

**BOARD OF MEDICAL PRACTICE**

In re: Gerhild Bjornson, MD                    )  
  )     Docket No. MPC 073-0517  
  )

**STIPULATION AND CONSENT ORDER**

NOW COME Gerhild Bjornson, MD, and the State of Vermont, by and through Vermont Attorney General Thomas J. Donovan, Jr., and hereby stipulate and agree to the following in the above-captioned matter:

1. Gerhild Bjornson, MD (“Respondent”) holds Vermont medical license number 42.0006673 originally issued by the Vermont Board of Medical Practice on August 12, 1981.
2. Jurisdiction in this matter rests with the Vermont Board of Medical Practice (“the Board”), pursuant to 26 V.S.A. §§ 1353-1357, 3 V.S.A. §§ 809-814, and other authority.

**FINDINGS OF FACT**

3. The Board opened this matter in May of 2017 upon receipt of information from the DEA concerning Respondent’s order for Diethylpropion HCL tablets (a Schedule IV drug) and Clonazepam tablets (a Schedule IV drug) from drug distributor Henry Schein, Inc. The matter was assigned to the Central Investigative Committee of the Board (“the Committee”).
4. At the time that the case was opened, Respondent was practicing medicine as a physician in St. Albans and South Burlington, VT.

5. The Committee's investigation included, in part, the Medical Practice Board Investigator's interview of the Respondent at her residence on June 2, 2017. During the interview, Respondent acknowledged recently ordering Diethylpropion HCL tablets and Clonazepam tablets from Henry Schein, Inc. Respondent also acknowledged having previously purchased controlled substances from Henry Schein, Inc. about once a year. Respondent had previously ordered two 100 count bottles of 2 mg Clonazepam tablets from Henry Schein, Inc. on September 13, 2016. Respondent stated that she ordered the Clonazepam tablets for herself to help with anxiety and panic attacks and she gives them to friends when "they are in trouble." Respondent admitted she ordered the Diethylpropion HCL tablets for a friend. Respondent admitted that she did not conduct any examinations or maintain any patient records in connection with her having provided these controlled substances to her friends.
6. With respect to the 2016 order of Clonazepam, Respondent could not produce any invoices from Henry Schein, Inc. for this order, as required by federal regulations, and did not have any other required DEA records for the controlled substances including initial or biennial inventories or any dispensing records.
7. Respondent advised she was not aware it was a violation to order these controlled substances for her personal use. Respondent acknowledged that she knew she was not allowed to give controlled substances to friends.
8. Respondent surrendered her DEA License on June 2, 2017.

## CONCLUSIONS OF LAW

9. The Board may find “[t]hat failure to practice competently by reason of any cause on a single occasion...constitutes unprofessional conduct. 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 standard of acceptable and prevailing practice.” 26 V.S.A. §§ 1354(b)(1) and (2).
10. It is unacceptable medical practice and unprofessional conduct for a licensee to prescribe or dispense controlled substances listed in D.E.A. Schedules II, III, or IV for the licensee’s own use. Prescribing for self, as defined in these Rules, constitutes a violation of 26 V.S.A. § 1354(a)(37), Rule 13.2.1 of the Rules of the Board of Medical Practice, and 26 V.S.A. § 1354(a)(27).
11. It is unacceptable medical practice for a licensee to improperly prescribe prescription medications. Such conduct may constitute unsafe or unacceptable patient care and the failure to conform to the essential standards of acceptable and prevailing practice in violation of 26 V.S.A. §§ 1354(b)(1) and (2).
12. Respondent’s improper prescribing of Clonazepam tablets to herself described in Paragraphs 3 through 8 above constitutes a violation of 26 V.S.A. § 1354(a)(37), Rule 13.2.1 of the Rules of the Board of Medical Practice, and 26 V.S.A. § 1354(a)(27).
13. Respondent’s improper prescribing of Clonazepam and Diethylpropion HCL to her friends described in Paragraphs 3 through 8 above constitutes the performance of unsafe or unacceptable patient care and the failure to conform

to the essential standards of acceptable and prevailing practice in violation of 26 V.S.A. §§ 1354(b)(1) and (2).

14. Respondent's failure to maintain adequate and comprehensive medical records concerning her treatment of the individuals as described in Paragraphs 3 through 8 above constitutes the performance of unsafe or unacceptable patient care, and the failure to conform to the essential standards of acceptable and prevailing practice in violation of 26 V.S.A. §§ 1354(b)(1) and (2).
15. Respondent acknowledges that if the State were to file charges against Respondent, the State could satisfy its burden at a hearing and a finding adverse to her could be entered by the Board, pursuant to 26 V.S.A. §§ 1354(b)(1) & (2), 1354(a)(27), and 1354(a)(37).
16. Respondent agrees that the Board may enter as its facts and/or conclusions paragraphs 1 through 14 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 and to resolve this matter without formal charges and a hearing.
17. Therefore, in the interest of Respondent's desire to fully and finally resolve the matter presently before the Board, she has determined that she 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; she has concluded that this agreement is acceptable and in the best interest of the parties.

18. Respondent acknowledges that she is knowingly and voluntarily entering into this agreement with the Board. She acknowledges she 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 she has received in this matter.
19. Respondent agrees and understands that by executing this document she 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 her own to contest any allegations by the State.
20. 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.
21. 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, she 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.

22. Respondent acknowledges and understands that this Stipulation and Consent Order shall be a matter of public record, shall be entered in her 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.
23. 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 payable in monthly installments of \$100.00, starting no later than one (1) month after this Stipulation and Consent Order is approved by the Board and continuing on a monthly basis until the full amount has been paid.

3. No later than one year from the date that this Stipulation and Order is approved by the Board, Respondent shall have successfully completed an AMA PRA category I continuing medical education (CME) course on the topic of medical ethics. Respondent shall seek prior approval, in writing, from the Committee for the course. Upon successful completion of the CME course, she 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 she learned from the course, and how she will apply that knowledge to her practice. Respondent shall provide proof of attendance and the written narrative to the Committee within thirty (30) days of completion of the CME course. Respondent shall be solely responsible for all costs associated with the CME course on medical ethics.

4. No later than one year from the date that this Stipulation and Order is approved by the Board, Respondent shall have successfully completed an AMA PRA category I continuing medical education (CME) course on the topic of medical record keeping. Respondent shall seek prior approval, in writing, from the Committee for the course. Upon successful

completion of the CME course, she 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 she learned from the course, and how she will apply that knowledge to her practice. Respondent shall provide proof of attendance and the written narrative to the Committee within thirty (30) days of completion of the CME course. Respondent shall be solely responsible for all costs associated with the CME course on medical record keeping.

#### SIGNATURES

DATED at Montpelier, Vermont, this 31st day of January, 2018~~8~~<sup>9</sup>

STATE OF VERMONT

THOMAS J. DONOVAN, JR  
ATTORNEY GENERAL

By: 

William B. Reynolds  
Assistant Attorney General  
Office of the Attorney General  
109 State Street  
Montpelier, VT 05609-1001

DATED at \_\_\_\_\_, Vermont, this \_\_\_\_ day of \_\_\_\_\_, 2018.



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#### SIGNATURES

DATED at Montpelier, Vermont, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

STATE OF VERMONT

THOMAS J. DONOVAN, JR  
ATTORNEY GENERAL

By: \_\_\_\_\_  
William B. Reynolds  
Assistant Attorney General  
Office of the Attorney General  
109 State Street  
Montpelier, VT 05609-1001

DATED at Dorchester, Vermont, this 18<sup>th</sup> day of January, 2019.

Gerhild Bjornson  
Gerhild Bjornson, MD  
Respondent

DATED at Burlington, Vermont, this 28<sup>th</sup> day of Jan, ~~2018.~~ 2019<sup>GW</sup>

Craig S. Nolan  
Craig S. Nolan, Esq.  
Counsel for Respondent

Sheehey Furlong & Behm P.C.  
30 Main Street, 6th Floor  
PO Box 66  
Burlington, VT 05402-0066

AS TO GERHILD BJORNSON, MD  
APPROVED AND ORDERED  
VERMONT BOARD OF MEDICAL PRACTICE

Pat Hunter

Yes to Order

[Signature]

Dr. Bens for me

W. H. A.

[Signature]

[Signature]

DATED:

February 6, 2019

ENTERED AND EFFECTIVE:

February 6, 2019