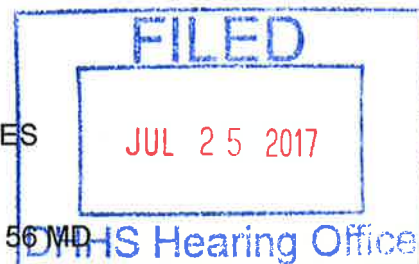


STATE OF NEBRASKA
DEPARTMENT OF HEALTH AND HUMAN SERVICES



STATE OF NEBRASKA ex rel. DOUGLAS)
J. PETERSON, Attorney General,)
)
Plaintiff,)
)
vs.)
)
ANIT JR, LEANDRO,)
)
Defendant.)

171156 MD


ORDER ON
AGREED SETTLEMENT

A proposed Agreed Settlement was filed with the Department on July 5, 2017.

ORDER

1. The Agreed Settlement is adopted, attached hereto and incorporated by reference.
2. The facts as set out in the Petition are taken as true and adopted herein.
3. The parties shall comply with all of the terms of the Agreed Settlement.

DATED this 25 day of JULY, 2017.



Thomas L. Williams, MD
Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

Civil penalty, if imposed, should be mailed to: DHHS, Division of Public Health, Licensure Unit, ATTN: Diane Pearson, P.O. Box 94986, Lincoln, NE 68509.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing ORDER ON AGREED SETTLEMENT was sent on the below date certified United States Mail, postage prepaid, return receipt requested, and/or electronically to the following:

LEANDRO ANIT MD 2909 N 146 TH ST OMAHA NE 68116
MINDY LESTER ASSISTANT ATTORNEY GENERAL AGO.HEALTH@NEBRASKA.GOV

7017 1070 0000 9474 5745

Date: July 25, 2017

Ben Davidson
DHHS Hearing Office
P.O. Box 95026
Lincoln, NE 68509-5026
P. (402) 471-4731 F. (402) 742-2374
dhhs.hearingoffice@nebraska.gov

5. The Defendant acknowledges that he has read the Petition for Disciplinary Action filed by the Nebraska Attorney General's Office and admits the allegations of the Petition for Disciplinary Action.

6. The Plaintiff and Defendant consent to the Chief Medical Officer entering a final disciplinary order which finds the allegations of the Petition for Disciplinary Action are true and suspends the Defendant's license to practice medicine and surgery for thirty (30) days effective ten (10) days from the date the Chief Medical Officer signs the Order on Agreed Settlement. The Defendant shall not engage in any activity which constitutes the practice of medicine and surgery during the period of suspension.

7. The Plaintiff and Defendant further consent to the Chief Medical Officer entering a final disciplinary order which imposed a civil penalty in the amount of TEN THOUSAND DOLLARS (\$10,000.00) upon the Defendant. The civil penalty shall be payable in full within twenty-four (24) months from the date the Chief Medical Officer enters a disciplinary order in accordance with this Agreed Settlement. In the event the Defendant fails to pay the civil penalty in full by the stated deadline, the Chief Medical Officer may summarily suspend the Defendant's physician license, which suspensions shall remain in effect until the civil penalty is paid in full.

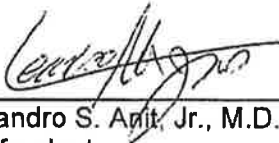
8. The Plaintiff and the Defendant further consent to the Chief Medical Officer ordering that the Defendant successfully complete the ProBE Ethics and Boundaries Program through the Center for Personalized Education for Physicians (hereinafter "CPEP") and successfully complete the Prescribing Controlled Drugs: Critical Issues and Common Pitfalls course through CPEP. The courses shall be completed within six (6) months from the date the Chief Medical Officer signs the Order on Agreed Settlement. The Defendant

shall be financially responsible for all costs associated with successful course completion. In the event the Defendant fails to complete the courses by the stated deadline, the Chief Medical Officer may summarily suspend the Defendant's physician license, which suspension shall remain in effect until proof of course completion is provided to the Department as directed.

9. The Attorney General has given notice of this Agreed Settlement to the Board of Medicine and Surgery and has received their input in accordance with Neb. Rev. Stat. § 38-190 (Reissue 2016).

10. If this Agreed Settlement is not approved by the Chief Medical Officer, this Agreed Settlement shall become null and void and will not be admissible for any purpose at any hearing that may be held on this matter.

AGREED TO:

BY: 
Leandro S. Anit, Jr., M.D.
Defendant

State of Nebraska)
) ss.
County of Douglas)

Acknowledged before me by Leandro S. Anit, Jr., M.D., on this 5th day of July, 2017.




Notary Public
My Commission Expires: 02/14/2021

STATE OF NEBRASKA ex rel.
DOUGLAS J. PETERSON, Attorney
General,
Plaintiff,

BY: DOUGLAS J. PETERSON,
#18146
Attorney General

BY: 
Mindy L. Lester, #24421
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
(402) 471-1815

Attorneys for the Plaintiff.

6. The Defendant provided psychiatric care for Patient A through CP, Lincoln, Nebraska, beginning in December, 2015. The Defendant transitioned Patient A's care from face – to – face to video conferencing in May, 2016.

7. In September, 2016, Patient A began residing with the Defendant, in his home in Omaha, Nebraska.

8. During interviews with a Department investigator on January 10, 2017, and January 20, 2017, the Defendant provided the following information:

- a. The Defendant admitted he met Patient A when he provided care for her in his capacity as a Psychiatrist while she was a residential patient at C.P., Lincoln, Nebraska, from December, 2015, through May, 2016;
- b. The Defendant advised he continued to provide care for Patient A as her psychiatrist via video conferencing until September, 2016;
- c. The Defendant admitted Patient A moved into his home in September, 2016;
- d. The Defendant admitted that in October, 2016, the Defendant and Patient A began an intimate, sexual relationship;
- e. The Defendant repeatedly admitted his relationship with Patient A was "definitely wrong" and is "not professional";
- f. The Defendant admitted he continues to prescribe medications for Patient A, including the following controlled substances, on a regular basis:
 - i. Fentanyl, a Schedule I controlled substance;
 - ii. Methadone, a Schedule II controlled substance;
 - iii. Adderall, a Schedule II controlled substance;
- g. The Defendant admitted Patient A is a "Mental Health Commitment" due to a history of suicide attempts; Patient A's prior suicide attempts have been through the misuse of pharmaceuticals;
- h. The Defendant admitted Patient A has no primary care physician, thus, he provides both psychiatric care and chronic pain management for Patient A;

- i. Patient A has numerous long standing medical problems, including ulcerative colitis, polycystic kidney disease, liver inflammation, migraine headaches, fibromyalgia, and post-traumatic stress disorder; and
 - j. The Defendant agreed to provide a copy of Patient A's medical record to the Department investigator.
9. The Defendant did not provide a copy of Patient A's medical records to the investigator.

10. On December 21, 2016, the Defendant provided care for Patient A. The Defendant's clinical notes indicate the following:

- a. Patient A's active diagnoses included Severe Opioid Use Disorder;
- b. The Defendant ordered lab work for Patient A, including a blood test for Beta-hCG to determine pregnancy; the lab work was positive;
- c. "Relationship with current significant other is supportive as well as overall social support";
- d. Methadone to change dosing from 50mg TID to 90mg BID using current supply;
- e. The Defendant's active medication list for Patient A includes the following:
 - i. Amphetamine-Dextroamphetamine (Adderall) 10 mg, A Schedule II Controlled Substance;
 - ii. Lisdexamfetamine Dimesylate (Vyvanse) 70 mg, A Schedule II Controlled Substance; and
 - iii. Methadone HCl 10mg oral tablet, A Schedule II Controlled Substance.

11. During an interview with Patient A on February 10, 2017, Patient A advised a Department investigator of the following:

- a. She is currently on probation following criminal conviction for possession of a controlled substance, to wit, methamphetamine;
- b. Patient A is subjected to approximately ten body fluid screens per month for illicit drugs as part of her criminal probation;

- c. Patient A advised she met the Defendant when he was her care provider at C.P., Lincoln, Nebraska;
- d. Patient A advised she graduated the C.P. program then returned home to a "very dangerous situation";
- e. The Defendant continued to provide care to Patient A via Telehealth services one to two times per week, until the Defendant eventually drove to her hometown and brought her back to Omaha, Nebraska, at which time she began staying at his home;
- f. Patient A is pregnant; the Defendant is the father; and
- g. Patient A advised "Dr. Anit was the only person I had who I could trust".

12. Patient A's prescription profiles demonstrate the following medications prescribed on numerous occasions for Patient A by the Defendant from June, 2016, through February, 2017:

- a. Schedule I Controlled Substances:
 - i. Fentanyl 75mcg/HR Patch
- b. Schedule II Controlled Substances:
 - i. Methadone HCL 10 mg
 - ii. Methadone 10 mg
 - iii. Vyvanse
 - iv. Dextroamphetamine-Amphetamine 30 mg
 - v. D-Amphetamine Salt Combo 30 mg
- c. Schedule III Controlled Substances:
 - i. Suboxone 8-2mg
- d. Schedule IV Controlled Substances:
 - i. Diazepam
 - ii. Lorazepam 1 mg
- e. Other Medications:
 - i. Levothyroxine 0.125mg
 - ii. Movantik 25 mg
 - iii. Topiramate
 - iv. Diphenhydramine
 - v. Abilify
 - vi. Clonidine (Catapres)

- vii. Cyclobenzaprine 10 mg
- viii. Dicyclomine 20 mg
- ix. Lorazepam 1 mg

13. Patient A filled prescriptions provided to her by the Defendant at the following pharmacies from June, 2016, through February, 2017:

- a. W. Pharmacy, Omaha, Nebraska;
- b. W. Pharmacy, Ogallala, Nebraska;
- c. W. Pharmacy, North Platte, Nebraska;
- d. W. Pharmacy (#2), Omaha, Nebraska;
- e. N.R.C.P., Norfolk, Nebraska;
- f. Wg. Pharmacy, Omaha, Nebraska;
- g. Wg. Pharmacy (#2), Omaha, Nebraska;
- h. C. Pharmacy, Omaha, Nebraska;
- i. C. Pharmacy (#2), Omaha, Nebraska;
- j. C. Pharmacy, La Vista, Nebraska;

14. On November 7, 2016, the Defendant submitted prescriptions for Patient A. to N.R.C.P., Norfolk, Nebraska. The Defendant included a letter to the Pharmacy with those prescriptions which stated:

- a. [Patient A] "was sent an Rx for Vyvanse approximately 3.5 weeks ago that she states was short-supplied. These current Rx's written may be early but due to the (sic) claim, I am comfortable with having this filled early as it will only be for a few days. The addition of Adderall may appear somewhat risky with the current Rx of Vyvanse; [Patient A] reviewed that this combination worked very well for her in the past. She continues to be on probation and maintains sobriety. Once again. Due to patient's unstable housing, please deliver meds to my practice address where meds will be re-delivered."

15. On October 31, 2016, the Defendant wrote a prescription for Patient A for Methadone 10 mg (#120) which was filled at W. Pharmacy, Omaha, Nebraska, and wrote on the prescription that Patient A "may fill today as previous Rx was increased with physician direction".

16. On November 14, 2016, the Defendant wrote a prescription for Patient A for Methadone 10 mg (#150) and wrote on the prescription "Ok to fill today; dosage was increased from previous dosing with supervision".

17. On December 5, 2016, the Defendant wrote a prescription for Patient A for Methadone 10 mg (#150). The Pharmacist at W. Pharmacy, Omaha, Nebraska, refused to fill the prescription. The Pharmacist noted on the prescription "RPH spoke with MD and he said Pt being treated from trauma & irritable bowel. Told MD I felt he was prescribing outside of scope of practice and dosing way too high. Suggested he send Pt to pain clinic or methadone clinic. Rph refused to fill prescription."

18. On December 24, 2016, the Defendant issued a prescription for Patient A for Methadone 10 mg (#180). W. Pharmacy refused to fill this prescription as it failed Pharmacy dispensing protocols.

19. On January 9, 2017, the Defendant again advised N.R.C.P., Norfolk, Nebraska, that Patient A "continues to live in unstable housing situation where I would prefer/need to have her Rx's delivered to my office address."

FIRST CAUSE OF ACTION

20. Paragraphs 1 through 19 are incorporated herein by this reference.

21. Neb. Rev. Stat. § 38-178(2) (Reissue 2016) provides that a professional license may be disciplined for immoral or dishonorable conduct evidencing unfitness to practice the profession in this state.

22. The Defendant's conduct, to include permitting Patient A to reside in his home and engaging in an intimate and sexual relationship with her as set forth above constitutes immoral or dishonorable conduct and is grounds for discipline.

SECOND CAUSE OF ACTION

23. Paragraphs 1 through 22 are incorporated herein by this reference.

24. Neb. Rev. Stat. § 38-178(23) (Reissue 2016) provides that a professional license may be disciplined for unprofessional conduct as defined in section 38-179.

25. Neb. Rev. Stat. § 38-179 (Reissue 2016) defines unprofessional conduct as any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including but not limited to...(12)(v) prescribing any controlled substance to any person living in the same household as the prescriber.

26. The Defendant's conduct, in prescribing controlled substances to Patient A while she resided in his home is unprofessional conduct and is grounds for discipline.

THIRD CAUSE OF ACTION

27. Paragraphs 1 through 26 are incorporated herein by this reference.

28. Neb. Rev. Stat. § 38-178(23) (Reissue 2016) provides that a professional license may be disciplined for unprofessional conduct as defined in section 38-179.

29. Neb. Rev. Stat. § 38-179 (Reissue 2016) defines unprofessional conduct as any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession, regardless of whether a person, consumer, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including but not limited to...

- a. (9) commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession; and

b. (15) such other acts as may be defined in rules and regulation.

30. 172 NAC 88-010.02(9) of the Regulations Governing the Licensure of Medicine and Surgery and Osteopathic Medicine and Surgery (2013) defines unprofessional conduct as the “commission of any act of sexual abuse, misconduct, or exploitation related to the practice of the profession of the applicant or credential holder...”

31. The Defendant’s sexual misconduct as set forth above is unprofessional conduct and is grounds for discipline.

FOURTH CAUSE OF ACTION

32. Paragraphs 1 through 31 are incorporated herein by reference.

33. Neb. Rev. Stat. § 38-178(23) (Reissue 2016) provides a professional license may be disciplined for unprofessional conduct as set forth 38-179.

34. Neb. Rev. Stat. § 38-1179 (Reissue 2016) defines unprofessional conduct as any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or the ethics of the profession,... including but not limited to, ... (23) such other acts as may be defined in rules and regulations.

35. 172 NAC 88.010.02(19) of the Regulations Governing the Licensure of Medicine and Surgery and Osteopathic Medicine and Surgery (2013) defines unprofessional conduct as “refusal to cooperate or failure to furnish requested information during a licensing or discipline investigation by the Department.

36. The Defendant’s conduct, as set forth in paragraph 9 constitutes a refusal to cooperate during a licensing or discipline investigation and is grounds for discipline.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that the Chief Medical Officer set this matter for hearing, order appropriate disciplinary action concerning the Defendant's license to practice as a physician in the State of Nebraska pursuant to Neb. Rev. Stat. § 38-196 (Reissue 2016), and tax the costs of this action to the Defendant.

STATE OF NEBRASKA ex rel.
DOUGLAS J. PETERSON, Attorney
General,
Plaintiff,

BY: DOUGLAS J. PETERSON,
#18146
Attorney General

BY: 
Mindy L. Lester, #24421
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Attorneys for the Plaintiff.