STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

	)	
In re: Andrew M. Stoll, MD	)	Docket No. MPS 054-0620
	)	

STIPULATION AND CONSENT ORDER

NOW COME Andrew M. Stoll, MD, and the State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr. and the undersigned Assistant Attorney General Megan Campbell, and agree and stipulate as follows:

1. Andrew M. Stoll, MD, ("Respondent") of Montpelier, Vermont, holds Vermont medical license number 042.0008701 first issued by the Vermont Board of Medical Practice on April 14, 1993.

2. Jurisdiction in this matter vests with the Vermont Board of Medical Practice ("the Board") pursuant to 26 V.S.A. §§ 1353-1354, 1370-76, 3 V.S.A. §§ 809-814, and other authority.

FINDINGS OF FACT

3. Respondent is a psychiatrist with a solo practice in Montpelier, Vermont.

4. The Board opened the above-captioned matter in June of 2020, upon receiving an anonymous tip that Respondent was prescribing combinations of stimulant medications and benzodiazepines to patients. The complainant raised a concern that prescribing this

polypharmacy was unsafe. The matter was assigned to the South Investigative Committee of the Board ("the Committee") for investigation.

5. The Committee conducted an extensive investigation of Respondent's prescription practice for patients receiving controlled substances. This investigation included, but was not limited to, the review of medical records and prescribing histories for five of Respondent's patients.

6. The Committee's investigation identified practice deficiencies related to Respondent's medical recordkeeping for all five patients, hereinafter referred to as Patients 1-5. The Committee also found that Respondent was engaging in problematic prescribing practices for Patients 1-4. A summary of the concerns with Respondent's recordkeeping and prescribing practices follows.

7. Respondent started treating Patient 1 in 2015 when he took over the patient's care from a colleague. Patient 1 suffered from a variety of medical conditions including chronic pain, alcoholism, major depressive disorder, and generalized anxiety disorder. Respondent continued the patient's existing prescription regime which included methadone, clonazepam, olanzapine, and fluoxetine. During the course of treatment, Respondent reduced the dosage of Patient 1's clonazepam. This dosage reduction was appropriate in light of the potential safety concerns with co-prescribing a benzodiazepine and an opioid, however, he included no documentation that he discussed the risks of this polypharmacy with the patient.

8. Respondent's medical records for Patient 1 were sparse, compromising only fourteen pages of records over a five-year period although he saw the patient regularly, and prescribed opioids to the patient for chronic pain over multiple years. The patient's records do

not include the minimum necessary documentation as required by the Vermont Department of Health's Rule Governing the Prescribing of Opioids for Pain. His documentation lacked the following required elements as detailed under sections 4.0 and 6.0 of the Rule:

- A signed informed consent document;
- A Controlled Substance Treatment Agreement;
- Documentation of a thorough medical evaluation and physical examination;
- Documentation of the benefits and risks of the treatment, including a risk assessment;
- Queries of the Vermont Prescription Monitoring System (hereinafter "VPMS") according to the VPMS Rule that requires annual querying for patients receiving an opioid, as well as the first time the provider prescribes a benzodiazepine for the patient.

9. Respondent's minimal medical recordkeeping for Patient 1 is not sufficient to show that he engaged in appropriate medical treatment and decision-making. By way of example, Patient 1 relapsed on alcohol while receiving medical treatment from Respondent, but Respondent's records do not illustrate the duration or details of this relapse. Significantly, Patient 1 was in a motor vehicle accident in 2019 that involved a stay in the intensive care unit and a tracheostomy but there are no records indicating whether Respondent assessed oversedation as a potential contributing factor. He did not adjust Patient 1's prescriptions after the accident. Additionally, there are no records indicating that Respondent communicated or coordinated with other providers after Patient 1 had a subsequent hospital stay in 2019 for pneumonia and pancreatitis.

10. Respondent treated Patient 2 for major depressive disorder, panic attacks, and migraines. Respondent prescribed Patient 2 a complex polypharmacy for these conditions that

included an opiate (hydrocodone), a barbiturate with codeine (Fioricet), a benzodiazepine, and stimulants – Ritalin initially and later Adderall.

11. Respondent's medical records for Patient 2 compromise twelve pages in total although his treatment for this patient spanned from 1999 to November 2020, and he saw the patient regularly over this period. The patient's records do not include the minimum necessary documentation as required by the Vermont Department of Health's Rule Governing the Prescribing of Opioids for Pain. His documentation lacked the following required elements as detailed under sections 4.0 and 6.0 of the Rule:

- A signed informed consent document;
- A Controlled Substance Treatment Agreement;
- Documentation of a thorough medical evaluation and physical examination;
- Documentation of the benefits and risks of the treatment, including a risk assessment;
- Queries of the VPMS according to the VPMS Rule that requires annual querying for patients receiving an opioid as well as the first time the provider prescribes a benzodiazepine for the patient.

12. Respondent has been providing psychotherapy for Patient 3 since September 2017. Patient 3 suffers from a variety of conditions including major depressive disorder, panic disorder, and migraines. He prescribes a benzodiazepine to Patient 3. Respondent first queried VPMS for Patient 3 on August 11, 2020, despite a requirement in section 6.2.5 of the VPMS Rule that he query the VPMS system prior to the first time he prescribed a benzodiazepine for the patient.

13. Respondent's medical documentation for Patient 3 is eight pages in its entirety, despite seeing the patient regularly over three years. Respondent's documentation for Patient 3 lacks the follows elements necessary to meet the standard of care: a mental status examination, a complete list of medications that includes non-psychiatric medications, and a thorough medical assessment including a risk assessment.

14. Respondent started providing treatment for Patient 4 in the Spring of 2012 for psychiatric conditions including bipolar affective disorder and attention deficit hyperactivity disorder. He initially prescribed Patient 4 methylphenidate hydrocholoride ("Ritalin") for her symptoms but when this proved ineffective, he switched Patient 4 to dextroamphetamine/amphetamine ("Adderall"). Adderall is twice as potent as Ritalin. Respondent prescribed Adderall to Patient 4 at 40 mg three-to-four times a day; this is two-to-four times the manufacturer's maximum recommended daily dose. There is no indication in Patient 4's medical records that Respondent assessed the risks to the patient of exceeding the maximum daily dose, nor do his notes include consideration of long-acting Adderall, which would create a smoother medication delivery while minimizing the risks of misuse and diversion.

15. During December of 2019 Patient 4 discovered that she was five months pregnant. Respondent documented that Patient 4 had a discussion with her OB/GYN about remaining on her psychiatric medications, however, he did not document that he had his own discussion with the patient about the risks and benefits of remaining on her psychiatric medication, as he should have as her psychiatric provider. The omission is particularly concerning as Respondent's recordkeeping is so sparse that it does not include a complete medication list for the patient.

16. Respondent's medical records for Patient 4 from 2012 until October 2020 comprise nine pages, although he saw her regularly. His sparse medical documentation for this patient is insufficient to meet the standard of care in psychiatry.

17. Respondent started providing treatment to Patient 5 in 1996. Patient 5 has a number of medical conditions including generalized anxiety disorder, bipolar disorder, schizoaffective disorder, and migraines. Respondent prescribed several medications to Patient 5 including stimulants, hydrocodone (an opiate), Fioricet, and a benzodiazepine. Respondent's total medical documentation for this patient consists of twenty-seven pages over the course of the patient's treatment history with Respondent. Given the brevity of the records, it is difficult to ascertain the patient's complete treatment history, but it appears that Respondent was consistently providing treatment for this Patient from 1996 until 2010 and again from 2016 until the fall of 2020. Respondent's minimal medical documentation does not meet the standard of care in psychiatry as it omits essential components such as regular documentation of the patient's progress, diagnosis, and the modality of treatment.

CONCLUSIONS OF LAW

18. 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).

19. Respondent failed to conform to the essential standards of acceptable and prevailing practice in his care of Patients 1-5. As their treating psychiatrist, he failed to keep

adequate medical documentation of his treatment for all five patients. His documentation was insufficient to show that he was engaging in appropriate medical decision-making and safe prescribing practices for these patients.

20. Respondent regularly prescribed opioids to Patients 1 and 2 to treat chronic pain. The Vermont Department of Health's Rule Governing the Prescribing of Opioids for Pain ("the Rule") establishes minimum standards for prescribers to follow when prescribing opioids, to which Respondent failed to adhere during the course of these patients' treatment. It is unprofessional conduct to fail to comply with "provisions of federal or State statutes or rules governing the practice of medicine" pursuant to 26 V.S.A. § 1354(a)(27). Respondent committed unprofessional conduct when he failed to comply with the following requirements of the Rule:

a. Rule § 4.3.3: A prescriber prescribing an opioid for the first time during the course of treatment for a patient shall receive a signed informed consent from the patient which includes information about the drug's potential for misuse and addiction as well as the risk of overdose when the medication is combined with alcohol or other medications.

b. Rule § 6.1.1: Prescribers who prescribe opioids for pain lasting longer than 90 days must conduct a thorough medical evaluation and physical examination and document it in the patient's medical record.

c. Rule § 6.1.3: Prescribers who prescribe opioids for pain lasting longer than 90 days must document the benefits and relative risks of the opioid in a risk assessment.

c. Rule § 6.2.1.5: Prescribers who prescribe opioids for pain lasting longer than 90 days must include a signed Controlled Substance Treatment Agreement in the patient's medical record

including the functional goals of treatment, dispensing pharmacy choice, safe storage and disposal of the medication, and requirements to reasonably and timely inform the prescriber if the patient is misusing the prescribed medication.

21. Respondent failed to comply with the Vermont Prescription Monitoring Rule when he did not query VPMS the first time he prescribed a benzodiazepine for Patients 1-3. VPMS Rule § 6.2.5. He was required to query VPMS when he began prescribing opioids for Patients 1 and 2 and at least annually thereafter. VPMS Rule §§ 6.2.2 and 6.2.4. Respondent committed unprofessional conduct by failing to comply with these State rules governing the practice of medicine pursuant to 26 V.S.A. § 1354(a)(27).

22. Consistent with Respondent's cooperation with the Board, he agrees 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)(27) and § 1354(b)(1) and (2).

23. Respondent agrees that the Board will adopt and incorporate as its facts and conclusions in this matter Paragraphs 1 through 30 herein, and further agrees that this is an adequate basis for the Board actions set forth in this Agreement.

24. Therefore, in the interest of Respondent's commitment 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 his best interests.

25. Respondent agrees and understands that by executing this document he is waiving any right to challenge the 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.

26. The Board and the Respondent (collectively "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.

27. 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 in any future disciplinary proceeding and the Board's final determination of any charge against Respondent.

28. Respondent acknowledges and understands that this Stipulation and Consent Order, if accepted by the Board, 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 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.

29. Respondent will follow the procedure outlined in Board Rule 40.2 if he needs to request a modification of any term in this Agreement due to a complication caused by the COVID 19 pandemic or for any other reason.

30. 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 stated herein.

ORDER

WHEREFORE, based on the foregoing and the consent of Respondent, the Board enters as its facts and conclusions in this matter paragraphs 1 through 30 above, it is hereby ORDERED that:

1) Respondent's medical license shall be CONDITIONED as follows:

(a) Respondent shall not prescribe opioids. This condition shall be permanent. He shall contact the U.S. Drug Enforcement Agency (the "DEA") to inform the DEA that his license is conditioned in this manner.

(b) Respondent shall successfully complete two intensive AMA PRA Category 1 continuing medical education ("CME") courses on the following topics: (1) medical recordkeeping; and (2) safe prescribing for patients with addiction or controlled substance dependence with a focus upon stimulant and benzodiazepine medications. An intensive course shall be eight credit hours at a minimum. Each CME course must be completed no later than one (1) year after this Stipulation and

Consent Order 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 and should have an interactive or experiential component. The chosen courses ideally will offer individualized feedback to Respondent about his recordkeeping and prescribing practices. 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.

(c) Respondent shall have a "practice monitor," who is a practicing psychiatrist or a physician specializing in mental health treatment, for five (5) years subject to the terms and conditions set forth in the attached Practice Monitoring Agreement (the "Agreement"), which is incorporated by reference and attached hereto as Exhibit A. The Agreement establishes the procedures for Committee preapproval of the practice monitor and any replacement, if necessary. The practice monitoring requirement will not begin until the official "start date" as defined in the attached Agreement. Respondent shall comply with the terms and obligations of the 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 Agreement. If after three

years Respondent has received consistently positive reports from his practice monitor, he can submit a written request to the Committee to end the monitoring requirement. Such a request will not be considered by the Committee until Respondent has provided three (3) years of favorable and timely monitoring reports. The decision whether to grant or deny the requested relief shall be solely within the discretion of the Committee. The practice monitoring requirement will not cease until the Committee has approved, in writing, Respondent's request to end the monitoring.

(d) Respondent shall pay a $3,000 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 VT 05402-0070. Payment shall be due no later than two (2) months after this Stipulation and Consent Order is approved by the Board.

SIGNATURES

Dated at Chelsea, Vermont, this ____ day of _____, 2022.

STATE OF VERMONT
THOMAS J. DONOVAN, JR.
ATTORNEY GENERAL

by: DocuSigned by: Megan Campbell 7C40A483D7CC4861 2/28/2022

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.

Andrew M. Stoll, MD
Respondent

SIGNATURES

Dated at Chelsea, Vermont, this ____ day of _____, 2

STATE OF VERMONT
THOMAS J. DONOVAN, JR
ATTORNEY GENERAL

by:

_____
Megan Campbell, Esquire
Assistant Attorney General
Vermont Attorney General's
109 State Street
Montpelier, VT 05609-1001

Dated at Montpelier, Vermont, this 25 day of

_____
Andrew M. Stoll, MD
Respondent

AS TO ANDREW M. STOLL, MD
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Signed on Behalf of the Vermont Board of Medical Practice

By: _____
Sarah McClain
Chair
Vermont Board of Medical Practice

Vote documented in the Vermont Board of Medical Practice meeting minutes, dated March 2,2022.

Dated: March 02, 2022

EXHIBIT A

PRACTICE MONITORING AGREEMENT

Vermont Board of Medical Practice
Andrew M. Stoll, MD
Docket No. MPS 054-0620

1. Pursuant to a Stipulation and Consent Order entered into by Andrew M. Stoll, MD ("Dr. Stoll") and the Vermont Board of Medical Practice ("the Board") in docket no. MPS 054-0620, Dr. Stoll has agreed to retain a practice monitor to monitor his medical practice. The purpose of this Practice Monitoring Agreement ("Agreement") is to set forth the terms of the practice monitoring component of Dr. Stoll's Stipulation and Consent Order. This Agreement will be signed by Dr. Stoll and the practice monitor approved by the South Investigative Committee ("the Committee").
2. Dr. Stoll is responsible for selecting a practice monitor.
3. The practice monitor chosen by Dr. Stoll shall be a Vermont licensed physician with an unconditioned license who has experience in the areas of psychiatry or mental health treatment.
4. Dr. Stoll shall obtain approval from the Committee for his choice of practice monitor. Dr. Stoll shall submit in writing to the Committee the practice monitor's name, contact information, and curriculum vitae. The Committee retains discretion to approve or disapprove the choice of practice monitor. The Committee shall communicate in writing its decision to Dr. Stoll. If the proposed practice monitor is not approved, Dr. Stoll remains responsible for using the procedure outlined in

paragraphs 2 through 4 of this agreement to select and submit his choice of another proposed practice monitor for Committee consideration.

5. The Board shall not bear any of the costs associated with the practice monitor.
6. Dr. Stoll shall provide the practice monitor with a copy of the fully executed Stipulation and Consent Order including this Practice Monitoring Agreement.
7. The practice monitoring shall start within sixty (60) days of the date that the Board approves the Stipulation and Consent Order (hereinafter referred to as the "start date").
8. The practice monitor will follow all state and federal health privacy regulations and statutes, including, but not limited to, HIPAA, and will review and sign any necessary HIPAA authorizations, business associate agreements, or any other required documents to enable the practice monitor's access to, and review of, patient protected health information.
9. The practice monitor shall perform a record review every ninety (90) days of Dr. Stoll's patients with a focus upon those prescribed stimulants and/or benzodiazepines. The practice monitor shall select ten (10) of Dr. Stoll's patients who receive stimulants and/or benzodiazepine medications and review their records, unless there are fewer than ten, in which case it shall be a total of ten including other patients prescribed other controlled substances.
10. The practice monitor shall review any other documents, records, files, logs, etc. that will provide the requisite information needed to prepare written monitoring reports. The focus of the practice monitor's reviews and reports will be on the quality of care

and treatment provided by Dr. Stoll subsequent to the effective date of the Stipulation and Consent Order and the documentation of such care and treatment.

11. In the event that Dr. Stoll joins a group practice, the practice monitor shall speak with Dr. Stoll's co-workers to obtain the requisite information needed to prepare the written monitoring reports.
12. The practice monitor shall prepare a detailed, written practice monitoring report for each ninety (90) day review. The practice monitor shall meet with Dr. Stoll every ninety (90) days to discuss the findings of the monitor's record review. Dr. Stoll is responsible for ensuring that there is appropriate documentation of each ninety (90) day 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 Dr. Stoll regarding the findings of each chart review. This documentation shall be submitted with each ninety (90) day practice monitoring report.
13. The practice monitor shall submit each written practice monitoring report to the Committee for five (5) full years. Dr. Stoll may request relief from this condition after three (3) full years of favorable reports. It will be up to the Committee's sole discretion whether to grant this modification to the length of practice monitoring.
14. The first report shall be submitted no later than sixty (60) days after the practice monitoring agreement is signed.
15. Dr. Stoll shall be responsible for ensuring that the following is reviewed by the practice monitor and discussed and documented in the practice monitoring reports:

a. Documentation of each chart review performed by the practice monitor during that review period including the findings of the chart review;

b. Whether Dr. Stoll's psychiatric care practice meets the applicable standard of care;

c. Whether Dr. Stoll's prescribing practices, including the prescribing of stimulant and/or benzodiazepine medications, meets the standard of care;

d. Whether Dr. Stoll's clinical monitoring of patients to whom he is prescribing stimulant and/or benzodiazepine medication meets the standard of care;

e. Whether Dr. Stoll's medical recordkeeping is in accordance with the standard of care;

f. Whether Dr. Stoll's general medical treatment meets the applicable standard of care; and

g. Recommended improvements to Dr. Stoll's practice. Although the practice monitor will need to review patient charts to become familiar with patient medical history, the focus of the practice monitoring will be on improving Dr. Stoll's practice prospectively.

16. Dr. Stoll shall be responsible for ensuring that the practice monitor's reports are timely submitted to the Committee.

17. At the end of the monitoring period, Dr. Stoll 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 Dr. Stoll has provided favorable and timely monitoring reports for five complete years or three complete years if the Committee

approves Dr. Stoll's request for early relief from the monitoring requirement. The practice monitoring requirement shall not cease until the Committee has approved, in writing, Dr. Stoll's request to end the monitoring.

18. In the event that the practice monitor can no longer monitor Dr. Stoll's practice, Dr. Stoll shall notify the Committee in writing within five (5) business days. Within thirty (30) days of providing notice to the Committee, Dr. Stoll shall submit the name of a proposed replacement practice monitor which will be subject to the approval process outlined in paragraphs two through four.

19. Upon notice to the Committee that the practice monitor can no longer serve, Dr. Stoll has sixty (60) days to obtain Committee approval for a new practice monitor. If a new practice monitor is not approved in that time, Dr. Stoll shall cease prescribing any benzodiazepines unless the Committee grants him an extension of time, the decision upon which would be in writing. Dr. Stoll shall not resume prescribing benzodiazepines until a new practice monitor is approved by the Committee and can begin monitoring his practice. The Committee will endeavor to communicate its decision regarding the approval of a new proposed practice monitor to Dr. Stoll within thirty (30) days of when he submits the proposed monitor's name, contact information, and curriculum vitae to the Committee. In the event that the Committee's response is delayed beyond thirty (30) days, that additional response time will not count toward the 60-day limit that Dr. Stoll has to find a new practice monitor or cease prescribing benzodiazepines.

20. The Committee retains the discretion to disapprove Dr. Stoll's practice monitor at any time. If the Committee disapproves Dr. Stoll's practice monitor, it will provide Dr.

Stoll with written notice of the disapproval and a brief explanation of the reasons for its decision. Upon receiving this notice Dr. Stoll shall immediately notify his practice monitor that the monitor is no longer authorized to monitor his practice under this Agreement. Consistent with paragraph eighteen above, Dr. Stoll will seek Committee approval for a new practice monitor. He will cease prescribing benzodiazepines if a new monitor is not approved by the Committee within sixty (60) days until such time as the Committee approves a new monitor.

21. Dr. Stoll 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.

22. Dr. Stoll 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 Montpelier, Vermont, this 25 day of Fe

Andrew M. Stoll, MI

DATED at _____, Vermont, this _____ day of ___

Practice Monitor