

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

IN RE:

PHILLIP ALLEN PETERSON, MD

Complaint No. 20-96-W

CONSENT ORDER

The West Virginia Board of Medicine (the “Board”) and Phillip Allen Peterson, MD (“Dr. Peterson”), freely and voluntarily enter into the following Consent Order pursuant to West Virginia Code § 30-3-1, *et seq.*

FINDINGS OF FACT

The Board and Dr. Peterson stipulate to the truthfulness and accuracy of the facts, as set forth herein below:

1. Dr. Peterson holds a West Virginia medical license, License No. 15474, which was originally issued in 1988. Dr. Peterson’s address of record with the Board is in Bluefield, Virginia.
2. Dr. Peterson’s self-identified areas of specialty are hospice and palliative medicine, and geriatric medicine.
3. On November 8, 2020, the Complaint Committee of the West Virginia Board of Medicine authorized Initiated Complaint No. 20-96-W against Dr. Peterson after it received information that criminal proceedings had been instituted against Dr. Peterson in the United States District Court for the Western District of Virginia, in the matter of the *United States of America v. Phillip A. Peterson*, Criminal Action No. 1:19-cr-00054.
4. On December 10, 2019, an eighty-five count Indictment was filed against Dr. Peterson (the “Indictment”). The Indictment alleged that on eighty-five occasions between

December 2014 and January 2016, Dr. Peterson unlawfully distributed and dispensed Schedule II and Schedule IV controlled substances, without a legitimate medical purpose and beyond the bounds of professional practice, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C) and/or 841(b)(2). Dr. Peterson pled not guilty to the charges in the Indictment.

5. On or about August 26, 2020, a separate one-count Information was filed against Dr. Peterson in the same criminal proceeding. The Information charged Dr. Peterson with a misdemeanor crime related to misbranding drugs, in violation of Title 21, United States Code, Sections 331(k), 333(a)(1) and 353(b)(1). [See August 26, 2020 Information, attached hereto as **Exhibit A.**]

6. On or about August 26, 2020, Dr. Peterson entered into a Plea Agreement wherein he agreed to plead guilty to Count One of the Information, a misdemeanor. Pursuant to the Plea Agreement, Dr. Peterson agreed to be sentenced to a period of imprisonment within the range of one to three months. Dr. Peterson further agreed to pay restitution and statutory fines, as ordered by the Court or otherwise required by law. [See Plea Agreement, attached hereto as **Exhibit B.**]

7. Pursuant to the Plea Agreement, if Dr. Peterson complies with his obligations under the Plea Agreement, the United States will move, at sentencing, to dismiss the original Indictment. See Exhibit B.

8. Further, on November 5, 2020, Dr. Peterson entered into a Consent Order with the Virginia Board of Medicine (the “Virginia Order”). The Virginia Order imposed discipline on Dr. Peterson’s Virginia medical license in the form of a reprimand, and further required Dr. Peterson to complete twenty (20) hours of continuing medical education (“CME”) in the subject of proper prescribing, and fifteen (15) CME hours in the subject of recordkeeping. [See Virginia Consent Order, attached hereto as **Exhibit C.**]

9. Pursuant to the Virginia Order, the Virginia Board found that Dr. Peterson violated certain provisions of the Virginia Code¹ and the Virginia Board's regulations² with respect to chronic pain treatment he provided to eight (8) patients, identified as Patients A through H. The Virginia Order identified violations with respect to Dr. Peterson's care and treatment of the patients, particularly with respect his prescribing of controlled substances, medical recordkeeping, and monitoring patient compliance. Per the Virginia Order, Dr. Peterson neither admitted nor denied the Findings of Fact and Conclusions of Law set forth in the Virginia Order. See Exhibit C.

10. Dr. Peterson satisfied the terms and conditions of the Virginia Order and the same was terminated effective January 15, 2021.

11. Dr. Peterson's sentencing hearing pursuant to his guilty plea in the criminal proceeding is currently scheduled to convene on May 12, 2021.

12. The Board and Dr. Peterson voluntarily enter into this Consent Order to resolve Complaint No. 20-96-W.

CONCLUSIONS OF LAW

The Board and Dr. Peterson stipulate to the following conclusions of law:

1. Dr. Peterson's license to practice medicine and surgery in the State of West Virginia is subject to regulation and discipline by the West Virginia Board of Medicine, the "regulatory and

¹ The Virginia Order identifies the following statutory violations: Virginia Code §§ 54.1-2915(A)(3), (13), (16), (17) and (18); Virginia Code § 54.1-3303(B) and § 54.1-3408(A). See Exhibit C.

² The Virginia Order identifies the following regulatory violations: 18 VAC 85-20-26(C), 18 VAC 85-20-90(B) and 18 VAC 85-20-27. See Exhibit C.

disciplinary body for the practice of medicine and surgery” for physicians, podiatrists and physician assistants in West Virginia. W. Va. Code §§ 30-3-5 and 30-3-7(a).

2. The Board has a mandate to ensure “a professional environment that encourages the delivery of quality medical services” to protect the public interest. W. Va. Code § 30-3-2.

3. The West Virginia Medical Practice Act sets forth conduct which may render an individual unqualified for licensure or subject to discipline or other restrictions upon licensure. W. Va. Code § 30-3-14.

4. Pursuant to W. Va. Code § 30-1-8(c), the Board has promulgated legislative rules that “delineate conduct, practices or acts which, in the judgment of the board, constitute professional negligence, a willful departure from accepted standards of professional conduct and/or which may render an individual unqualified or unfit for licensure, registration or other authorization to practice.” W. Va. Code R. § 11-1A-12.

5. Probable cause may exist to substantiate disciplinary charges against Dr. Peterson pursuant to:

- a. W. Va. Code § 30-3-14(c)(17) and W. Va. Code R. § 11-1A-12.1.g, relating to having his license to practice medicine in any other state, territory, jurisdiction or foreign nation revoked, suspended, restricted or limited, or otherwise acted against, or has been subjected to any other disciplinary action by the licensing authority thereof; and/or
- b. W. Va. Code § 30-3-14(c)(2) and W. Va. Code R. § 11-1A-12.1.k, relating to being found guilty of a crime in any jurisdiction, which offense is a felony, involves moral turpitude, or directly relates to the practice of medicine; and/or

- c. W. Va. Code § 30-3-14(c)(17) and W. Va. Code R. § 11-1A-12.1.bb, relating to violating any law or rule of this state, any other state, the United States or any other lawful authority which relates to the practice of medicine; and/or
- d. W. Va. Code § 30-3-14(c)(17) and W. Va. Code R. §§ 11-1A-12.1.e and 12.1.j, relating to unprofessional conduct; and/or
- e. W. Va. Code § 30-3-14(c)(13), relating to prescribing, administering, mixing or otherwise preparing a prescription drug, including any controlled substance under state or federal law, other than in good faith and in a therapeutic manner in accordance with accepted medical standards and in the course of the physician's professional practice.

6. It is reasonable, appropriate, and in the public interest to impose the disciplinary action set forth in this Consent Order upon Dr. Peterson's West Virginia medical license in lieu of convening disciplinary proceedings in this matter.

7. This Consent Order sets forth reasonable and appropriate discipline upon Dr. Peterson in the form of a public reprimand.

CONSENT

By signing his name to this Consent Order, Phillip Allen Peterson, MD, acknowledges that he understands and agrees with the following:

- 1. Dr. Peterson has read and understands this entire Consent Order;
- 2. Dr. Peterson agrees that he has been given adequate time and opportunity to review and consider the terms set forth in this Consent Order;

3. Dr. Peterson understands that he has the right to legal representation in this matter, at his own expense, and agrees that he has been afforded adequate time and opportunity to exercise his right to consult with his attorney regarding the legal effect of this Consent Order;

4. Dr. Peterson understands that this Consent Order is a legally binding Order of the West Virginia Board of Medicine that affects his rights and privileges;

5. Dr. Peterson acknowledges that he is fully aware that, without his consent, no permanent legal action may be taken against him except after a hearing held in accordance with W. Va. Code §§ 30-3-14(h) and 29A-5-1, *et seq.*;

6. Dr. Peterson is aware of his legal rights in this matter, in addition to his right to be represented by counsel at his own expense, including: the right to a formal hearing, after reasonable notice, before the West Virginia Board of Medicine on the disciplinary charges before the Board; the right to confront and cross-examine witnesses against him; the right to present evidence and testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to appeal under Chapter 29A of the West Virginia Code in the event of a final order or decision adverse to him;

7. With the exception of his right to an attorney, which he has exercised, Dr. Peterson knowingly and voluntarily waives all such additional legal rights, and agrees to the entry of this Consent Order relative to his practice of medicine and surgery in the State of West Virginia;

8. Dr. Peterson understands that this Consent Order is a public document which will be available for public inspection, will be accessible through the Board's website, and will be a permanent part of his historical record with the Board. Matters contained herein will be reported to the National Practitioner Data Bank, and may be reported to other jurisdictions, the Federation of State Medical Boards and as otherwise required by law.

ORDER

WHEREFORE, on the basis of the foregoing stipulated Findings of Fact and Conclusions of Law, and with the consent of Dr. Peterson, the West Virginia Board of Medicine hereby **ORDERS** as follows:

1. Dr. Peterson is hereby **PUBLICLY REPRIMANDED** for his conduct which formed the basis of his Plea Agreement and for having action taken against his medical license by another state.

2. Dr. Peterson shall at all times fully comply with all of the professional practice requirements of the West Virginia Medical Practice Act as set forth in W. Va. Code § 30-3-1 et. seq., and in the Board's legislative rules, including but not limited to W. Va. Code R. § 11-1A-1 *et seq.*

3. This Consent Order shall be deemed entered on the date that this Order, with all required signatures affixed hereupon, is received in the Board's 101 Dee Drive, Charleston, West Virginia, office. The Executive Director of the West Virginia Board of Medicine is hereby authorized to denote the date of entry on behalf of the Board in accordance with this paragraph.

ENTERED ON: May 19, 2021

WEST VIRGINIA BOARD OF MEDICINE



Kishore K. Challa, MD, FACC
President

Date: 5/18/20



Quartel-Ayne Amjad, MD, MPH
Secretary

Date: 5/13/2021

ACCEPTANCE

I, PHILLIP ALLEN PETERSON, MD, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT ORDER. I HAVE BEEN GIVEN SUFFICIENT TIME AND OPPORTUNITY TO CONSIDER THIS CONSENT ORDER, AND I UNDERSTAND THE EFFECT IT WILL HAVE UPON MY LICENSE TO PRACTICE MEDICINE AND SURGERY IN WEST VIRGINIA.

BY SIGNING THIS CONSENT ORDER, I HAVE WAIVED CERTAIN RIGHTS, BUT I DO SO KNOWINGLY AND VOLUNTARILY, AND I DO NOT WISH TO ASSERT THOSE RIGHTS IN THIS MATTER.

I UNDERSTAND THAT I HAVE THE RIGHT TO LEGAL COUNSEL, WHICH I HAVE EXERCISED, AND THAT I HAVE BEEN PROVIDED WITH AMPLE TIME TO SEEK LEGAL ADVICE FROM MY ATTORNEY REGARDING MY ACCEPTANCE OF THIS CONSENT ORDER.

I AM SIGNING THIS CONSENT ORDER VOLUNTARILY, AND I UNDERSTAND THE POTENTIAL CONSEQUENCES OF THIS CONSENT ORDER.


Phillip Allen Peterson, MD

Date: 5/3/21

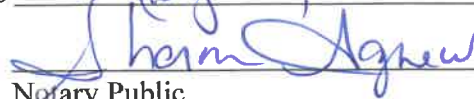
STATE OF WV

COUNTY OF Mercer, to-wit:

I, Sharon Agnew, a Notary Public for said county and state do hereby certify that Phillip Allen Peterson, MD, whose name is signed herein above has this day acknowledged the same before me.

Given under my hand this 3rd day of May, 2021.

My Commission expires May 23, 2023


Notary Public



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ABINGDON

CLERKS OFFICE U.S. DIST. COURT
AT ABINGDON, VA
FILED
8/26/2020
JULIA C. DUDLEY, CLERK
BY: LOTTIE LINSFORD
DEPUTY CLERK

UNITED STATES OF AMERICA :
 :
 v. : Case No. 1:19CR54
 :
 : Violation: 21 U.S.C. §§ 331(k), 333(a)(1)
 PHILLIP A. PETERSON : and 353(b)(1)

INFORMATION
(MISDEMEANOR)

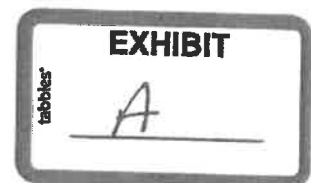
COUNT ONE

The United States Attorney charges that:

1. PHILLIP A. PETERSON ("PETERSON") was practicing as a family medicine physician at Bluefield Family Medicine in Bluefield, Virginia, during the relevant time periods of this Information.

2. On or about the dates set forth below, in the Western District of Virginia and elsewhere, PHILLIP A. PETERSON caused the below-listed prescription drugs to be dispensed without valid written prescriptions, resulting in the drugs being misbranded while held for sale after shipment in interstate commerce. The purported prescriptions were not valid prescriptions as defined by law because they were issued beyond the usual course of professional practice.

<u>INITIALS OF PERSON IN WHOSE NAME INVALID PRESCRIPTION WAS WRITTEN</u>	<u>DATE</u>	<u>DRUG PRESCRIBED</u>	<u>QTY</u>
SY	12/22/2014	Oxymorphone/10 mg	60
SY	12/22/2014	Oxymorphone/10 mg	120
MC	12/29/2014	Hydrocodone/10 mg	90
MC	12/29/2014	Carisoprodol/350 mg	120
MC	12/29/2014	Morphine/60 mg	30
MS	12/30/2014	Amphetamine Salts/20 mg	70
SY	1/8/2015	Oxymorphone/40 mg	60
SY	1/20/2015	Oxymorphone/10 mg	60
SY	1/20/2015	Oxymorphone/10 mg	120



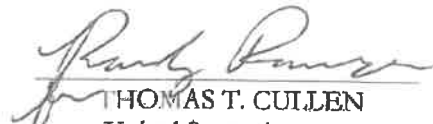
<u>INITIALS OF PERSON IN WHOSE NAME INVALID PRESCRIPTION WAS WRITTEN</u>	<u>DATE</u>	<u>DRUG PRESCRIBED</u>	<u>QTY</u>
MC	1/29/2015	Carisoprodol/350 mg	120
MC	1/29/2015	Hydrocodone/10 mg	90
MC	1/29/2015	Morphine/60 mg	30
MS	1/29/2015	Amphetamine Salts/20 mg	70
SY	2/2/2015	Oxymorphone/40 mg	60
SY	2/16/2015	Oxymorphone/10 mg	60
SY	2/16/2015	Oxymorphone/10 mg	120
MC	2/27/2015	Carisoprodol/350 mg	120
MC	2/27/2015	Hydrocodone/10 mg	90
MC	2/27/2015	Morphine/60 mg	30
SY	3/13/2015	Oxymorphone/10 mg	120
SY	3/13/2015	Oxymorphone/10 mg	60
SY	3/25/2015	Oxymorphone/30 mg	60
SY	3/25/2015	Oxymorphone/30 mg	60
MC	3/26/2015	Carisoprodol/350 mg	120
MC	3/26/2015	Hydrocodone/10 mg	90
MS	3/26/2015	Amphetamine Salts/20 mg	70
MC	3/26/2015	Morphine/60 mg	30
SY	4/14/2015	Oxymorphone/10 mg	120
SY	4/20/2015	Oxymorphone/30 mg	120
MS	4/23/2015	Amphetamine Salts/20 mg	70
MC	4/27/2015	Carisoprodol/350 mg	120
MC	4/27/2015	Hydrocodone/10 mg	90
MC	4/27/2015	Morphine/60 mg	30
SY	5/8/2015	Oxymorphone/10 mg	120
SY	5/15/2015	Oxymorphone/30 mg	120
MS	5/22/2015	Amphetamine Salts/20 mg	70
MC	5/27/2015	Carisoprodol/350 mg	120
MC	5/27/2015	Hydrocodone/10 mg	90
MC	5/27/2015	Morphine/60 mg	30
SY	6/8/2015	Oxymorphone/10 mg	120
SY	6/15/2015	Oxymorphone/30 mg	120
MS	6/18/2015	Amphetamine Salts/20 mg	70
MC	6/25/2015	Carisoprodol/350 mg	120
MC	6/25/2015	Hydrocodone/10 mg	90
MC	6/25/2015	Morphine/60 mg	30

<u>INITIALS OF PERSON IN WHOSE NAME INVALID PRESCRIPTION WAS WRITTEN</u>	<u>DATE</u>	<u>DRUG PRESCRIBED</u>	<u>QTY</u>
SY	7/6/2015	Oxymorphone/10 mg	120
SY	7/13/2015	Oxymorphone/30 mg	120
MS	7/16/2015	Amphetamine Salts/20 mg	70
MC	7/29/2015	Carisoprodol/350 mg	120
MC	7/29/2015	Hydrocodone/10 mg	90
MC	7/29/2015	Morphine/60 mg	30
SY	8/3/2015	Oxymorphone/10 mg	120
SY	8/7/2015	Oxymorphone/30 mg	120
MS	8/17/2015	Amphetamine Salts/20 mg	70
SY	8/31/2015	Oxymorphone/10 mg	120
MC	9/1/2015	Hydrocodone/10 mg	90
MC	9/1/2015	Carisoprodol/350 mg	120
MC	9/1/2015	Morphine/60 mg	30
SY	9/8/2015	Oxymorphone/30 mg	120
MS	9/16/2015	Amphetamine Salts/20 mg	70
SY	9/28/2015	Oxymorphone/10 mg	120
MC	9/30/2015	Hydrocodone/10 mg	90
MC	9/30/2015	Carisoprodol/350 mg	120
MC	9/30/2015	Morphine/60 mg	30
SY	10/2/2015	Oxymorphone/30 mg	150
MS	10/16/2015	Amphetamine Salts/20 mg	70
SY	10/22/2015	Oxymorphone/10 mg	120
SY	11/1/2015	Oxymorphone/30 mg	150
MC	11/2/2015	Carisoprodol/350 mg	120
MC	11/2/2015	Hydrocodone/10 mg	90
MC	11/2/2015	Morphine/60 mg	30
MS	11/16/2015	Amphetamine Salts/20 mg	70
SY	11/18/2015	Oxymorphone/10 mg	120
MC	11/30/2015	Carisoprodol/350 mg	120
MC	11/30/2015	Hydrocodone/10 mg	90
SY	11/30/2015	Oxymorphone/30 mg	150
MC	11/30/2015	Morphine/60 mg	30
MS	12/15/2015	Amphetamine Salts/20 mg	70
SY	12/18/2015	Oxymorphone/10 mg	120
MC	12/28/2015	Hydrocodone/10 mg	90
MC	12/28/2015	Carisoprodol/350 mg	120

<u>INITIALS OF PERSON IN WHOSE NAME INVALID PRESCRIPTION WAS WRITTEN</u>	<u>DATE</u>	<u>DRUG PRESCRIBED</u>	<u>QTY</u>
MC	12/28/2015	Morphine/60 mg	30
SY	1/14/2016	Oxymorphone/10 mg	120
SY	1/20/2016	Oxymorphone/30 mg	150

3. All in violation of Title 21, United States Code, Sections 331(k), 333(a)(1), and 353(b)(1).

DATED: August 26, 2020.


THOMAS T. CULLEN
United States Attorney

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ABINGDON

CLERKS OFFICE U.S. DIST. COURT
AT ABINGDON, VA
FILED
8/26/2020
JULIA C. DUDLEY, CLERK
BY: LOTTIE LUNSFORD
DEPUTY CLERK

UNITED STATES OF AMERICA :
 :
v. : Case No. 1:19CR54
 :
PHILLIP A. PETERSON :

PLEA AGREEMENT

I have agreed to enter into a plea agreement with the United States of America, pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure. The terms and conditions of this agreement are as follows:

A. CHARGE(S) TO WHICH I AM PLEADING GUILTY AND WAIVER OF RIGHTS

1. The Charges and Potential Punishment

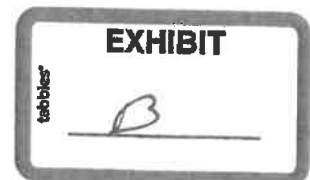
My attorney has informed me of the nature of the charge(s) and the elements of the charge(s) that must be proved by the United States beyond a reasonable doubt before I could be found guilty as charged.

I agree to plead guilty to Count 1 of an Information that charges me with a misdemeanor violation of the misbranding statute.

Count 1 of the Information charges me with misbranding drugs without valid written prescriptions, resulting in the drugs being misbranded while held for sale after shipment in interstate commerce, in violation of 21 U.S.C. §§ 331(k), 333(a)(1), and 353(b)(1). This misdemeanor crime to which I am pleading guilty requires no proof of an intent to defraud or mislead. The maximum statutory penalty is a fine of \$100,000 and/or imprisonment for a term of one year, plus a term of supervised release of one year.

I understand restitution may be ordered and fees may be imposed to pay for

Defendant's Initials: PP



incarceration, supervised release, and costs of prosecution. In addition, a \$25 special assessment, pursuant to 18 U.S.C. § 3013, will be imposed. I further understand my supervised release may be revoked if I violate its terms and conditions. I understand a violation of supervised release increases the possible period of incarceration.

I am pleading guilty as described above because I am in fact guilty and because I believe it is in my best interest to do so and not because of any threats or promises.

2. Waiver of Constitutional Rights Upon a Plea of Guilty

I acknowledge I have had all of my rights explained to me and I expressly recognize I have the following constitutional rights and, by voluntarily pleading guilty, I knowingly waive and give up these valuable constitutional rights:

- a. The right to plead not guilty and persist in that plea;
- b. The right to a speedy and public jury trial;
- c. The right to assistance of counsel at that trial and in any subsequent appeal;
- d. The right to remain silent at trial;
- e. The right to testify at trial;
- f. The right to confront and cross-examine witnesses called by the government;
- g. The right to present evidence and witnesses in my own behalf;
- h. The right to compulsory process of the court;
- i. The right to compel the attendance of witnesses at trial;
- j. The right to be presumed innocent;
- k. The right to a unanimous guilty verdict; and
- l. The right to appeal a guilty verdict.

3. Dismissal of Counts

If I comply with my obligations under the plea agreement, the United States will move, at sentencing, that the indictment pending against me be dismissed. I stipulate and agree the United States had probable cause to bring all the counts in the Indictment, these charges were not frivolous, vexatious or in bad faith, and I am not a "prevailing party" with regard to these charges. I further waive any claim for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

B. SENTENCING PROVISIONS

Defendant's Initials: PI

1. General Matters

Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the United States and I agree I shall be sentenced to a period of imprisonment within the range of 1 months to 3 months. The parties agree this is a reasonable sentence considering all of the facts and circumstances of this case. I understand the Court must sentence me within this range or reject the plea agreement. If, and only if, the Court rejects the plea agreement, I will be given an opportunity to withdraw my guilty plea. The United States and I agree all other sentencing matters, including, but not limited to, supervised release, fines, and restitution, are left to the Court's discretion. Because the parties have stipulated the agreed to sentence of imprisonment is reasonable regardless of the guidelines calculations, I waive any right I may have to any future reduction in sentence based on a change in the sentencing guidelines.

I understand I will have an opportunity to review a copy of my presentence report in advance of my sentencing hearing and may file objections, as appropriate. I will have an opportunity at my sentencing hearing to present evidence, bring witnesses, cross-examine any witnesses the government calls to testify, and argue to the Court what an appropriate sentence should be within the confines of the terms of this agreement.

I understand I will not be eligible for parole during any term of imprisonment imposed.

The United States agrees it will not oppose a delay in my reporting date based on COVID-19 factors, if the Court deems it appropriate.

2. Sentencing Guidelines

I stipulate and agree that all matters pertaining to any of the counts of the charging document(s), including any dismissed counts, are relevant conduct for purposes of sentencing.

The parties agree the 2018 edition of the United States Sentencing Guidelines Manual applies to any guidelines calculation made pertaining to my offense(s). I stipulate that the following guideline section(s) are applicable to my conduct:

2N2.1	6	Base Offense Level
3B1.3	+ 2	Abuse of Position of Trust

Defendant's Initials: RP

The United States stipulates that the guideline section(s) set forth in this section should apply to my conduct.

I understand other guideline sections may be applicable to my case and the United States and I will be free to argue whether these sections should or should not apply; to the extent the arguments are not inconsistent with the stipulations, recommendations and terms set forth in this plea agreement.

I agree to accept responsibility for my conduct. If I comply with my obligations under this plea agreement and accept responsibility for my conduct, the United States will recommend the Court grant me a two-level reduction in my offense level, pursuant to U.S.S.G. § 3E1.1(a) and, if applicable, at sentencing, will move that I receive a one-level reduction in my offense level, pursuant to U.S.S.G. § 3E1.1(b), for purposes of any guidelines calculation. However, I stipulate that if I fail to accept responsibility for my conduct or fail to comply with any provision of this plea agreement, I should not receive credit for acceptance of responsibility. In addition, I understand and agree the United States will have a continuing objection to me receiving credit for acceptance of responsibility until I have testified truthfully at my sentencing hearing, if called upon to testify. I agree the United States will not be required to make any other notice of its objection on this basis.

3. Substantial Assistance

I understand the United States retains all of its rights pursuant to Fed. R. Crim. P. 35(b), U.S.S.G. §5K1.1 and 18 U.S.C. § 3553(e). I understand even if I fully cooperate with law enforcement, the United States is under no obligation to make a motion for the reduction of my sentence. I understand if the United States makes a motion for a reduction in my sentence, the Court, after hearing the evidence, will determine how much of a departure, if any, I should be given.

4. Monetary Obligations

a. Special Assessments, Fines and Restitution

I understand persons convicted of crimes are required to pay a mandatory assessment of \$25.00 per misdemeanor count of conviction. I agree I will submit to the U.S. Clerk's Office, a certified check, money order, or attorney's trust check, made payable

Defendant's Initials: PL

to the "Clerk, U.S. District Court" for the total amount due for the mandatory assessment prior to entering my plea of guilty.

I agree to pay restitution for the entire scope of my criminal conduct, including, but not limited to, all matters included as relevant conduct. In addition, I agree to pay any restitution required by law, including, but not limited to, amounts due pursuant to 18 USC §§ 2259, 3663, and/or 3663A. I understand and agree a requirement I pay restitution for all of the above-stated matters will be imposed upon me as part of any final judgment in this matter.

I further agree to make good faith efforts toward payment of all mandatory assessments, restitution and fines, with whatever means I have at my disposal. I agree failure to do so will constitute a violation of this agreement. I will execute any documents necessary to release the funds I have in any repository, bank, investment, other financial institution, or any other location in order to make partial or total payment toward the mandatory assessments, restitution and fines imposed in my case.

I fully understand restitution and forfeiture are separate financial obligations which may be imposed upon a criminal defendant. I further understand there is a process within the Department of Justice whereby, in certain circumstances, forfeited funds may be applied to restitution obligations. I understand no one has made any promises to me that such a process will result in a decrease in my restitution obligations in this case.

I understand and agree, pursuant to 18 U.S.C. §§ 3613 and 3664(m), whatever monetary penalties are imposed by the Court will be due immediately and subject to immediate enforcement by the United States as provided for by statute. I understand if the Court imposes a schedule of payments, that schedule is only a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment.

I agree to grant the United States a wage assignment, liquidate assets, or complete any other tasks which will result in immediate payment in full, or payment in the shortest time in which full payment can be reasonably made as required under 18 U.S.C. § 3572(d).

I expressly authorize the United States Attorney's Office to obtain a credit report on me in order to evaluate my ability to satisfy any financial obligation imposed by the Court.

I agree the following provisions, or words of similar effect, should be included as

Defendant's Initials: LL

conditions of probation and/or supervised release: (1) "The defendant shall notify the Financial Litigation Unit, United States Attorney's Office, in writing, of any interest in property obtained, directly or indirectly, including any interest obtained under any other name, or entity, including a trust, partnership or corporation after the execution of this agreement until all fines, restitution, money judgments and monetary assessments are paid in full" and (2) "The Defendant shall notify the Financial Litigation Unit, United States Attorney's Office, in writing, at least 30 days prior to transferring any interest in property owned directly or indirectly by Defendant, including any interest held or owned under any other name or entity, including trusts, partnership and/or corporations until all fines, restitution, money judgments and monetary assessments are paid in full."

The parties will also jointly recommend that as a condition of probation or supervised release, Defendant will notify the Financial Litigation Unit, United States Attorney's Office, before Defendant transfers any interest in property owned directly or indirectly by Defendant, including any interest held or owned under any other name or entity, including trusts, partnership and/or corporations. See 18 U.S.C. § 3664(k), (n).

Regardless of whether or not the Court specifically directs participation or imposes a schedule of payments, I agree to fully participate in inmate employment under any available or recommended programs operated by the Bureau of Prisons.

I agree any payments made by me shall be applied fully to the non-joint and several portion of my outstanding restitution balance until the non-joint and several portion of restitution is paid in full, unless the Court determines that to do so would cause a hardship to a victim of the offense(s).

b. Duty to Make Financial Disclosures

I understand in this case there is a possibility substantial fines and/or restitution may be imposed. In order to assist the United States as to any recommendation and in any necessary collection of those sums, I agree, if requested by the United States, to provide a complete and truthful financial statement to the United States Attorney's Office, within 30 days of the request or 3 days prior to sentencing, whichever is earlier, detailing all income, expenditures, assets, liabilities, gifts and conveyances by myself, my spouse and my dependent children and any corporation, partnership or other entity in which I hold or have held an interest, for the period starting on January 1st of the year prior to the year my offense began and continuing through the date of the statement. This financial statement shall be submitted in a form acceptable to the United States Attorney's office.

Defendant's Initials: PP

From the time of the signing of this agreement or the date I sign the financial statement, whichever is earlier, I agree not to convey anything of value to any person without the authorization of the United States Attorney's Office.

c. Understanding of Collection Matters

I understand:

1. as part of the judgment in this case I will be ordered to pay one or more monetary obligations;
2. payment should be made as ordered by the Court;
3. I must mail payments, by cashier's check or money order, payable to the "Clerk, U.S. District Court" to: 210 Franklin Road, S.W., Suite 540, Roanoke, Virginia 24011; and include my name and court number on the check or money order;
4. interest (unless waived by the Court) and penalties must be imposed for late or missed payments;
5. the United States may file liens on my real and personal property that will remain in place until monetary obligations are paid in full, or until liens expire (the later of 20 years from date of sentencing or release from incarceration);
6. if I retain counsel to represent me regarding the United States' efforts to collect any of my monetary obligations, I will immediately notify the United States Attorney's Office, ATTN: Financial Litigation Unit, P.O. Box 1709, Roanoke, Virginia 24008-1709, in writing, of the fact of my legal representation; and
7. I, or my attorney if an attorney will represent me regarding collection of monetary obligations, can contact the U.S. Attorney's Office's Financial Litigation Unit at 540/857-2259.

C. ADDITIONAL MATTERS

1. Medical License and DEA Registration

I am pleading to a misdemeanor charge. I understand that in many plea agreements involving health care professionals, the United States requires the defendant to surrender his DEA registration and/or agree to never practice medicine again. I understand that considering the nature of the offense, including the fact that the offense to which I am pleading does not require proof of an intent to defraud or mislead, the United States has not asked for such a provision in this agreement. Nothing in this agreement requires me to

Defendant's Initials: PP

forfeit my medical license or my DEA registration and the United States does not object if the DEA and/or licensing officials choose to allow me to keep my medical license and registration.

2. Waiver of Presence of Counsel

I understand my attorney may be present at any contact with any government personnel. However, by my signature below, I expressly waive the presence of counsel during such contacts and agree government personnel may contact me without the prior approval of my attorney. At any time during such contacts with government personnel, I may request the presence of my attorney and the contact will be suspended until my attorney arrives or indicates that the contact may continue.

3. Waiver of Right to Appeal

Knowing that I have a right of direct appeal of my sentence under 18 U.S.C. § 3742(a) and the grounds listed therein, I expressly waive the right to appeal my sentence on those grounds or on any ground. In addition, I hereby waive my right of appeal as to any and all other issues in this matter and agree I will not file a notice of appeal. I am knowingly and voluntarily waiving any right to appeal. By signing this agreement, I am explicitly and irrevocably directing my attorney not to file a notice of appeal. *Notwithstanding any other language to the contrary, I am not waiving my right to appeal or to have my attorney file a notice of appeal, as to any issue which cannot be waived, by law.* I understand the United States expressly reserves all of its rights to appeal. I agree and understand if I file any court document (except for an appeal based on an issue that cannot be waived, by law, or a collateral attack based on ineffective assistance of counsel) seeking to disturb, in any way, any order imposed in my case such action shall constitute a failure to comply with a provision of this agreement.

4. Waiver of Right to Collaterally Attack

I waive any right I may have to collaterally attack, in any future proceeding, any order issued in this matter, unless such attack is based on ineffective assistance of counsel, and agree I will not file any document which seeks to disturb any such order, unless such filing is based on ineffective assistance of counsel. **I agree and understand that if I file any court document (except for an appeal based on an issue not otherwise waived in this agreement; an appeal based on an issue that cannot be waived, by law; or a collateral attack based on ineffective assistance of counsel) seeking to disturb, in any**

Defendant's Initials: PI

way, any order imposed in my case, such action shall constitute a failure to comply with a provision of this agreement.

5. Information Access Waiver

I knowingly and voluntarily agree to waive all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. §552, or the Privacy Act of 1974, 5 U.S.C. §552a.

6. Waiver of Witness Fee

I agree to waive all rights, claims or interest in any witness fee I may be eligible to receive pursuant to 28 U.S.C. § 1821, for my appearance at any Grand Jury, witness conference or court proceeding.

7. Abandonment of Seized Items

By signing this plea agreement, I hereby abandon my interest in, and consent to the official use, destruction or other disposition of each item obtained by any law enforcement agency during the course of the investigation, unless such item is specifically provided for in another provision of this plea agreement. I further waive any and all notice of any proceeding to implement the official use, destruction, abandonment, or other disposition of such items.

8. Admissibility of Statements

I understand any statements I make (including this plea agreement, and my admission of guilt) during or in preparation for any guilty plea hearing, sentencing hearing, or other hearing and any statements I make or have made to law enforcement agents, in any setting (including during a proffer), may be used against me in this or any other proceeding. I knowingly waive any right I may have under the Constitution, any statute, rule or other source of law to have such statements, or evidence derived from such statements, suppressed or excluded from being admitted into evidence and stipulate that such statements can be admitted into evidence.

9. Additional Obligations

Defendant's Initials: *JS*

I agree to cooperate fully with law enforcement agents and will disclose to them, at any time requested by them, my knowledge of any criminal activity. I agree I will testify truthfully. I hereby waive any right I may have to refuse to answer any questions. I agree to be debriefed by law enforcement agents concerning any matter. I understand it is a felony offense to make false statements to law enforcement agents or to testify falsely.

I agree not to commit any of the following acts:

- attempt to withdraw my guilty plea, unless the Court rejects the plea agreement;
- deny I committed any crime to which I have pled guilty;
- make or adopt any arguments or objections to the presentence report that are inconsistent with this plea agreement;
- obstruct justice;
- fail to comply with any provision of this plea agreement;
- commit any other crime;
- make a false statement;
- fail to enter my plea of guilty when scheduled to do so, unless a continuance is agreed to by the United States Attorney's Office and granted by the Court;
- fail to testify truthfully, as to any matter, if called upon to do so (at my sentencing hearing or any other proceeding);
- refuse to answer any question;
- fail to comply with any reasonable request of the United States Attorney's Office; or
- fail to cooperate with law enforcement agents.

D. REMEDIES AVAILABLE TO THE UNITED STATES

I hereby stipulate and agree that the United States Attorney's office may, at its election, pursue any or all of the following remedies if I fail to comply with any provision of this agreement: (a) declare this plea agreement void; (b) refuse to dismiss any charges; (c) reinstate any dismissed charges; (d) file new charges; (e) withdraw any substantial assistance motion made, regardless of whether substantial assistance has been performed; (f) refuse to abide by any provision, stipulations, and/or recommendations contained in this plea agreement; or (g) take any other action provided for under this agreement or by statute, regulation or court rule.

Defendant's Initials: *ll*

In addition, I agree if, for any reason, my conviction is set aside, or I fail to comply with any obligation under the plea agreement, the United States may file, by indictment or information, any charges against me which were filed and/or could have been filed concerning the matters involved in the instant investigation. I hereby waive my right under Federal Rule of Criminal Procedure 7 to be proceeded against by indictment and consent to the filing of an information against me concerning any such charges. I also hereby waive any statute of limitations defense as to any such charges.

The remedies set forth above are cumulative and not mutually exclusive. The United States' election of any of these remedies, other than declaring this plea agreement void, does not, in any way, terminate my obligation to comply with the terms of the plea agreement. The use of "if" in this section does not mean "if, and only if."

E. GENERAL PROVISIONS

1. Limitation of Agreement

This agreement only binds the United States Attorney's Office for the Western District of Virginia. It does not bind any state or local prosecutor, other United States Attorney's Office or other office or agency of the United States Government, including, but not limited to, the Tax Division of the United States Department of Justice, or the Internal Revenue Service of the United States Department of the Treasury. These individuals and agencies remain free to prosecute me for any offense(s) committed within their respective jurisdictions.

2. Effect of My Signature

I understand my signature on this agreement constitutes a binding offer by me to enter into this agreement. I understand the United States has not accepted my offer until it signs the agreement.

3. Effective Representation

I have discussed the terms of the foregoing plea agreement and all matters pertaining to the charges against me with my attorney and am fully satisfied with my attorney and my attorney's advice. At this time, I have no dissatisfaction or complaint with my attorney's representation. I agree to make known to the Court no later than at the time of sentencing any dissatisfaction or complaint I may have with my attorney's representation.

Defendant's Initials: PP

4. Misconduct

If I have any information concerning any conduct of any government attorney, agent, employee, or contractor which could be construed as misconduct or an ethical, civil, or criminal violation, I agree to make such conduct known to the United States Attorney's Office and the Court, in writing, as soon as possible, but no later than my sentencing hearing.

5. Final Matters

I understand a thorough presentence investigation will be conducted and sentencing recommendations independent of the United States Attorney's Office will be made by the presentence preparer, which the Court may adopt or take into consideration. I understand any calculation regarding the guidelines by the United States Attorney's Office or by my attorney is speculative and is not binding upon the Court, the Probation Office or the United States Attorney's Office. No guarantee has been made by anyone regarding the effect of the guidelines on my case.

I understand the prosecution will be free to allocute or describe the nature of this offense and the evidence in this case and make any recommendations not prohibited by this agreement.

I understand the United States retains the right, notwithstanding any provision in this plea agreement, to inform the Probation Office and the Court of all relevant facts, to address the Court with respect to the nature and seriousness of the offense(s), to respond to any questions raised by the Court, to correct any inaccuracies or inadequacies in the presentence report and to respond to any statements made to the Court by or on behalf of the defendant.

I willingly stipulate there is a sufficient factual basis to support each and every material factual allegation contained within the charging document(s) to which I am pleading guilty.

I understand this agreement does not apply to any crimes or charges not addressed in this agreement. I understand if I should testify falsely in this or in a related proceeding I may be prosecuted for perjury and statements I may have given authorities pursuant to this agreement may be used against me in such a proceeding.

Defendant's Initials: PI

I understand my attorney will be free to argue any mitigating factors on my behalf; to the extent they are not inconsistent with the terms of this agreement. I understand I will have an opportunity to personally address the Court prior to sentence being imposed.

This writing sets forth the entire understanding between the parties and constitutes the complete plea agreement between the United States Attorney for the Western District of Virginia and me, and no other additional terms or agreements shall be entered except and unless those other terms or agreements are in writing and signed by the parties. This plea agreement supersedes all prior understandings, promises, agreements, or conditions, if any, between the United States and me.

I have consulted with my attorney and fully understand all my rights. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this agreement and I voluntarily agree to it. I have not been coerced, threatened, or promised anything other than the terms of this plea agreement, described above, in exchange for my plea of guilty. Being aware of all of the possible consequences of my plea, I have independently decided to enter this plea of my own free will, and am affirming that agreement on this date and by my signature below.

Date: 8/25/20


Phillip A. Peterson, Defendant

I have fully explained all rights available to my client with respect to the offenses listed in the pending charging document(s). I have carefully reviewed every part of this plea agreement with my client. To my knowledge, my client's decision to enter into this agreement is an informed and voluntary one.

I understand I may be present at any contact with my client by any government personnel. However, by my signature below, I expressly consent to direct contact with my client, without my prior approval, by government personnel, including but not limited to, in regard to the collection of monetary amounts owed in this and all related matters. At any time during such contacts with government personnel, my client may request my presence and the contact will be suspended until I arrive or indicate that the contact may continue.

If I will continue to represent my client regarding the United States' efforts to collect any monetary obligations, I will notify the United States Attorney's Office, ATTN:

Defendant's Initials: PP

Financial Litigation Unit, P.O. Box 1709, Roanoke, Virginia 24008-1709, in writing, of the fact of my continued legal representation within 10 days of the entry of judgment in this case.

Date: August 25, 2020 C. William Davis
Counsel for Defendant

Date: August 26, 2020 Lena L. Busscher
Assistant United States Attorney
Virginia Bar No. 82353

Defendant's Initials: PL

BEFORE THE VIRGINIA BOARD OF MEDICINE

IN RE: PHILLIP ALLEN PETERSON, M.D.
License Number: 0101-042606
Case Number: 172510

CONSENT ORDER

JURISDICTION AND PROCEDURAL HISTORY

The Virginia Board of Medicine ("Board") and Phillip Allen Peterson, M.D., as evidenced by their signatures hereto, in lieu of proceeding to an informal conference, enter into the following Consent Order affecting Dr. Peterson's license to practice medicine in the Commonwealth of Virginia.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Phillip Allen Peterson, M.D., was issued License Number 0101-042606 to practice medicine on July 1, 1988, which is scheduled to expire on August 31, 2022.
2. Dr. Peterson violated Virginia Code § 54.1-2915(A)(3), (13), (16), (17), and (18), § 54.1-3303(B), and § 54.1-3408(A) and 18 VAC 85-20-26(C) of the Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic ("Board's Regulations") concerning his care and treatment of Patients A-H in that, from approximately January 2010 through January 2016, he prescribed multiple controlled substances, particularly opioids with high abuse potential, without appropriately monitoring and managing usage of such medications and despite acknowledging to Patient G in August 2011 that he was "not a pain physician." Specifically, for each patient, Dr. Peterson:
 - a. Failed to have any pain management or similar contracts in place with Patients A-H for whom he regularly prescribed opioid medication;
 - b. Failed to develop a comprehensive treatment plan for Patients A-H, including a plan to taper them off of opioid medication;



c. Failed to perform or document adequate physical examinations, particularly of the pain areas;

d. Failed to conduct any urine drugs screens or pill counts or take other appropriate measures to determine whether Patients A-H were taking the medications as prescribed;

e. Failed to access the Prescription Monitoring Program ("PMP") or use other methods of monitoring for Patients A-H during the time he was regularly prescribing opioid medication to them; and

f. Failed to employ pain rating scales or other appropriate measures to determine the effect of prescribed medications on Patient A-H's pain and whether such medications were improving their ability to perform activities of daily living or affecting their psychological functioning.

3. With regard to his care and treatment of Patient A, a 72-year-old female with a history of coronary artery disease, hyperlipidemia, hypertension, diabetes mellitus, fatigue, and chronic pain with spinal stenosis:

a. Dr. Peterson violated Virginia Code § 54.1-2915(A)(3), (13), (16), (17), and (18), § 54.1-3303(B), and § 54.1-3408(A) and 18 VAC 85-20-90(B) of the Board's Regulations. On approximately a monthly basis from November 2009 through January 2016, Dr. Peterson prescribed phentermine (C-IV) to Patient A despite failing to conduct an appropriate history and physical examination at initiation of the treatment, including testing for thyroid function; order an electrocardiogram within 90 days of initiation of the treatment; prescribe and record a diet and exercise program; follow up with Patient A within 30 days of initiation of the treatment to monitor the effects of treatment; or document whether Patient A was continuing to progress toward achieving or maintaining a target weight.

b. Dr. Peterson violated Virginia Code § 54.1-2915(A)(3), (13), (16), and (17), § 54.1-3303(B), and § 54.1-3408(A). On approximately a monthly basis from August 2010 through January 2016, Dr. Peterson prescribed hydrocodone-acetaminophen (C-II) to Patient A for complaints of chronic pain associated with spinal stenosis despite failing to verify the status of her spinal stenosis via diagnostic testing, studies, or other objective evidence since her last MRI in 2001. Furthermore, Dr. Peterson frequently prescribed diazepam (C-IV) concomitantly despite failing to document an adequate medical justification for such prescribing.

4. Dr. Peterson violated Virginia Code § 54.1-2915(A)(3), (13), (16), and (17), § 54.1-3303(B), and § 54.1-3408(A) in that he prescribed numerous controlled substances, including opioids with high abuse potential, to Patients B-G over several years despite failing to conduct office visits at regular intervals in order to determine the efficacy of the prescribed medications. Specifically:

a. Dr. Peterson prescribed morphine ER (C-II), hydrocodone-acetaminophen, carisoprodol (C-IV), and zolpidem (C-IV) in multiple combinations to Patient B, a 63-year-old male with a history of osteoarthritis and lumbago, on approximately a monthly basis from January 2010 through December 2015, despite the fact that Patient B presented for only three office visits in June 2011, September 2011, and September 2013. In January 2016, Patient B was seen by another provider who noted that Patient B was at high risk for opioid withdrawal due to his long-term management on opioids.

b. Dr. Peterson prescribed hydrocodone-acetaminophen and alprazolam (C-IV) to Patient C, a 54-year-old female with a history of anxiety and chronic pain, on approximately a monthly basis from January 2014 through January 2016, despite the fact that Patient C presented to Dr. Peterson for only five office visits in January 2014, February 2014, April 2014, June 2015, and December 2015.

c. Dr. Peterson prescribed oxycodone-acetaminophen (C-II) to Patient D, a 30-year-old female with a history of reflex sympathetic dystrophy in her left leg and foot, on approximately a

monthly basis from July 2011 through January 2016, despite the fact that Patient D presented to Dr. Peterson for only five office visits in July 2011, September 2011, January 2012, May 2012, and April 2014.

d. Dr. Peterson prescribed hydrocodone-acetaminophen or oxycodone-acetaminophen approximately 30 times to Patient E, a 42-year-old male with a history of grade 1 spondylolisthesis, from August 2010 through January 2016, despite the fact that Patient E presented to Dr. Peterson for only five office visits in August 2011, April 2012, February 2014, November 2014, and August 2015.

e. Dr. Peterson prescribed hydrocodone-acetaminophen to Patient F, a 55-year-old male with a history of lumbar back pain, on approximately a monthly basis from February 2013 through December 2015, despite the fact that Patient F presented to Dr. Peterson for only three office visits in July 2013, May 2014, and April 2015.

f. Dr. Peterson prescribed hydrocodone-acetaminophen 10-325 mg approximately 15 times to Patient G, a 48-year-old male with a history of disk herniation and fibromyalgia, from December 2013 through December 2015, despite the fact that Patient G did not present to Dr. Peterson for any office visits during this prescribing period.

5. Dr. Peterson violated Virginia Code § 54.1-2915(A)(3), (13), (16), and (17), § 54.1-3303(B) and § 54.1-3408(A) concerning his care and treatment of Patient H, a 59-year-old male with a history of chronic pain and degenerative disc disease. Specifically, despite occasions when Patient H reported that he overused his pain medication, Dr. Peterson prescribed oxymorphone (C-II) immediate and extended release in various and escalating dosages and quantities to Patient H for complaints of chronic pain on approximately a monthly basis from January 2012 through January 2016. For example, Patient H reported to Dr. Peterson on or about July 5, 2012 that he took extra pain medication for

breakthrough pain. Rather than counseling Patient H against overusing his medication, Dr. Peterson increased the extended-release dosage from 80 mg daily to 100 mg daily. Furthermore, on or about February 14, 2013, Dr. Peterson noted during an office visit that there was a premature utilization of medication by Patient H and developed a plan to gradually taper Patient H off of the extended-release medication by approximately January 2014. Rather than following that plan, Dr. Peterson increased Patient H's extended-release dosage to 120 mg daily by January 2014 without any medical justification for the increase.

6. Dr. Peterson violated Virginia Code § 54.1-2915(A)(1), (16), and (18) and 18 VAC 85-20-27 of the Board's Regulations in that, in or about 2015, he authorized his medical assistant to log into his computer under his credentials, thereby allowing the assistant to access and close out patient charts and sign off on patient encounters while he was out of the office on vacation. Dr. Peterson admitted that he was aware of the assistant's actions but failed to correct her. Dr. Peterson also allowed medical residents to chart their patient encounters under his credentials on his computer so that it would appear that he treated such patients.

7. On or about September 8, 2020 in the United States District Court for the Western District of Virginia, Dr. Peterson entered a guilty plea to, and was convicted of, one count of misbranding a drug, a misdemeanor offense, in violation of 21 U.S.C. § 333(a)(1).

CONSENT

Phillip Allen Peterson, M.D., by affixing his signature to this Consent Order, agrees to the following:

1. I have been advised to seek advice of counsel prior to signing this document and am represented by Robert Galumbeck, Esq., and William Davis, Esq.;

2. I am fully aware that without my consent, no legal action can be taken against me or my license except pursuant to the Virginia Administrative Process Act, Virginia Code § 2.2-4000 *et seq.*;

3. I acknowledge that I have the following rights, among others: the right to an informal fact-finding conference before the Board; and the right to representation by counsel;

4. I waive my right to an informal conference;

5. I neither admit nor deny the Findings of Fact and Conclusions of Law contained herein but waive my right to contest such Findings of Fact and Conclusions of Law and any sanction imposed hereunder in any future judicial or administrative proceeding in which the Board is a party;

6. I consent to the entry of the following Order affecting my license to practice medicine in the Commonwealth of Virginia.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Medicine hereby ORDERS as follows:

1. Phillip Allen Peterson, M.D., is REPRIMANDED.

2. Upon entry of this Order, Dr. Peterson shall not provide treatment for chronic pain patients until he complies with the following TERMS and CONDITIONS:

a. Dr. Peterson shall provide proof satisfactory to the Board of successful completion of Board-approved courses of at least 20 credit hours in the subject of proper prescribing and at least 15 credit hours in the subject of recordkeeping. The course(s) shall be approved in advance of registration by the Executive Director of the Board. Requests for approval must be received within 15 business days prior to the course date. All continuing education hours/courses shall be completed through face-to-face, interactive sessions (i.e., no home study, journal, or Internet courses). Continuing education obtained through compliance with this term shall not be used toward licensure renewal.


b. Dr. Peterson shall certify in writing to the Executive Director that he has read and will comply with the Board's laws and regulations regarding prescribing for chronic pain and weight loss, including *Drug Laws for Practitioners*; 18 VAC 85-21-10 *et seq.* of the Regulations Governing Prescribing of Opioids and Buprenorphine; and 18 VAC 85-20-90 of the Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic.

3. Upon proof of compliance with the terms and conditions stated herein, the Board authorizes the Executive Director to lift the prohibition and close this matter.

Any violation of the foregoing terms and conditions of this Order or any statute or regulation governing the practice of medicine shall constitute grounds for further disciplinary action.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD


Jennifer Deschenes, J.D., M.S.
Deputy Executive Director, Discipline
Virginia Board of Medicine

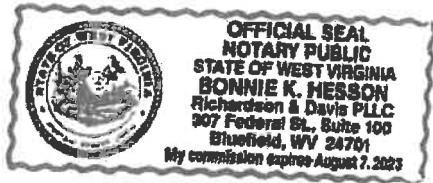
ENTERED: 11/5/2020

SEEN AND AGREED TO:


Phillip Allen Peterson, M.D.

State of West Virginia
COMMONWEALTH OF VIRGINIA
COUNTY/CITY OF Mercer, TO WIT:

Subscribed and sworn to before me, a notary public in and for the ^{State of West Virginia} Commonwealth of ~~Virginia~~ at large, on
this 23rd day of October, 2020.



Bonnie K. Hession
Notary Public

My commission expires: August 7, 2023

Registration No.: _____