

# STATE OF VERMONT BOARD OF MEDICAL PRACTICE

In re: Peter Nobes, P.A

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Docket No.  
MPS 90-0809

## STIPULATION AND CONSENT ORDER

NOW COMES Peter Nobes, P.A. ("Respondent") and the State of Vermont, by and through Attorney General William H. Sorrell and undersigned counsel, Assistant Attorney General Margaret O. Vincent, and agree and stipulate as follows:

1. Peter Nobes, Respondent, held Vermont Physician Assistant Certificate No. 055-0030117. Respondent became a Physician Assistant ("PA") in 1980 after completing the Vermont Board of Medical Practice-approved apprenticeship physician assistant program. Respondent was employed as a PA for The University of Vermont Center for Health and Wellbeing from 1988 until he resigned in August of 2009.

2. Jurisdiction rests in the Vermont Board of Medical Practice (the "Board") pursuant to 26 V.S.A. §§ 1353 and 1736.

### I. Background

3. An investigation against the Respondent was opened by the Board in August of 2009 as a result of a complaint that Respondent, a physician assistant, was improperly prescribing opiate medications while working at the University of Vermont Center for Health and Wellbeing. Respondent retired from his position in August of 2009.

4. The Board's investigation included a review of patient records, an interview of the P.A. and other documentation supplied to the Board of Medical Practice.

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5. In reviewing the patient records, it was found that Respondent prescribed opiate medications to some patients without documenting that a physical exam had taken place.

6. Respondent prescribed opiate medication for patients without an appropriate in-person visit.

7. Respondent on more than one occasion provided refills of opiate medication to patients who claimed their medication had been lost or stolen.

8. The Board's investigation determined, that Respondent was negligent when prescribing opiate medication for some of his patients.

9. Respondent did not follow the recommendations of the Vermont Board of Medical Practice *Policy for the Use of Controlled Substances for the Treatment of Pain*.

10. Since August 2009, Respondent has taken a number of CME courses regarding prescribing controlled substances for pain.

## **II. Respondent's Physician Assistant Certificate to Be Conditioned**

11. Consistent with his continuing cooperation with the Board in its investigation of this matter, Respondent does not contest the facts set forth above in paragraphs 3 through 10 above and agrees that the Board of Medical Practice may adopt and enter paragraphs 3 through 10 as uncontested findings of fact in this matter.

12. Respondent agrees that 26 V.S.A. § 1736 (b) reads: "Unprofessional conduct includes the following actions by certified Physician Assistants or a registered Physician Assistant trainee... (3)professional negligence"

13. Respondent agrees that paragraphs 5 thru 7 meets the definition of unprofessional conduct as defined in 26 V.S. A. § 1736 (b) (3) above.

14. Respondent acknowledges that he knowingly and voluntarily agrees to this Stipulation and Consent Order. He acknowledges that he has had advice of counsel regarding the

matter before the Board and advice of counsel in reviewing this Stipulation and Consent Order. He agrees and understands that, by executing this document, he is waiving any right to be served with formal charges, to challenge the jurisdiction and continuing jurisdiction of the Board in these matters, to be presented with the evidence against him, to cross-examine adverse witnesses, and to offer evidence of his own to contest the State's charges. 26 V.S.A. § 1356; 3 V.S.A. §§ 809, & 814.

15. The parties to this Stipulation and Consent Order agree that appropriate disciplinary action against Respondent shall consist of the following:

A. Respondent's PA certificate shall be designated as "conditioned" for a minimum of one year. Respondent agrees to comply fully and in good faith with each of the terms and conditions of licensure set forth below, until such time as he has been relieved of all conditions herein by express written order of the Vermont Board of Medical Practice.

B. Substantial or repeated failure by Respondent to comply in the future with any of the terms and conditions herein may constitute unprofessional conduct and, if established by the State's evidence, shall result in such other disciplinary action as the Board may deem appropriate under the circumstances.

16. No specification of charges has been filed by the State in this matter. Respondent has not previously been the subject of disciplinary action by the Vermont Board of Medical Practice. Respondent has cooperated with the Board of Medical Practice during its investigation of this matter.

**III. Terms and Conditions to be Imposed on Respondent's Certificate**

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17. Respondent agrees that he has read and carefully considered all terms and conditions herein and agrees to accept and be bound by these while certified to be a physician assistant in the State of Vermont and to be bound by these until such time as he is expressly relieved of these conditions, in writing, by the Vermont Board of Medical Practice.

18. Respondent agrees that within 72 hours of prescribing any narcotic medication to any patient, the prescription and the patient's chart will be given to Respondent's Primary Supervising Physician to be reviewed. Respondent understands that his Primary Supervising Physician will be reviewing the chart to ensure that Respondent is prescribing within the standards of acceptable and prevailing practices and that Respondent is complying with the Board's Policy on Prescribing Controlled Substances for Pain.

19. Respondent agrees that he will have his Primary Supervising Physician notify the Board on a quarterly basis that his patients' charts have been reviewed as required by his scope of practice and that the Respondent is prescribing within the standards of acceptable and prevailing practices. The first quarterly report from Respondent's Primary Supervising Physician shall be three months from the date the Board approves this stipulation and consent order. Respondent agrees that the Board through its investigator and/or counsel may speak with the Primary Supervising Physician to ensure that Respondent is abiding with this Stipulation and his scope of practice.

20. Respondent agrees to provide copies of this Stipulation and Consent Order to any employer or contractor or partnership involved in Respondent's practice of medicine. Respondent agrees to provide copies of this Stipulation and Consent Order to his Primary and Secondary Supervising Physicians.

21. Respondent acknowledges and agrees that engaging in unprofessional conduct, as set forth in 26 VSA §§1736 may constitute prima facie evidence of a violation by him of this agreement sufficient to support findings by the Board that the present terms and conditions of this agreement are inadequate to protect the health, safety and welfare of the public, and thus, could result in further action by this Board.

22. The parties agree that this Stipulation and Consent Order shall be a public document, shall be made part of Respondent's licensing file, and shall be reported to other licensing authorities and/or entities including, but not limited to, the National Practitioner Data Bank and the Federation of State Medical Boards.

23. This Stipulation and Consent Order is subject to review and acceptance by the Vermont Board of Medical Practice and shall not become effective until presented to and approved by the Board. If the Board rejects any part of this Stipulation and Consent Order, the entire agreement shall be considered void. However, should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Board, the parties request that the Board enter an order conditioning Respondent's Physician Assistant certificate as set forth above, that such certificate be subject to each of the terms and conditions as set forth herein.

24. Respondent agrees to be bound by all terms and conditions of this Stipulation and Consent Order. Respondent agrees that the Board of Medical Practice shall retain jurisdiction to enforce all terms and conditions of this Stipulation and Consent Order during its lifetime. Respondent expressly agrees that any failure by him to comply with the terms of this Stipulation and Consent Order, specifically including but not limited to its reporting requirements, shall constitute unprofessional conduct under 26 V.S.A. §1736 (b)(3) and may subject Respondent to such further disciplinary action as the Board may deem appropriate.

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25. Consistent with his continuing cooperation with the Board, Respondent agrees that, if the State were to satisfy its burden at hearing as to the allegations, a finding adverse to him could be entered by the Board, pursuant to 26 V.S.A. § 1736. In the interest of resolving this matter expeditiously and continuing his full cooperation in this matter, Respondent agrees to enter into this Stipulation, in lieu of the State filing formal charges. Respondent acknowledges that his acceptance of this Stipulation is appropriate and in the best interest of all parties.

Dated at ~~Montpelier~~ <sup>Randolph</sup>, Vermont, this 3 day of February, 2010.

STATE OF VERMONT  
WILLIAM H. SORRELL  
ATTORNEY GENERAL

by: Margaret O. Vincent  
MARGARET O. VINCENT  
Assistant Attorney General

Dated at <sup>also P.N.S.</sup> ~~Montpelier~~ <sup>3rd</sup> So. Burlington, Vermont, this 3<sup>rd</sup> day of FEBRUARY, 2010.

Peter R. Nobes, P.A.  
PETER R. NOBES, P.A.

Robert Mello  
ROBERT MELLO  
Counsel for Respondent

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FOREGOING, AS TO PETER R. NOBES, P.A.  
APPROVED AND ORDERED  
VERMONT BOARD OF MEDICAL PRACTICE

William A. Wood, MD Janice E. Ryan, MD  
Peter Thomas, MD Judith K. Sadler, MD  
David W. Carson, MD  
Shirley Green  
Paul J. Henkens  
Paul A. [Signature]  
Patricia A. Gray, MD PhD

DATED: 2/3/2010

ENTERED AND EFFECTIVE: 2/3/2010

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