

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK **Angel Sanders**
DATE **JAN 24 2017**

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO.: 2013-09427

JAMES COCORES, M.D.,

Respondent.

AMENDED ADMINISTRATIVE COMPLAINT

Petitioner Department of Health files this Amended Administrative Complaint before the Board of Medicine against Respondent James Cocores, M.D., and in support thereof alleges:

1. Petitioner is the state agency charged with regulating the practice of Medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 458, Florida Statutes.

2. At all times material to this Complaint, Respondent was a licensed medical doctor within the state of Florida, having been issued license number ME 76635.

3. Respondent's address of record is 5219 Wallis Road, Apt. D, West Palm Beach, FL. 33415.

FACTS SPECIFIC TO PATIENT B.G.

4. From on or about May 6, 2010, through on or about February 27, 2012 ("the treatment period"), Respondent treated Patient B.G., a thirty (30) year-old male.

5. Respondent did not obtain, or did not document obtaining, an appropriate and complete patient history of Patient B.G. during the treatment period.

6. Respondent did not perform, or did not document performing, a complete and comprehensive physical examination of Patient B.G. during the treatment period.

7. Respondent did not discuss, or did not document any discussion of, the risks and benefits of the use of controlled substances with Patient B.G. during the treatment period.

8. Respondent did not obtain, or did not document obtaining, informed consent and agreement for treatment from Patient B.G.

during the treatment period.

9. Respondent prescribed various levels and quantities of Percocet¹, Oxycontin², Xanax³, Klonopin⁴, Adderall⁵, Roxicet⁶,

¹ Oxycodone/apap, sold under the brand name Percocet® or Endocet®, contains oxycodone and acetaminophen, or Tylenol®. According to Section 893.03(2), Florida Statutes, oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of oxycodone may lead to severe psychological or physical dependence.

² Oxycodone, sold under the brand name Oxycontin®, is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of oxycodone may lead to severe psychological or physical dependence.

³ Alprazolam, sold under the brand name Xanax®, and is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes, alprazolam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of alprazolam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

⁴ Clonazepam, sold under the brand name Klonopin®, is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes, clonazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of clonazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

⁵ Adderall is the brand name for a drug that contains amphetamine, commonly prescribed to treat attention deficit disorder. According to Section 893.03(2), Florida Statutes, amphetamine is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of amphetamine may lead to severe psychological or physical dependence.

⁶ Roxicet is the brand name for a drug that contains oxycodone, and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of oxycodone may lead to severe psychological or physical dependence.

Methadone⁷, Dilaudid⁸, and Buprenorphine⁹ to Patient B.G. during the treatment period.

10. Respondent did not adequately justify, or did not document adequate justification for, the quantities and/or combinations of controlled substances prescribed to Patient B.G. during the treatment period.

11. The quantities and/or combinations of controlled substances prescribed to Patient B.G. during the treatment period were inappropriate.

⁷ Methadone is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, methadone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of methadone may lead to severe psychological or physical dependence.

⁸ Dilaudid is the brand name for hydromorphone and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes, hydromorphone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of hydromorphone may lead to severe psychological or physical dependence.

⁹ Buprenorphine (brand name Subutex or Suboxone, opioid, Schedule V) is commonly prescribed to treat pain. According to Section 893.03(5), Florida Statutes, buprenorphine is a Schedule V controlled substance that has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of buprenorphine may lead to limited physical or psychological dependence relative to the substances in Schedule IV.

12. Respondent did not create or implement, or did not document creating or implementing, a proper treatment plan for Patient B.G.

13. Respondent did not perform, or did not document performing, periodic re-evaluations of Patient B.G.

14. Respondent did not refer, or did not document referring, Patient B.G. to a chronic pain specialist and/or a cardiologist.

15. Respondent did not order, or did not document ordering, urine drug screens for Patient B.G.

16. Respondent did not refer, or did not document referring, Patient B.G. to a substance abuse clinic for daily supervised treatment.

17. Respondent did not create or did not keep complete and legible medical records.

FACTS SPECIFIC TO PATIENT R.P.

18. On or about September 24, 2009, Respondent treated Patient R.P., a thirty (30) year-old male.

19. On or about September 24, 2009, Respondent did not obtain, or did not document obtaining, an appropriate and complete patient history of Patient R.P.

20. On or about September 24, 2009, Respondent did not perform, or did not document performing, a complete and comprehensive physical examination of Patient R.P.

21. On or about September 24, 2009, Respondent did not discuss, or did not document any discussion of, the risks and benefits of the use of controlled substances with Patient R.P.

22. On or about September 24, 2009, Respondent did not obtain, or did not document obtaining, informed consent and agreement for treatment from Patient R.P.

23. On or about September 24, 2009, Respondent prescribed Methadone, Adderall, and Xanax to Patient R.P.

24. On or about September 24, 2009, Respondent did not adequately justify, or did not document adequate justification for, the

quantities and/or combinations of controlled substances prescribed to Patient R.P.

25. The quantities and/or combinations of controlled substances prescribed to Patient R.P. on or about September 24, 2009, were inappropriate.

26. On or about September 24, 2009, Respondent did not create or implement, or did not document creating or implementing, a proper treatment plan for Patient R.P.

27. On or about September 24, 2009, Respondent did not obtain, or did not document obtaining, Patient R.P.'s vital signs before prescribing Adderall.

28. On or about September 24, 2009, Respondent prescribed methadone and Xanax to Patient R.P. without adequate knowledge of Patient R.P.'s tolerance to these drugs.

29. On or about September 24, 2009, Respondent did not refer, or did not document referring, Patient R.P. to a substance abuse clinic for daily supervised treatment.

30. Respondent did not order, or did not document ordering a urine drug screen for Patient R.P.

31. Respondent did not refer, or did not document referring Patient R.P. to a chronic pain specialist.

32. On or about September 24, 2009, Respondent did not create or did not keep complete and legible medical records.

Section 458.331(1)(t), Florida Statutes

33. Section 458.331(1)(t), Florida Statutes (2009-2012), subjects a licensee to discipline for committing medical malpractice as defined in Section 456.50, Florida Statutes. Section 456.50(1)(g), Florida Statutes (2009-2012), states medical malpractice means the failure to practice medicine in accordance with the level of care, skill, and treatment recognized in general law related to health care licensure. Section 766.102, Florida Statutes (2009-2012), provides that the prevailing standard of care for a given healthcare provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

34. The prevailing professional standard of care required Respondent to treat Patient B.G. in the following manner:

- a. Obtain an appropriate and complete medical history;
- b. Perform a complete and comprehensive physical examination;
- c. Discuss the risks and benefits of the use of controlled substances with the patient;
- d. Obtain informed consent and agreement for treatment from the patient;
- e. Adequately justify the quantities and/or combinations of controlled substances prescribed to the patient;
- f. Create and implement a proper treatment plan for the patient;
- g. Perform periodic re-evaluations of the patient;
- h. Refer the patient to a chronic pain specialist and/or a cardiologist;
- i. Order urine drug screens for the patient; and/or

j. Refer the patient to a substance abuse clinic for daily supervised treatment.

35. The prevailing professional standard of care required Respondent to treat Patient R.P. in the following manner:

- a. Obtain an appropriate and complete medical history;
- b. Perform a complete and comprehensive physical examination;
- c. Discuss the risks and benefits of the use of controlled substances with the patient;
- d. Obtain informed consent and agreement for treatment from the patient;
- e. Adequately justify the quantities and/or combinations of controlled substances prescribed to the patient;
- f. Create and implement a proper treatment plan for the patient;
- g. Obtain the patient's vital signs before prescribing Adderall to the patient;

- h. Not jointly prescribe methadone and Xanax to the patient without adequate knowledge of the patient's tolerance to these drugs;
- i. Refer the patient to a substance abuse clinic for daily supervised treatment;
- j. Order a urine drug screen for the patient; and/or
- k. Refer the patient to a chronic pain specialist.

Count I – Patient B.G.

Violation of Section 458.331(1)(t)

36. Petitioner realleges and incorporates paragraphs 1 through 17 and 33 through 34 as if fully set forth herein.

37. Respondent fell below the minimum standard of care in his treatment of Patient B.G. in one or more of the following ways:

- a. By failing to obtain an appropriate and complete patient history of Patient B.G. prior to prescribing controlled substances to Patient B.G. during the treatment period;
- b. By failing to perform a complete and comprehensive physical examination of Patient B.G. prior to

- prescribing controlled substances to Patient B.G.
during the treatment period;
- c. By failing to discuss the risks and benefits of the use of controlled substances with Patient B.G.;
 - d. By failing to obtain informed consent and agreement for treatment from B.G. during the treatment period;
 - e. By failing to adequately justify the quantities and combinations of controlled substances prescribed to Patient B.G. during the treatment period;
 - f. By failing to create and implement a proper treatment plan for Patient B.G. during the treatment period;
 - g. By failing to perform periodic re-evaluations of Patient B.G. during the treatment period;
 - h. By failing to refer Patient B.G. to a chronic specialist and/or a cardiologist;
 - i. By failing to order urine drug screens for Patient B.G.;
and/or

- j. By failing to refer Patient B.G. to a substance abuse clinic for daily supervised treatment.

38. Based on the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes (2009-2012).

Count II – Patient R.P.

Violation of Section 458.331(1)(t)

39. Petitioner realleges and incorporates paragraphs 1 through 3, 18 through 33, and 35, as if fully set forth herein.

40. Respondent fell below the standard of care in his treatment of Patient R.P. in one or more of the following ways:

- a. By failing to obtain an appropriate and complete patient history of Patient R.P.;
- b. By failing to perform a complete and comprehensive physical examination of Patient R.P.;
- c. By failing to discuss the risks and benefits of the use of controlled substances with Patient R.P.;
- d. By failing to obtain informed consent and an agreement for treatment from Patient R.P.;

- e. By failing to justify the medications prescribed to Patient R.P.;
- f. By failing to create and implement a proper treatment plan for Patient R.P.;
- g. By failing to obtain Patient R.P.'s vital signs before prescribing Adderall;
- h. By failing to obtain adequate knowledge of Patient R.P.'s tolerance to methadone and Xanax before jointly prescribing these drugs;
- i. By failing to refer Patient R.P. to a substance abuse clinic for daily supervised treatment;
- j. By failing to order a urine drug screen for Patient R.P.; and/or
- k. By failing to refer Patient R.P. to a chronic pain specialist.

41. Based on the foregoing, Respondent violated Section 458.331(1)(t), Florida Statutes (2009).

Section 458.331(1)(q), Florida Statutes

42. Section 458.331(1)(q), Florida Statutes (2009-2012), subjects a licensee to discipline for prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of the paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

Count III – Patient B.G.

Violation of Section 458.331(1)(q)

43. Petitioner realleges and incorporates paragraphs 1 through 17 and paragraph 42 as if fully set forth herein.

44. Respondent prescribed a legend drug other than in the course of his professional practice by inappropriately prescribing controlled substances to Patient B.G.

45. Based on the foregoing, Respondent violated Section 458.331(1)(q), Florida Statutes (2009-2012).

Count IV – Patient R.P.

Violation of Section 458.331(1)(q)

46. Petitioner realleges and incorporates paragraphs 1 through 3, 18 through 32, and 42 as if fully set forth herein.

47. Respondent prescribed a legend drug other than in the course of his professional practice by inappropriately prescribing controlled substances to Patient R.P.

48. Based on the foregoing, Respondent violated Section 458.331(1)(q), Florida Statutes (2009).

Section 458.331(1)(m), Florida Statutes/Section
458.331(1)(nn), Florida Statutes

49. Section 458.331(1)(m), Florida Statutes (2009-2012), subjects a licensee to discipline for failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are

responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

50. Section 458.331(1)(nn), Florida Statutes (2009-2012), provides that violating any provision of Chapter 458 or 456, or any rules adopted pursuant thereto constitutes grounds for disciplinary action by the Board of Medicine.

51. Chapter 64B8-9.003(d)(3), Florida Administrative Code (2006), provides that medical records shall contain sufficient information to identify the patient, support the diagnosis, justify the treatment and document the course and results of treatment accurately, by including, at a minimum, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; reports of consultations and hospitalizations; and copies of records or reports or other documentation obtained from other

health care practitioners at the request of the physician and relied upon by the physician in determining the appropriate treatment of the patient.

Count V – Patient B.G.

Violation of Section 458.331(1)(m) and/or Section
458.331(1)(nn)

52. Petitioner realleges and incorporates paragraphs 1 through 17 and 49-51 as if fully set forth herein.

53. Respondent failed to maintain records that justify the course of treatment of Patient B.G. and/or satisfy the requirements of Chapter 64B8-9.003(d)(3), Florida Administrative Code in one or more of the following ways:

- a. By failing to create or keep legible medical records that document an appropriate and complete patient history of Patient B.G.;
- b. By failing to create or keep legible medical records that document a complete and comprehensive physical examination of Patient B.G.;
- c. By failing to create or keep legible medical records

- that document discussion of the risks and benefits of the use of controlled substances with Patient B.G.;
- d. By failing to create or keep legible medical records that document obtaining informed consent and agreement for treatment from Patient B.G.;
 - e. By failing to create or keep legible medical records that document adequate justification for the quantities and/or combinations of controlled substances prescribed to Patient B.G.;
 - f. By failing to create or keep legible medical records that document creating or implementing a proper treatment plan for Patient B.G.;
 - g. By failing to create or keep legible medical records that document performing periodic re-evaluations of Patient B.G.
 - h. By failing to create or keep legible medical records that document referring Patient B.G. to a chronic pain specialist and/or a cardiologist.
 - i. By failing to create or keep legible medical records

that document ordering urine drug screens for Patient B.G.; and/or

- j. By failing to create or keep legible medical records that document referring Patient B.G. to a substance abuse clinic for daily supervised treatment.

54. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes (2009-2012), and/or Section 458.331(1)(nn), Florida Statutes (2009-2012).

Count VI – Patient R.P.

Violation of Section 458.331(1)(m) and/or Section 458.331(1)(nn)

55. Petitioner realleges and incorporates paragraphs 1 through 3, 18 through 32, and 49-51 as if fully set forth herein.

56. Respondent failed to maintain records that justify the course of treatment of Patient R.P. and/or satisfy the requirements of Chapter 64B8-9.003(d)(3), Florida Administrative Code in one or more of the following ways:

- a. By failing to create or keep legible medical records

that document an appropriate and complete patient history of Patient R.P.;

- b. By failing to create or keep legible medical records that document a complete and comprehensive physical examination of Patient R.P.;
- c. By failing to create or keep legible medical records that document discussion of the risks and benefits of the use of controlled substances with Patient R.P.;
- d. By failing to create or keep legible medical records that document obtaining informed consent and agreement for treatment from Patient R.P.;
- e. By failing to create or keep legible medical records that document adequate justification for the quantities and/or combinations of controlled substances prescribed to Patient R.P.;
- f. Respondent failed to create or keep legible medical records that document creating and implementing a proper treatment plan for R.P.;
- g. Respondent failed to create or keep legible medical

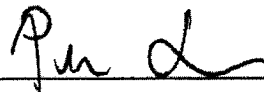
- records that document obtaining Patient R.P.'s vital signs before prescribing Adderall to Patient R.P.;
- h. Respondent failed to create or keep legible medical records that document obtaining adequate knowledge of Patient R.P.'s tolerance to methadone and Xanax before jointly prescribing these drugs;
 - i. Respondent failed to create or keep legible medical records that document referring Patient R.P. to a substance abuse clinic for daily supervised treatment;
 - j. Respondent failed to create or keep legible medical records that document ordering a urine drug screen for Patient R.P.; and/or
 - k. Respondent failed to create or keep legible medical records that document referring Patient R.P. to a chronic pain specialist.

57. Based on the foregoing, Respondent violated Section 458.331(1)(m), Florida Statutes (2009), and/or Section 458.331(1)(nn), Florida Statutes (2009).

WHEREFORE, Petitioner respectfully requests that the Board of Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 24th day of January, 2017.

Celeste Philip, MD, MPH
Surgeon General and Secretary



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PVD/bcf

PCP: January 20, 2017

PCP Members: Dr. El-Bahri, Dr. Terkonda, Ms. Goersch

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested. A request or petition for an administrative hearing must be in writing and must be received by the Department within 21 days from the day Respondent received the Amended Administrative Complaint, pursuant to Rule 28-106.111(2), Florida Administrative Code. If Respondent fails to request a hearing within 21 days of receipt of this Amended Administrative Complaint, Respondent waives the right to request a hearing on the facts alleged in this Amended Administrative Complaint pursuant to Rule 28-106.111(4), Florida Administrative Code. Any request for an administrative proceeding to challenge or contest the material facts or charges contained in the Amended Administrative Complaint must conform to Rule 28-106.2015(5), Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Amended Administrative Complaint.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of

this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition any other discipline imposed.