occur in patients taking this medication with or without pre-existing liver damage. A known but rare side effect of this medication is liver failure, with some cases leading to death or necessitating a liver transplant.

10. Respondent prescribed terbinafine for Patient A even though the liver function tests he performed on Patient A prior to issuing the prescription had come back indicating the presence of liver enzyme abnormalities.

11. Respondent did not perform any subsequent liver function tests to monitor whether terbinafine was causing worsening liver function during the patient's 12-week course of treatment with that medication. This subsequent monitoring was medically indicated given Patient A's comorbidities, which could affect Patient A's metabolism of this medication, and the abnormal liver enzyme test result. Respondent admits his failure to perform such tests was a medical error.

12. On February 25, 2015, Respondent signed a second twelve-week prescription for terbinafine to Patient A. Respondent admits that the issuance of this second prescription was not medically indicated and was a medical error.

13. Respondent saw Patient A for medical appointments on April 13, 2015, and July 14, 2015. At neither of these visits was the February terbinafine prescription renewal addressed. Respondent and Patient A discussed the duration of the terbinafine prescription at the April 13, 2015 appointment. Respondent documented in the medical record that twelve weeks was an adequate duration for the terbinafine prescription, and

that he was declining to renew it, but did not address that he had already done so on February 25, 2015. At the July office visit, Respondent noted that the condition of Patient A's toenail was improving.

14. Respondent also did not monitor the status of Patient A's liver function during the second twelve-week period that Patient A was prescribed the additional course of terbinafine.

15. On July 23, 2015 Patient A was hospitalized with a deteriorating medical condition that included anemia, a reduced white blood cell count and abnormal liver function testing results. He subsequently died on August 16, 2015. His cause of death was determined to be drug induced liver failure secondary to terbinafine.

CONCLUSIONS OF LAW

16. 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).

17. Respondent failed to conform to the essential standards of acceptable and prevailing practice in his treatment of Patient A. He failed to present sufficient justification in Patient A's medical record for the initial decision to prescribe terbinafine without accompanying liver function monitoring. Terbinafine is a medication with a

known risk of potential liver complications. Patient A had multiple comorbidities that could affect his ability to metabolize this medication. In addition, Patient A showed liver enzyme abnormalities during a liver function test Respondent performed prior to issuing this prescription. Respondent failed to appropriately monitor Patient A's liver function during his course of treatment with terbinafine to determine if the medication was having a detrimental effect on Patient A's liver functioning. Finally, Respondent prescribed Patient A double the recommended duration of this medication due to a prescription error and failed to recognize that error or begin liver function monitoring in subsequent appointments.

18. Respondent acknowledges 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).

19. Respondent agrees that the Board will adopt and incorporate as its facts and conclusions in this matter paragraphs one (1) through twenty-six (26) herein and further agrees that this is an adequate basis for the Board's actions in this agreement. Any representation by Respondent herein is made solely for the purposes set forth by this agreement.

20. 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 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.

21. Respondent acknowledges that he is knowingly and voluntarily entering into this agreement 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 by counsel. Respondent has carefully reviewed and considered this Stipulation and Consent Order.

22. 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.

23. 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 Respondent.

24. 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.

25. 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 action by the Board, as set forth herein, Respondent expressly agrees to be bound by all terms and conditions of this Stipulation and Consent Order.

26. 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

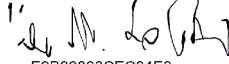
WHEREFORE, based on the foregoing, and the consent of Respondent, the Board hereby adopts as its facts and conclusions paragraphs one (1) through twenty-six (26) above. It is hereby ORDERED that:

1. Respondent shall successfully complete two AMA PRA Category 1 continuing medical education (“CME”) courses on the following topics: (1) appropriate prescribing practices; and (2) medical errors. Each 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 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. 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 narrative to the Committee. Respondent shall be solely responsible for all costs associated with meeting these CME requirements.
2. Respondent shall pay a \$2,000 administrative penalty consistent with 26 V.S.A. § 1374(b)(1)(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 Vermont 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 _____, Vermont, this ____ day of _____, 2022.

DocuSigned by:

6/23/2022
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Leo LeCours
Chair, North Investigative Committee
Vermont Board of Medical Practice

DATED at Montpelier, Vermont, this ____ day of _____, 2022.

DocuSigned by:

6/20/2022
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Approval as to legal form
Megan Campbell, Esquire
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001

DATED at _____, Vermont, this ____ day of _____, 2022.

Donald O. Kollisch, MD
Respondent

DATED at _____, Vermont, this ____ day of _____, 2022.

Bernard Lambek, Esquire
Counsel for Respondent

DATED at _____, Vermont, this ____ day of _____, 2022.

Leo LeCours
Chair, North Investigative Committee
Vermont Board of Medical Practice

DATED at Montpelier, Vermont, this ____ day of _____, 2022.

Approval as to legal form
Megan Campbell, Esquire
Assistant Attorney General
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001

DATED at Hanover, ^{New Hampshire} Vermont, this 17th day of June, 2022.

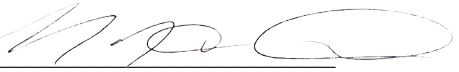
Donald O. Kollisch, MD
Donald O. Kollisch, MD
Respondent

DATED at Montpelier, Vermont, this 17th day of June, 2022.

Bernard Lambek
Bernard Lambek, Esquire
Counsel for Respondent

**AS TO DONALD O. KOLLISCH, MD
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE**

Signed on Behalf of the Vermont Board of Medical Practice

By: 
Rick Hildebrant, MD
Vice-Chair
Vermont Board of Medical Practice

Vote documented in the Vermont Board of Medical Practice meeting minutes,
dated 07/06/2022.

Dated: 07/06/2022