

5. The Committee conducted a thorough investigation into Respondent's prescribing practices, which included an analysis of Patient A's medical records documenting Respondent's treatment.
6. Respondent prescribed methadone to Patient A to treat his chronic pain from February 2011 through February 2016. He prescribed approximately 80 milligrams of methadone per day, which is a morphine equivalent daily ("MED") dosage of 960 per day. Respondent concurrently prescribed benzodiazepines to Patient A.
7. Given Patient A's high MED/day of opioids and medication combination of opioids and benzodiazepines, Respondent should have documented the following, but failed to do so:
 - Discussion with Respondent's supervising physician regarding whether the dosages and combinations of medications should be continued with this patient;
 - Rationale for the continued prescribing of high dosage of opioids and combination of opioids and benzodiazepines;
 - The use of non-opioid and non-pharmacological alternatives for treating Patient A's chronic pain;
 - Reevaluation of the pain management plan, as well as an evaluation of compliance with the treatment regimen;
 - A functional status examination; and
 - A review and appropriate revisions to the pain medication use treatment agreement.

CONCLUSIONS OF LAW

8. The Board may find that “failure to comply with provisions of ...state statutes or rules governing the practice of medicine” constitutes unprofessional conduct. 26 V.S.A. § 1354(a)(27).

9. During the period from August 1, 2015 to July 1, 2017, Section 7.2 of the Vermont Department of Health Rule Governing the Prescribing of Opioids for Chronic Pain provided, “Prior to prescribing a dose of opioids, or a combination of opioids, that exceeds 120 MED/day, the prescriber of opioids to treat chronic pain shall document in the patient’s medical record:

- a. 7.2.1 A reevaluation of the effectiveness and safety of the patient’s pain management plan, including an assessment of the patient’s adherence to the treatment regimen;
- b. 7.2.2 The potential for use of non-opioid and non-pharmacological alternatives for treating pain;
- c. 7.2.3 The functional status examination of the patient;
- d. 7.2.4 A review of the patient’s Controlled Substances Treatment Agreement and Informed Consent, making any necessary revisions, including pill counts and directly observed urine testing to monitor adherence and possible use of other substances;
- e. 7.2.5 An assessment of any co-morbid conditions affected by treatment with opioids. This may be best conducted by a mental health or addictions professional;

f. 7.2.6 Any other related actions by the patient that may reasonably lead a prescriber to modify the pain management regimen, including but not limited to aberrant behaviors, early refills of controlled substances, or other known risks associated with misuse, abuse, diversion, addiction or overdose.”

10. Respondent prescribed opioids to Patient A in an amount more than eight times the 120 MED/day referenced in Section 7.2. Despite prescribing such a high MED/day dose to Patient A, Respondent did not document many of the actions as required by Section 7.2. Respondent’s actions of prescribing to Patient A in a manner not meeting the requirements of Section 7.2 constitutes unprofessional conduct in violation of 26 V.S.A. § 1354(a)(27).

11. Respondent agrees that the Board may enter as its facts and/or conclusions paragraphs 1 through 10 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 agreement.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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 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.

18. 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. Respondent shall be reprimanded for the conduct set forth above.
2. Respondent shall pay an administrative penalty of \$1,000.00 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 six months after this Stipulation and Consent Order is approved by the Board.
3. Respondent shall retain the services of a "practice monitor" for a minimum of two 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 two-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 and Consent Order 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.

4. No later than one year from the date of approval of this Stipulation and Consent Order, Respondent shall have successfully completed an extensive and comprehensive AMA PRA Category 1 continuing medical education (“CME”) course on the topic of prescribing opioids for chronic pain. Such CME course shall be live and in-person. An online CME course is not acceptable and will not be approved by the Committee. Respondent shall seek prior approval, in writing, from the Committee for the CME course. 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 within 30 days of completion of the course. Respondent shall be solely responsible for all costs associated with the CME course.
5. Respondent shall notify any future employers of the contents of this Stipulation and Consent Order by providing a copy of said document to his employer and his supervising physician(s). This condition shall remain in effect for three years from the date of approval of this Stipulation and Consent Order.

SIGNATURES

DATED at Montpelier, Vermont, this 22nd day of November 2018.

STATE OF VERMONT

THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

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

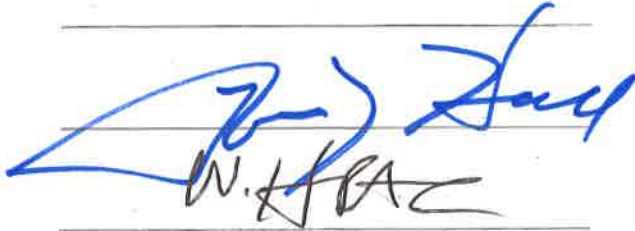
2019. DATED at Williston, Vermont, this 21 day of November,

Richard Harry Dooley, PA-C
Richard Harry Dooley, PA-C
Respondent

2019. DATED at Burlington, Vermont, this 22nd day of November.

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

AS TO RICHARD HARRY DOOLEY, PA-C
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE


W. H. H. A. C.

W. Mandol

De Aube

John Allen

Gohal Terkolanni MD

Mary Susan Spaul
CRA Benson

Tim M. Allen

DATED:

December 4th, 2019

ENTERED AND EFFECTIVE:

December 4th, 2019

Exhibit A

PRACTICE MONITORING AGREEMENT

Vermont Board of Medical Practice

Richard Harry Dooley, PA-C

Docket No. MPC 063-0316

1. Pursuant to a Stipulation and Consent Order entered into by Richard Harry Dooley, PA-C and the Vermont Board of Medical Practice ("the Board"), Mr. Dooley has retained a practice monitor to monitor his medical practice. The purpose of this Practice Monitoring Agreement is to set forth the terms of the practice monitoring component of Mr. Dooley's Stipulation and Consent Order (attached and incorporated hereto by reference). This Agreement will be signed by Mr. Dooley and the practice monitor approved by the Central Investigative Committee ("the Committee").
2. Mr. Dooley is responsible for selecting a practice monitor.
3. The practice monitor chosen by Mr. Dooley must be a Vermont licensed physician with an unconditioned license.
4. Mr. Dooley shall seek the Committee's approval of a practice monitor. He shall provide the Committee, in writing, with the name and curriculum vitae of the proposed practice monitor. The Committee will provide a written response to Mr. Dooley. If the Committee rejects Mr. Dooley's proposed practice monitor, he shall provide the Committee with the name and curriculum vitae of another proposed practice monitor.

5. Mr. Dooley shall provide the practice monitor with a copy of the fully executed Stipulation and Consent Order.
6. The practice monitoring shall start no later than 60 days after the approval of Dr. Dooley's Stipulation and Consent Agreement (hereinafter referred to as the "start date"). Mr. Dooley shall advise the Committee, in writing, of the start date of the practice monitoring.
7. The practice monitor shall perform a monthly record review of five patients to whom Mr. Dooley is prescribing opioids for chronic pain. The practice monitor shall meet with Mr. Dooley on a monthly basis to discuss the findings of his/her record review. Mr. Dooley is responsible for ensuring that there is appropriate documentation of each monthly record review and discussion. Such documentation shall include the date of each record review, and the date and length of time of each discussion between the practice monitor and Mr. Dooley regarding the findings of each chart review. This documentation shall be submitted with each quarterly practice monitoring report. After the Committee has received two consecutive, favorable and timely quarterly monitor reports, Mr. Dooley may submit a written request to the Committee to reduce the record reviews and discussions to quarterly.
8. The practice monitor shall report his/her findings in a detailed written report to the Committee on a quarterly basis for two full years. The first report shall be submitted no later than three months after the start date.
9. Mr. Dooley shall be responsible for ensuring that the practice monitor's reports are timely submitted to the Committee.

10. The practice monitoring shall continue for a total of two years from the start date. At the end of the two-year monitoring period, Respondent shall submit a written request to the Committee to end the requirement for monitoring. Such a request shall not be considered by the Committee until Respondent has provided favorable and timely monitoring reports for two complete years. The practice monitoring requirement will not cease until the Committee has approved, in writing, Respondent's request to end the monitoring.
11. In the event that the practice monitor can no longer monitor Mr. Dooley's practice, Mr. Dooley shall notify the Committee in writing within five days of receiving notice that the practice monitor can no longer monitor his practice. Mr. Dooley shall retain the services of a new practice monitor, subject to preapproval by the Committee. Within 30 days of providing written notice to the Committee that the practice monitor can no longer monitor his practice, Mr. Dooley shall provide the Committee with the name and curriculum vitae of the proposed new practice monitor. The Committee will provide written notification to Mr. Dooley indicating whether it approves or disapproves of the new proposed practice monitor.
12. In the event that the practice monitor can no longer monitor Mr. Dooley's practice and ceases to perform his/her obligations under this Agreement, Mr. Dooley shall not prescribe opioids to patients unless and until he has a Committee-approved practice monitor who is actively monitoring his practice in full compliance with the terms and conditions of this Agreement.
13. The Committee retains the unfettered discretion to disapprove Mr. Dooley's practice monitor at any time. If the Committee disapproves of Mr. Dooley's practice monitor,

it will provide Mr. Dooley with written notice of the disapproval and a brief explanation of reasons for the disapproval. Once Mr. Dooley receives this written notice from the Committee, Mr. Dooley shall immediately notify his practice monitor that he/she is no longer approved to monitor his practice, and the practice monitor shall immediately cease from monitoring Dr. Dooley's practice. Consistent with paragraph 12 above, Mr. Dooley shall cease prescribing opioids to patients on the first day that his practice monitor is no longer monitoring his practice. Mr. Dooley shall not resume prescribing opioids until the first day that the new practice monitor can begin monitoring his practice. Mr. Dooley shall follow the procedures for proposing a new practice monitor as set forth in paragraph 11 above.

14. Mr. Dooley shall be responsible for ensuring that the following is reviewed by the practice monitor and discussed and included in the practice monitoring reports:
 - a. The number of patients to whom Mr. Dooley is prescribing opioids for chronic pain;
 - b. Documentation of each chart review performed by the practice monitor and discussions of the findings of the chart review as described in paragraph 7 above that occurred during the time period that covers each quarterly review;
 - c. Whether Mr. Dooley's prescribing of opioids for chronic pain is in accordance with the standard of care and the Vermont Department of Health Rule Governing the Prescribing of Opioids;
 - d. The appropriateness of the clinical monitoring of patients who are being prescribed opioids for chronic pain;

- e. Whether Mr. Dooley's medical record keeping is in accordance with the standard of care;
 - f. Whether Mr. Dooley's prescribing, documentation and general patient care practices meet the applicable standard of care; and
 - g. Recommended improvements to Mr. Dooley's practice.
15. Prior to the submission of each monitoring report to the Committee, the practice monitor shall meet with Mr. Dooley to discuss the findings of his/her practice monitoring report. Respondent shall be responsible for ensuring that the occurrence of such meetings, as well as what was discussed, is appropriately documented in writing and provided to the Committee upon request.
 16. Each monitoring report shall include the dates and length of time that he/she met with Mr. Dooley to review the findings of his/her monitoring report.
 17. The practice monitor shall review any other documents, records, files, logs, etc. that will provide the requisite information needed to prepare written monitoring reports.
 18. The practice monitor shall speak with Mr. Dooley's co-workers to obtain the requisite information needed to prepare the written monitoring reports.
 19. The Board will not bear any of the costs associated with the practice monitor.
 20. Mr. Dooley and the practice monitor agree that they have both read this Agreement in its entirety, and agree to all of the terms and obligations set forth herein.
 21. Mr. Dooley and the practice monitor agree that the terms of this Agreement cannot be amended or modified in any way without written approval of the Committee.

Signatures

DATED at _____, Vermont, this _____ day of _____, 2019.

Richard Harry Dooley, PA-C
Respondent

DATED at _____, Vermont, this _____ day of _____, 2019.

Practice Monitor