BEFORE THE MINNESOTA

BOARD OF PODIATRIC MEDICINE

In the Matter of
Bryan L. Mohr, D.P.M.
License No. 631

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by Bryan L. Mohr, D.P.M. ("Licensee"), and the Minnesota Board of Podiatric Medicine ("Board") as follows:

1. During all times herein, Licensee has been and now is subject to the jurisdiction of the Board from which he holds a license to practice podiatric medicine.

FACTS

2. For the purposes of this stipulation, the Board finds the following:

a. In approximately 2007, Licensee was prescribed hydrocodone following a shoulder surgery. Licensee continued to use hydrocodone for shoulder pain after the prescription ran out.

b. Since 2007, Licensee has purchased hydrocodone through a medical supply company in Connecticut to use on himself, including: 600 tablets in 2009; 3,900 tablets in 2010; 4,000 tablets in 2011; 3,200 tablets in 2012; and 700 tablets up to April 30th of 2013. Licensee has never agreed to a pain management plan or to substance monitoring.

c. During a conference with the Board's Complaint Review Committee ("Committee"), Licensee stated he ordered the hydrocodone through the medical supply company under his own D.E.A. number in order to save money. Licensee stated that the medical supply company did not ask him for a prescription for the purchases. Licensee stated he has taken up to 10 tablets of hydrocodone a day.

d. Licensee contends that he has weaned himself off this medication and has not been using pain killers since December 25, 2013.

e. Respondent signed a Stipulation and Consent Order that was approved by the Board on December 2, 2014 ("2014 Consent Order"), and imposed disciplinary action on Respondent's license. Licensee's license was suspended, but the suspension was stayed so long as Licensee complied with certain conditions set forth in the 2014 Consent Order. One such condition was successful participation in the Health Professionals Services Program ("HPSP").

f. Licensee enrolled in the HPSP, but was discharged from the HPSP on January 13, 2015.

g. On February 6, 2015, the Committee issued a Notice of Removal of Stay of Suspension, imposing the suspension provision of the 2014 Consent Order.

h. On March 2, 2015, the Board conducted a hearing regarding Licensee's violation of the 2014 Consent Order. The Board issued a Final Order dated March 2, 2015 ("March 2015 Order") suspending Licensee's license for a minimum of 18 months.

i. On June 22, 2015, Licensee requested that the Board reconsider its March 2015 Order and also that the Board stay Licensee's suspension pending a potential appeal. The Board denied both motions.

j. On August 6, 2015, Licensee filed an action at the Minnesota Court of Appeals, appealing the March 2015 Order.

k. On August 25, 2015, the Minnesota Court of Appeals granted Respondent's motion to stay Respondent's suspension pending appeal, and remanded the matter to the Board to determine appropriate conditions for the stay.

REGULATIONS

3. The Board views Licensee's conduct as described in paragraph 2. above to be in violation of statutes and rules enforced by the Board. Licensee agrees that the conduct cited above constitutes a violation of Minn. Stat. § 153.19, subd. 1(6) (violation of an order of the Board); Minn. Stat. § 153.19, subd. 1(11) (unprofessional conduct); Minn. Stat. § 153.19, subd. 1 (14) (improper management of medical records) and Minn. Stat. § 153.19, subd. 1 (17) (addiction or habituation to a drug or intoxicant) and constitutes a reasonable basis in law and fact to justify the disciplinary action provided for in the order.

REMEDY

4. The 2014 Consent Order and the March 2015 Order are hereby **RESCINDED** and shall have no further force or effect. Licensee agrees that the Minnesota Court of Appeals may dismiss case A15-1264 with prejudice. Within five (5) business days of the date of this Stipulation and Order, Licensee shall inform the Court of Appeals that case A15-1264 has resolved on the merits and shall be dismissed.

5. Upon this stipulation and without any further notice or proceedings, the Board hereby **SUSPENDS** License's license to practice podiatric medicine. The suspension is **STAYED** so long as Licensee complies with the following **CONDITIONS**:

A. CONDITIONS

a. Participation in the HPSP. Licensee shall successfully participate in the HPSP. Licensee is required to contact the HPSP at (651) 643-2120 to initiate enrollment in the program within 14 days of the date of this Stipulation and Order. Licensee's HPSP monitoring shall include, but need not be limited to, the following:

i. Regular, random toxicology screens, on a timetable to be determined by HPSP staff.

ii. Regular monitoring of Licensee's practice by a worksite monitor, to be approved by HPSP staff. Licensee shall be permitted to arrange for a worksite monitor who can monitor his practice outside the metro area. Licensee shall not practice outside the twin cities metro area for 90 days from the date of HPSP enrollment, and shall have 90 days from enrollment to work with HPSP to find an adequate outstate worksite monitor. In the event that HPSP does not agree to Licensee's outstate worksite monitor, Licensee shall be required to meet with the Committee to discuss proper remedy. The approved worksite monitor may not have engaged in any financial transaction with Licensee in the year prior to the date of this Stipulation and Order or while this Stipulation and Order is in effect. All costs associated with the worksite monitor shall be paid by Licensee.

b. Supervision. Within two months from the date of this Order, Licensee shall submit to the Board for pre-approval a supervisor who will conduct weekly monitoring of Licensee's practice. The approved supervisor may not have engaged in any financial transaction with Licensee in the year prior to the date of this Stipulation and Order. Licensee may not engage in any financial transaction with the approved supervisor while this Stipulation and Order is in effect. The approved supervisor will review no fewer than 5 patient records and 5 billing records per week. The approved supervisor must observe Licensee perform at least one patient visit per week. Licensee shall cause the supervisor to submit quarterly reports to the Board based on the supervisor's weekly supervision. All costs associated with this supervision shall be paid by Licensee. If licensee has not seen patients in any given quarter, the supervisor may notify the Board that the provision does not apply to that quarter.

c. Compliance with Evaluator's Recommendations. Licensee shall comply promptly with all recommendations made by the chemical dependency evaluator from Licensee's chemical dependency evaluation conducted November 20, 2014, including attendance at a health professional or other recovery support group twice monthly.

d. Pain Management Evaluation. Within two months from the date of this Order, Licensee shall undergo a pain management evaluation performed by Dr. Matthew Monsein. Licensee is responsible for the costs of the evaluation. The results of the evaluation shall be sent directly to the Board and must include a statement verifying the evaluator has reviewed this Stipulation and Consent Order. The evaluation must include diagnoses and recommended treatment plan, recommended medication plan, and any further evaluations or treatment recommended by the evaluator.

e. Compliance with Evaluator's Recommendations. Licensee shall comply promptly with any recommendations for additional evaluation and treatment made by the pain management evaluator.

f. Additional Information. Licensee shall provide any additional relevant information reasonably requested by the Board.

6. Petition for Reinstatement. After 18 months from the date of this Order, Licensee shall be allowed to petition for removal of the conditions upon and stayed suspension of his license. The Board will have the discretion whether to grant Licensee's petition, continue the conditions and/or stayed suspension on Licensee's license, or pursue other disciplinary action as necessary and warranted by the facts at the time.

7. It is Licensee's responsibility to ensure all payments, reports, evaluations, and documentation required to be filed with the Board pursuant to this Stipulation and Consent Order

or the HPSP pursuant to Licensee's Participation Agreement are timely filed by those preparing the report, evaluation, or documentation. Failure to file payments, reports, evaluations, and documentation on or before their due date is a violation of this Stipulation and Consent Order.

8. If the Committee has probable cause to believe Licensee has failed to comply with or has violated any of the requirements for staying the suspension as outlined in paragraph 5. above, or has failed to comply with the Participation Agreement, the Committee may remove the stayed suspension pursuant to the procedures outlined in paragraph 9. below, with the following additions and exceptions:

a. If the HPSP discharges Licensee from the program for any reason other than Licensee's successful completion of the terms of the Participation Agreement, there will be a presumption of a preponderance of the evidence that Licensee has failed to comply with the requirement(s) for staying the suspension.

b. The removal of the stayed suspension shall take effect upon service of an Order of Removal of Stayed Suspension ("Order of Removal"). Licensee agrees that the Committee is authorized to issue an Order of Removal, which shall remain in effect and shall have the full force and effect of an order of the Board until the Board makes a final determination pursuant to the procedures outlined in paragraph 9. below. The Order of Removal shall confirm the Committee has probable cause to believe Licensee has failed to comply with or has violated one or more of the requirements for staying the suspension of Licensee's license. Licensee further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a public document under the Minnesota Government Data Practices Act. Licensee waives any right to a conference or hearing before removal of the stayed suspension.

c. The Review Panel shall schedule the hearing pursuant to paragraph 9.a. below to be held within 60 days of the notice.

9. If Licensee fails to comply with or violates this Stipulation and Consent Order the Committee may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

a. The Committee shall schedule a hearing before the Board. At least 20 days before the hearing, the Committee shall mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Licensee shall submit a written response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Committee, in its discretion, may schedule a conference with Licensee prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

c. Prior to the hearing before the Board, the Committee and Licensee may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Licensee may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Consent Order. Unless stated otherwise in this Stipulation and Consent Order, the Committee shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Licensee has failed to submit a timely response to the allegations, Licensee may not contest the allegations, but may present argument concerning the

appropriateness of additional discipline. Licensee waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Licensee's correction of a violation prior to the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Committee not to seek discipline when it first learns of a violation will not waive the Committee's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while Licensee's license is suspended or the suspension is stayed.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board will dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional requirements for the stayed suspension, removal of the stayed suspension, an additional period of suspension, or revocation of Licensee's license.

10. Nothing herein shall limit the Committee's or the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes section 214.077, based on a violation of this Stipulation and Consent Order or based on conduct of Licensee not specifically referred to herein. Similarly, nothing herein shall limit the Committee's or the Board's right to automatically suspend Licensee's license pursuant to Minnesota Statutes section 153.22, subdivision 4.

11. Within ten days of execution of this Stipulation and Consent Order, Licensee shall provide the Board with the addresses and telephone numbers of Licensee's residence and all agencies or facilities and locations at which Licensee has become employed or performs

volunteer podiatric medicine. Licensee shall inform the Board within ten days if Licensee becomes employed at any additional agencies or facilities or moves and shall provide the new or additional address and telephone number.

12. Within ten days of execution of this Stipulation and Consent Order, Licensee shall provide the Board with the names of all states in which Licensee is licensed to practice podiatric medicine or has applied for licensure as a podiatrist.

13. Licensee waives the contested case hearing and all other procedures before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or rules.

14. Licensee waives any and all claims he may have against the Board, the Minnesota Attorney General's Office, the State of Minnesota, and their agents, employees, and representatives related to the investigation of the conduct herein, the prior imposition of disciplinary action or the negotiation or execution of this Stipulation and Consent Order, which may otherwise be available to Licensee.

15. This Stipulation and Consent Order, the files, records, and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

16. Either party may seek enforcement of this Stipulation and Consent Order in any appropriate civil court.

17. Licensee has read, understands, and agrees to this Stipulation and Consent Order and has voluntarily signed the Stipulation and Consent Order. Licensee is aware this Stipulation and Consent Order must be approved by the Board before it goes into effect. The Board may either approve the Stipulation and Consent Order as proposed, approve it subject to specified

change, or reject it. If the changes are acceptable to Licensee, the Stipulation and Consent Order will take effect and the order as modified will be issued. If the changes are unacceptable to Licensee or the Board rejects the Stipulation and Consent Order, it will be of no effect except as specified in the following paragraph.

18. Licensee agrees that if the Board rejects this Stipulation and Consent Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Consent Order or of any records relating to it.

19. This Stipulation and Consent Order shall not limit the Board's authority to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Licensee which constitutes grounds for disciplinary action and which is not specifically stated herein.

20. This Stipulation and Consent Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Data regarding this action will be provided to data banks as required by Federal law or consistent with Board policy. While this Stipulation and Consent Order is in effect, information obtained by the Board pursuant to this Order is considered active investigative data on a licensed health professional, and as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subdivision 4.

21. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.

LICENSEE

BRYAN L. MOHR, D.P.M.

Dated: 9/14/2015

COMPLAINT REVIEW COMMITTEE

STEPHEN POWLESS, D.P.M.

Dated: 9/14/15

MARGARET SCHREINER

Dated: 9/14/15

ORDER

Upon consideration of this stipulation and all the files, records, and proceedings herein, IT IS HEREBY ORDERED that Licensee's license is SUSPENDED and the suspension STAYED upon Licensee's compliance with the requirements outlined in this stipulation and that all other terms of this stipulation are adopted and implemented by the Board this 14th day of September, 2015.

MINNESOTA BOARD OF PODIATRIC MEDICINE

RUTH GRENDAHL
Executive Director