

**TRUE AND EXACT
COPY OF ORIGINAL**

**BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE**

In the Matter of the
Medical License of
Thomas A. Lohstreter, M.D.
Year of Birth: 1950
License No.: 33,400

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED, by and between Thomas A. Lohstreter, M.D., and the Complaint Review Committee ("Committee") of the Minnesota Board of Medical Practice ("Board") as follows:

1. During all times herein, Respondent has been and now is subject to the jurisdiction of the Board from which he holds a license to practice medicine and surgery in the State of Minnesota.

2. Respondent has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. Respondent has chosen to be represented by John E. Diehl, Larkin Hoffman Daly & Lindgren, 7900 Xerxes Avenue South, Suite 1500, Minneapolis, Minnesota 55431, telephone (952) 896-3800. The Committee was represented by Kermit N. Fruechte, Assistant Attorney General, 1400 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, telephone (651) 296-7575.

FACTS

3. For the purpose of this Stipulation, the Board may consider the following facts as true:

a. Respondent is currently licensed by the Board to practice medicine and surgery in the State of Minnesota.

b. In August 2011, the Board received a complaint alleging that Respondent inappropriately authorized a prescription for alprazolam for a patient, who was a member of Respondent's extended family and had a history of chemical dependency and alcohol abuse. The patient subsequently died of mixed substance toxicity (alcohol, opiate, sertraline, alprazolam). The Board initiated an investigation by the Attorney General's Office into Respondent's practice, including an audit of five of his patient records to evaluate his patient care, documentation, and prescribing practices and procedures.

c. A review of Respondent's practice revealed that, in at least four patient cases, Respondent authorized refills for narcotics prescriptions based upon his patients' claims of pain, but failed to document objective clinical findings to support the need for ongoing medications, failed to document his exploration of non-narcotic treatment options, and failed to assess his patients for their risk of chemical dependency, toxicity, diversion, or suicide. Respondent also failed to monitor the efficacy of the medications, failed to implement narcotic contracts or enforce the provisions of his narcotic contracts when his patients violated the terms of the agreement, failed to conduct pill counts or biological fluid screens, failed to heed concerns or warnings raised by other health care providers regarding his patients' excessive or inappropriate use of narcotics, and failed to recognize drug seeking behavior in his patients.

d. A review of Respondent's practice also revealed that Respondent failed to appropriately maintain and adequately document his clinic records. Respondent's clinic notes were sometimes cursory, illegible, and incomplete. On at least two occasions, Respondent failed to document his findings contemporaneously with his care. On a number of occasions, Respondent authorized a prescription for a patient, but failed to document the rationale for that

treatment decision, medication name, quantity, strength of the medication, or the number of refills in his clinic notes.

e. On November 19, 2012, Respondent met with the Complaint Review Committee and confirmed that he had authorized a prescription for the patient mentioned in the complaint to the Board, who was a member of his extended family, after receiving a telephone request from another family member. Respondent acknowledged that he failed to adequately document his care, but denied responsibility for the patient's subsequent death. Respondent confirmed that he frequently prescribed narcotics for his chronic pain patients, but stated that his ultimate goal was to have his patients weaned from ongoing pain medications.

STATUTES

4. The Committee views Respondent's practices as inappropriate in such a way as to require Board action under Minn. Stat. § 147.091, subd. 1(g) (unethical conduct), (k) (unprofessional conduct), (o) (failure to maintain adequate medical records), and (s) (inappropriate prescribing practices) (2010), and Respondent agrees that the conduct cited above constitutes a reasonable basis in law and fact to justify the disciplinary action under these statutes.

REMEDY

5. Upon this Stipulation and all of the files, records, and proceedings herein, and without any further notice or hearing herein, Respondent does hereby consent that until further Order of the Board, made after notice and hearing upon application by Respondent or upon the Board's own motion, the Board may make and enter an Order conditioning and restricting Respondent's license to practice medicine and surgery in the State of Minnesota as follows:

a. Respondent is **REPRIMANDED**.

b. Respondent shall read the "Model Policy for the Use of Controlled Substances for the Treatment of Pain," adopted as policy by the House of Delegates of the Federation of State Medical Boards of the United States, Inc. (FSMB), May 2004. Respondent shall also read *Responsible Opioid Prescribing, A Clinician's Guide, Second Edition*, by Scott M. Fishman, M.D., published by Waterford Life Sciences, Washington D.C., 2012.

c. Respondent shall successfully complete the following coursework, approved in advance by the Complaint Review Committee or its designee, within one year of the date of this Order:

- (1) Chronic pain management.
- (2) Chemical dependency awareness.
- (3) Professional boundaries.

Successful completion shall be determined by the Board or its designee.

d. Six months following successful completion of the above-reference coursework, Respondent shall undergo an audit of his prescribing practice. After reviewing the results of the audit, the Committee may recommend further audits as it deems appropriate.

e. Respondent shall maintain patient records which reflect the patient complaint, clinical findings, treatment plan, response to treatment, and prescriptions authorized, including refills.

f. Respondent shall not prescribe, dispense, or administer any prescription drug or drug sample for his own use or his family members' (including spouse, children, parents, siblings, nieces, and nephews) use.

g. Respondent shall develop, and submit for Committee approval, a written protocol for the management and tracking of controlled substance prescriptions.

h. Respondent shall develop, and submit for Committee approval, a narcotic contract, which shall be used with all chronic pain patients.

i. Respondent shall pay a civil penalty of \$2,040.00, within six months of the date of this Order.

j. This Stipulation and Order shall remain in effect for a minimum of two years. At the end of this period, Respondent may submit a written petition for reinstatement of an unconditional license. Upon hearing the petition, the Board may continue, modify, or remove the conditions set out herein.

6. Within ten days of signing the Stipulation to this Order, Respondent shall provide the Board with a list of all hospitals and skilled nursing facilities at which Respondent currently has medical privileges, a list of all states in which Respondent is licensed or has applied for licensure, and the addresses and telephone numbers of Respondent's residences and all work sites. Within seven days of any change, Respondent shall provide the Board with the new address and telephone information. The information shall be sent to Robert A. Leach, Minnesota Board of Medical Practice, University Park Plaza, 2829 University Avenue S.E., Suite 500, Minneapolis, Minnesota 55414-3246.

7. In the event Respondent resides or practices outside the State of Minnesota, Respondent shall promptly notify the Board in writing of the location of his residence and all work sites. Periods of residency or practice outside of Minnesota will not be credited toward any period of Respondent's suspended, limited, or conditioned license in Minnesota unless Respondent demonstrates that practice in another state conforms completely with Respondent's Minnesota license to practice medicine.

8. If Respondent shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, including timely submission of required reports, the Committee shall schedule a hearing before the Board. The Committee shall mail Respondent a notice of the violation alleged by the Committee and of the time and place of the hearing. Respondent shall submit a response to the allegations at least three days prior to the hearing. If Respondent does not submit a timely response to the Board, the allegations may be deemed admitted.

At the hearing before the Board, the Committee and Respondent may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Order. Respondent waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Respondent's practice, or suspension or revocation of Respondent's license.

9. In the event the Board in its discretion does not approve this settlement, this Stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any disciplinary action by either party hereto except that Respondent agrees that should the Board reject this Stipulation and if this case proceeds to hearing, Respondent will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation or of any records relating hereto.

10. Respondent waives any further hearings on this matter before the Board to which Respondent may be entitled by Minnesota or United States constitutions, statutes, or rules and agrees that the Order to be entered pursuant to the Stipulation shall be the final Order herein.

11. Respondent hereby acknowledges that he has read and understands this Stipulation and has voluntarily entered into the Stipulation without threat or promise by the Board or any of its members, employees, or agents. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Stipulation.

Dated: 7/28/2013

THOMAS A. LOHSTRETER, M.D.
Respondent

Dated: 7/13/2013

Kurt Berge
FOR THE COMMITTEE

ORDER

Upon consideration of this Stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the terms of this Stipulation are adopted and implemented by the Board this 13th day of July, 2013.

MINNESOTA BOARD OF
MEDICAL PRACTICE

By: [Signature]

AFFIDAVIT OF SERVICE BY U.S. MAIL

**Re: In the Matter of the Medical License of Thomas A. Lohstreter, M.D.
License No: 33,400**

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

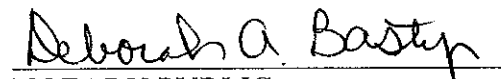
SANDRA SYLVESTER, being first duly sworn, deposes and says:

That at the City of St. Paul, County of Ramsey and State of Minnesota, on July 15, 2013, she caused to be served the attached Stipulation and Order, by depositing the same in the United States mail at said city and state, a true and correct copy thereof, properly enveloped with prepaid first class postage, and addressed to:

John E. Diehl, Esq.
Larkin Hoffman Daly & Lindgren
7900 Xerxes Avenue South, Suite 1500
Minneapolis, MN 55431


SANDRA SYLVESTER

Subscribed and sworn to before me on
July 15, 2013.


NOTARY PUBLIC

