

STATE OF NEBRASKA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

AUG 18 2021

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

Plaintiff,

vs.

CHESEN, CHELSEA,

Defendant.

DHHS Hearing Office

210825 MD

ORDER ON
AGREED SETTLEMENT

A proposed Agreed Settlement was filed with the Department on August 17, 2021.

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.

Date:

8-18-21

Gary J. Anthone, 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 was sent on the date below by certified United States Mail, postage prepaid, return receipt requested, and/or electronically to the following:

CHELSEA CHESEN 1537 S 110TH ST OMAHA NE 68124
CHELSEA CHESEN 11635 ARBOR ST STE 210 OMAHA NE 68144
MINDY LESTER ASSISTANT ATTORNEY GENERAL AGO.HEALTH@NEBRASKA.GOV

Date:

August 18, 2021

7019 2970 0001 3495 6601

7019 2970 0001 3495 6618

DHHS Hearing Office
P.O. Box 98914
Lincoln, NE 68509-8914
P. (402) 471-7237 F. (402) 742-2376
dhhs.hearingoffice@nebraska.gov

**STATE OF NEBRASKA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH**

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

Plaintiff,

v.

CHELSEA L. CHESEN, MD,

Defendant.

AGREED SETTLEMENT

The Plaintiff and Defendant, Chelsea L. Chesen, M.D., in consideration of the mutual covenants and agreements contained herein, agree as follows:

1. The Defendant, Chelsea L. Chesen, M.D., was issued a license (#20880) to practice as a physician by the Nebraska Department of Health and Human Services Division of Public Health ("Department").


2. The Defendant acknowledges receipt of a copy of the Petition for Disciplinary Action and waives the need for further services of the Petition upon her.

3. Before disciplinary measures may be taken against the Defendant's license, the Defendant is entitled to a hearing as provided by law. The Defendant waives the right to a hearing. The Defendant waives any right to judicial review of an order by the Department's Chief Medical Officer which approves the terms of this Agreed Settlement.

4. No coercion, threats, or promises, other than those stated herein, were made to the Defendant to induce her to enter into this Agreed Settlement.

5. The Defendant acknowledges that she 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, censures the Defendant's physician license and imposes a civil penalty in the amount of FIVE THOUSAND DOLLARS (\$5,000.00). The civil penalty shall be payable in full within twelve (12) 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.

 7. Further, the Plaintiff and the Defendant consent to the Chief Medical Officer ordering the Defendant to successfully complete eight (8) hours of coursework in prescribing and documentation which have been approved by the Nebraska Board of Medicine and Surgery. 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.

8. 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).

9. 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.

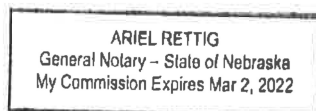
AGREED TO:

BY:

Chelsea L. Chesen, M.D.
Defendant

State of Nebraska
County of Douglas) ss.

Acknowledged before me by Chelsea L. Chesen, M.D., on this 12th day of August, 2021.




Notary Public
My Commission Expires: March 2, 2022

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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.

DHHS Hearing Office

PETITION FOR DISCIPLINARY ACTION

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

1. Jurisdiction is based on Neb. Rev. Stat. §§ 38-176 and 38-186 (Reissue 2016).
2. At all times relevant herein, the Defendant, Chelsea L. Chesen, MD, has been the holder of a license (#20880) to practice as a physician issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department").
3. The Department is the agency in the State of Nebraska authorized to enforce the provisions of the Uniform Credentialing Act regulating the practice of medicine and surgery.
4. The Nebraska Board of Medicine and Surgery considered the investigation of this matter and made a disciplinary recommendation to the Attorney General, which recommendation has been considered. Such matters are privileged pursuant to Neb. Rev. Stat. §§ 38-1,105 and 38-1,106 (Reissue 2016).

5. On April 7, 2017, the Defendant taped an envelope for Patient A on the door of her building containing Vraylar (cariprazine) 1.5 mg, #21 and another envelope for Patient B which contained a coupon for medication.

6. Vraylar (cariprazine) is a legend drug classified as an atypical antipsychotic used to treat Bipolar I Disorder and Schizophrenia.

7. On April 22, 2017, the Defendant taped an envelope on her office door for Patient C which contained a pharmaceutical later identified as Rexulti 1 mg, and Rexulti 3 mg (generic name "brexpiprazole").

8. Rexulti (brexpiprazole) is a legend drug classified as an atypical antipsychotic medication.

9. During an interview with a Department investigator on May 9, 2017, the Defendant advised the following:

- a. The Defendant admitted to taping medications to the door on one occasion, April 7, 2017, for one patient (Patient A);
- b. The medication left for Patient A was not retrieved by Patient A; the medication was left outside near the Defendant's office for several days;
- c. The Defendant had no concerns about the method of medication delivery;
- d. The Defendant denied recollection of taping medication to the door on April 22, 2017, but stated she or her office manager may have;

- e. The Defendant admitted to routinely taping envelopes to her office doorway which contain medication vouchers, doctor's notes, employer notes, and the like;

10. The Defendant provided care for Patient D from approximately 2011 through April 2018. The Defendant prescribed Patient D various legend drugs and controlled substances, including but not limited to: Oxycodone, Methadone, Hydromorphone Clonidine, Clonazepam Diazepam, Lorazepam, and Morphine Sulfate. Patient D's diagnoses include but are not limited to: post-traumatic stress disorder, cannabis use disorder, moderate, opioid use disorder, moderate, borderline personality disorder, and chronic pain syndrome.

11. In September 2019, Department expert B.M., M.D, an anesthesiologist and practicing pain medicine physician, reviewed the medical record for Patient D and determined:

- a. The Defendant documented one urine drug screen during the years of treatment provided to Patient D;
- b. The Defendant prescribed excessively high doses of opioids, sometimes reaching a morphine equivalent of 600MME,
- c. The Defendant combined Patient D's opioid prescriptions with benzodiazepines which dramatically increases the risk of overdose and death;
- d. The daily amount of opioids provided to Patient D dramatically exceeded the recommended limits (CDC) and the Defendant failed

to maintain documentation which supports excessive doses of narcotics;

- e. Patient D continued to complain of severe pain despite treatment with high dosages of opioids; and
- f. The Defendant failed to meet the standard of care for Patient D.

FIRST CAUSE OF ACTION

12. Paragraphs 1 through 11 are incorporated herein by this reference.

13. Neb. Rev. Stat. § 38-178(16) (Reissue 2016) provides a professional license may be disciplined for violation of the Uniform Credentialing Act or the rules and regulations adopted pursuant to the act.

14. Neb. Rev. Stat. § 38-2817 (Reissue 2016) defines dispense or dispensing as (1)(d) any transfer of a prescription drug or device to a patient or caregiver other than by administering.

15. Neb. Rev. Stat. § 38-2850 (Reissue 2016) provides physicians may dispense drugs to his or her patients as an incident to the practice of the profession.

16. The Defendant's conduct, in taping legend medications to her office door, is grounds for discipline.

SECOND CAUSE OF ACTION

17. Paragraphs 1 through 16 are incorporated herein by this reference.

18. Neb. Rev. Stat. § 38-178(6)(d) (Reissue 2016) provides that a professional license may be disciplined for practice of the profession in a pattern of incompetent or negligent conduct.

19. The Defendant's treatment of Patient A constitutes the practice of the profession in a pattern of negligent or incompetent conduct and is grounds for discipline.

THIRD CAUSE OF ACTION

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

21. 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.

22. 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.. (15) such other acts as may be defined in rules and regulations.

23. 172 NAC 88-010.02 (2013) of the Regulations Governing the Practice of Medicine and Surgery defines unprofessional conduct as "any departure from or failure to conform to the standards of acceptable and prevailing practice of medicine and surgery or the ethics of the profession, regardless of whether a person, patient, or entity is injured, but does not include a single act of ordinary negligence. Unprofessional conduct also means conduct that is likely to deceive or defraud the public or is detrimental to the public interest. Unprofessional conduct includes but is not limited to: ... (32) Conduct or practice outside the normal standard of care in the State of Nebraska which is or might be harmful or dangerous to the health of the patient or the public, not to include a single act of ordinary negligence".


24. The Defendant's treatment of Patient A as set forth above constitutes conduct or practice outside the acceptable and prevailing standards of care 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 pursuant to Neb. Rev. Stat. 38-196 (Reissue 2016), and tax the costs of this action to the Defendant.

THE 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
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Attorneys for the Plaintiff.