

STATE OF VERMONT
BOARD OF MEDICAL PRACTICE

In re: Alban J. Coghlan, M.D.)
) Docket No. MPC 112-0806
)

SPECIFICATION OF CHARGES

NOW COMES the State of Vermont, by and through Attorney General William H. Sorrell and the undersigned Assistant Attorney General, Jacob A. Humbert, and alleges as follows.

1. Alban J. Coghlan, M.D. (“Respondent”) of East Dorset, Vermont holds medical license number 042-0005324 issued by the Vermont Board of Medical Practice on July 25, 1974. Respondent is a psychiatrist with a private practice medical office in Rutland, Vermont.
2. Respondent is also a medical consultant at the Serenity House, a substance abuse rehabilitation facility in Wallingford, Vermont.
3. Jurisdiction in these matters vests with the Vermont Board of Medical Practice (“Board”) pursuant to 26 V.S.A. §§ 1314, 1354-1357, 3 V.S.A. §§ 809-814, and other authority.

I. Background

A. Practicing Medicine Without a License; False and Misleading Statements; Improper Medicare/Medicaid Billing; Failure to Maintain Receipt and Dispensing Log for Controlled Substance

4. Respondent’s medical license expired on November 30, 2004 without timely renewal. Board Licensing Specialist Tracy Hayes contacted

Respondent by telephone and informed Respondent that his Medical License has lapsed. Respondent advised that the renewal form had been misplaced on his desk and that he would get to it as soon as he could. Ms. Hayes told Respondent that if he were to bring the renewal form and check along with a late fee to the Board office, she would process the renewal immediately. Respondent advised that he could not make the trip up to Burlington because he was too busy and had patients to see. Ms. Hayes then reminded Respondent that he did not have a valid medical license, and suggested that Respondent direct a staff person to relay the paperwork or use expedited mail service so that she could process the renewal as soon as possible. Respondent did not then indicate how he intended to proceed.

5. On December 8, 2004, the Board received Respondent's completed renewal form along with a check including a late fee sent via regular first class mail from the United States Post Office. Ms. Hayes processed the renewal, effective that day.

6. In August 2006, Board Investigator Philip J. Ciotti made an inquiry with the Vermont Medicaid Fraud Unit to determine whether Respondent had submitted any billings for the period of December 1-7, 2004. On August 28, 2006, Vermont Medicaid Fraud Unit reported that Respondent had submitted bills for six patients to whom he had provided medical services during the period when his medical license had lapsed. Respondent received Medicaid reimbursements in the amount of \$342.03.

7. On August 29, 2006, the Board opened the current complaint against Respondent (Docket No. MPC 112-0806) related to Respondent's conduct during the period of December 1-7, 2004. A letter was sent to Respondent informing him of this fact and requesting a response in 10 days.

8. On September 14, 2006, Respondent called Investigator Ciotti and apologized for the delay in responding. Respondent indicated that he had misplaced the Board's August 29, 2006 letter. He was granted an extension until October 13, 2006 to respond. Respondent assured Investigator Ciotti that there was nothing "hidden or occult" about the lapse in his medical license. He advised that it was timing on his part and that once he learned that his license had expired, he immediately closed his practice until it was resolved. He specifically advised that "I closed my practice, didn't see patients, or write any prescriptions." He maintained that he told his secretary to reschedule all of his patients for another time and that he did not begin to see patients again until his medical license had been renewed.

9. In the afternoon of September 14, 2006, Investigator Ciotti received a written response from Respondent consistent with what he had told Investigator Ciotti over the telephone earlier that day. Specifically, Respondent wrote that "[w]hen I heard from Tracy Hayes, Licensing Specialist at your office, at her instruction I cancelled the patients I had scheduled for the first week in December and wrote no prescriptions for the period of December 1st through December 7th."

10. Later in the afternoon of September 14, 2006, Investigator Ciotti forwarded a request to the New England Benefit Integrity Support Center for Medicare and Medicaid Services ("NE BISC") to determine whether Respondent had also submitted any Medicare billing for the period of December 1-7, 2004.

11. On February 20, 2007, NE BISC reported that Respondent had submitted bills concerning nine patients (four of whom had also been subject to Respondent's billing submitted to Medicaid) to whom he had provided medical services during the period when his medical license had lapsed. The total amount paid by Medicare to Respondent was \$442.14.

12. On March 28, 2007, Investigator Ciotti and DEA Agent Christopher Paquette met in Rutland for the purpose of serving a subpoena on Respondent to review the records of a variety of patients who were provided services by Respondent (during the period of December 1-7, 2004) that were billed to Medicaid and Medicare.

13. Investigator Ciotti and Agent Paquette served the subpoena upon Rhonda Stroup, Respondent's office manager, who after speaking with Respondent via telephone, provided them with an office calendar for the period of December 1-7, 2004. The calendar revealed that Respondent had full office days with patients scheduled on December 2, 3, and 7, 2004. Respondent saw 23 patients over those three days.

14. Of the patients who were subjects of Medicare and Medicaid billings during the period of December 1-7, 2004, only four actually appeared on

Respondent's calendar for that period. The remaining patients were seen by other providers that share space in Respondent's office suite, yet were billed under Respondent's Medicare or Medicaid number as services that were provided "incident to" Respondent's practice. The remaining patients were apparently seen by Dean Hammer, Psy.D. and Gail Coghlan, LCMHC (Respondent's spouse). Moreover, Respondent had written no prescriptions for these patients and had represented that he could not provide these patients' charts in response to the Board's March 28, 2007 subpoena because they were not his patients.

15. During the course of discussions with Rhonda Stroup, Agent Paquette also requested that she show him where all drugs were kept on the premises. Ms. Stroup did so. Numerous pharmaceutical company samples of non-controlled substances were located in an unlocked filing cabinet, which Ms. Stroup stated was locked at night. Samples of non-controlled substances were also kept in several rooms and also in open cardboard boxes in the basement. These substances were not locked up at any time.

16. Ms. Stroup also pointed out several caches of Ambien, a DEA Schedule IV controlled substance. Agent Paquette asked what kind of log was kept for the receipt and dispensing of this drug as required by law. Ms. Stroup expressed surprise and admitted that she did not know of any such requirement and conceded that the only record of dispensing might be found in individual patient charts. Agent Paquette then spoke to Respondent on the telephone to

discuss his observations at the office concerning drug storage and logs. Agent Paquette further explained to Respondent the log requirements under Vermont law.

17. After leaving Respondent's office, Investigator Ciotti and Agent Paquette then travelled directly to Respondent's home to discuss these matters further. Upon arrival, Investigator Ciotti and Agent Paquette were greeted by Respondent, introduced his wife Gail and then brought into a living room for a private conversation with Respondent.

18. Investigator Ciotti again asked Respondent about the period of December 1-7, 2004, informing Respondent that it appeared he had seen patients. Respondent stated "This is Vermont and we couldn't get a hold of all of the patients to cancel and I did see a few emergency cases." Investigator Ciotti then produced the office calendars for the period of December 1-7, 2004 and indicated that he believed Respondent had full office days during that period. Investigator Ciotti then asked whether they all were emergencies or just regular visits. Respondent then stated he "did not write any prescriptions to any of the patients" because he knew he couldn't.

19. On April 10, 2007, Respondent provided Investigator Ciotti with the charts for the four patients he had seen during the period of December 1-7, 2004 and for whom he had billed Medicare or Medicaid. These charts documented therapy sessions as well as medications prescribed.

20. On April 26, 2007, Investigator Ciotti served another subpoena upon Rhonda Stroup for records of a selection of additional patients identified on Respondent's office calendar, beyond the four for whom he billed Medicare or Medicaid.

21. On April 26, 2007, Investigator Ciotti also went to Rutland Pharmacy to conduct a prescriber check in an effort to determine what prescriptions Respondent had written during the period of December 1-7, 2004. As a result of this check, Investigator Ciotti determined that Respondent had written prescriptions to the Serenity House in Wallingford regarding seven residents during that period.

22. On April 30, 2007, Respondent provided Investigator Ciotti with records of five of the additional 19 patients identified on Respondent's office calendar. The records confirmed that Respondent saw these five additional patients and provided therapy as well as medical regimens during the period of December 1-7, 2004.

23. On August 21, 2007, Investigator Ciotti served a subpoena upon Mary Ellen O'Brien, Chief Executive Officer of the Serenity House in Wallingford, seeking calendars and other employment records of Respondent. Investigator Ciotti was able to determine that Respondent was, and remains, under contract as Medical Director and is on call 24 hours a day seven days a week. Ms. O'Brien was unaware of any time period where Respondent was unable to perform his contract duties.

24. On January 24, 2008, Investigator Ciotti received further clarification from NE BISC that Respondent had been billing Medicare and Medicaid for professional services incident to his practice on Mondays and Wednesdays (days he is not typically in the office) during the period of February 1, 2004 through March 31, 2007. NE BISC determined that Respondent had been overpaid a total of \$1,291.02 during that period. That amount was sent to a contractor for collection. As of January 28, 2008, NE BISC instituted a 100% prepayment edit on Respondent's Medicare/Medicaid PIN number, meaning every submitted claim would be reviewed prior to payment.

B. Drug Diversion

25. Through the course of the investigation, it was determined that regular and significant quantities of DEA scheduled drugs were being ordered under Respondent's DEA license number from Henry Schein, Co., a pharmaceutical wholesaler. The following were shipped directly to Respondent's office on the dates indicated:

5/8/2002: 500 Lorazepam, 2 mg tablets (one bottle);
10/16/2002: 500 Lorazepam, 2 mg tablets (one bottle);
1/20/2003: 500 Lorazepam, 2 mg tablets (one bottle);
5/28/2003: 500 Lorazepam, 2 mg tablets (one bottle);
9/3/2003: 500 Lorazepam, 2 mg tablets (one bottle),
100 Hydrocodone w/APAP 7.5/7.0 (Vicodin) (one bottle);
12/1/2003: 500 Lorazepam, 2 mg tablets (one bottle);
3/1/2004: 500 Lorazepam, 2 mg tablets (one bottle);
6/14/2004: 500 Lorazepam, 2 mg tablets (one bottle);
9/20/2004: 500 Lorazepam, 2 mg tablets (one bottle);
2/10/2005: 500 Lorazepam, 2 mg tablets (one bottle);
8/8/2005: 500 Lorazepam, 2 mg tablets (one bottle);
9/2/2005: 500 Lorazepam, 2 mg tablets (one bottle);

10/10/2005: 500 Lorazepam, 2 mg tablets (one bottle);
2/20/2006: 500 Lorazepam, 2 mg tablets (one bottle);
2/24/2006: 500 Lorazepam, 2 mg tablets (one bottle);
3/7/2006: 500 Lorazepam, 2 mg tablets (one bottle);
8/9/2006: 500 Lorazepam, 2 mg tablets (one bottle);
10/24/2006: 500 Lorazepam, 2 mg tablets (one bottle); and
1/8/2007: 500 Lorazepam, 2 mg tablets (one bottle);

26. During the March 28, 2007 meeting at Respondent's home, Investigator Ciotti asked Respondent about these shipments. Respondent replied that the bottle of Vicodin was obtained for his personal use for pain management after a number of surgeries when the medications his doctor prescribed for him ran out. Respondent said that he ordered the Vicodin himself because he was too busy to go back to his doctor for a follow-up consultation.

27. When further asked about the thousands of Lorazepam tablets ordered since 2002, Respondent replied that he "put a stop to that." Respondent explained that a family member had been secretly ordering Lorazepam for his/her own personal use for years and that he/she was "addicted" and currently in "recovery." Respondent stated that the family member had been addicted to alcohol and Lorazepam (Ativan), and that he/she had admitted to him to at times taking Ativan by the fistful. Respondent further stated that he found out about his family member's use of Ativan roughly one and one half years prior (i.e. mid-late 2005) by "intercepting a bottle", which resulted in a confrontation between the two of them. Respondent conceded that the family member "was fraudulently using my name and DEA." But, Respondent did say that he had

personally destroyed perhaps three 500-count bottles that he found over the last few years, and that the family member had stopped using Ativan a year ago (i.e. early 2006) and that his family member's home was "a drug free house now." However, when Investigator Ciotti pointed out that the most recent order for Lorazepam (Ativan) was January 2007 and that thousands of tablets had been shipped over since early 2006, Respondent replied, "Oh! I'll have to look into that!" Respondent admitted that at no time did he ever contact Henry Schein Co. to request that they not fill any orders for Lorazepam under his DEA license number. Even by Respondent's own account, his only effort to stop his family member's drug diversion was to intercept bottles whenever he found them.

C. Prescribing Controlled and Non-Controlled Substances to a Family Member

28. On April 26, 2007, Investigator Ciotti performed a pharmacy inspection in the Rutland area to review prescription profiles of Respondent. At Hannaford's Pharmacy, he found that Respondent had issued the following prescriptions to a family member: Antabuse 250 mg, quantity 30 tablets on December 19, 2005 and March 17, 2006. Further, at Rutland Pharmacy, he found that Respondent had issued the following prescriptions to the same family member on the dates indicated:

7/30/2004: Loperimide 2 mg (quantity 50);
11/9/2004: Loperimide 2 mg (quantity 50);
4/22/2005: Loperimide 2 mg (quantity 50);
9/22/2005: Trazodone 50 mg (quantity 30);
10/6/2005: Trazodone 50 mg (quantity 60), and
Nexium 20 mg (quantity 60);
10/7/2005: Loperimide 2 mg (quantity 50);

10/21/2005: Nasacort Nasal Spray (quantity 17);
 11/28/2005: Trazodone 50 mg (quantity 60);
 12/15/2005: Nexium 20 mg (quantity 60);
 1/20/2006: Trazodone 50 mg (quantity 60), and
 Nasacort Nasal Spray (quantity 17);
 3/9/2006: Nexium 20 mg (quantity 30);
 3/16/2006: Nasacort Nasal Spray (quantity 17), and
 Trazodone 50 mg (quantity 30);
 4/18/2006: Trazodone 50 mg (quantity 30);
 4/20/2006: Lidoderm 5% Patch (quantity 30);
 5/2/2006: Nexium 20 mg (quantity 30);
 5/12/2006: Lidoderm 5% Patch (quantity 30);
 5/18/2006: Trazodone 50 mg (quantity 30);
 5/26/2006: Nasacort Nasal Spray (quantity 17);
 6/2/2006: Nexium 20 mg (quantity 30);
 6/16/2006: Trazodone 50 mg (quantity 30);
 7/18/2006: Trazodone 50 mg (quantity 30);
 8/4/2006: Nexium 20 mg (quantity 30);
 8/18/2006: Trazodone 50 mg (quantity 30);
 9/19/2006: Trazodone 50 mg (quantity 30), and
 Nexium 20 mg (quantity 30);
 10/19/2006: Trazodone 50 mg (quantity 30);
 11/3/2006: Topomax 25 mg (quantity 90);
 11/6/2006: Nexium 20 mg (quantity 30);
 11/14/2006: Loperimide 2 mg (quantity 60); and
 11/22/2006: Trazodone 50 mg (quantity 30).

29. In addition to the above, Respondent also prescribed Lorazepam (at least six prescriptions with refills) and Oxycodone w/ APAP (at least two prescriptions with refills) to the same family member during the period of 1999 through 2001.

D. Deficient Documentation Related to Prescribing of Controlled and Non-controlled Substances

30. From 1999 through 2006, Respondent prescribed the above-described controlled and non-controlled substances to this family member without setting forth the medical basis for each prescription ordered and

without documenting the results of any medical history or examination that may have been performed. In fact, Respondent maintained no patient medical records at all related to this family member.

31. On April 5, 2004, Respondent issued a prescription for Ambien 10 mg (quantity 20) to a person (Person A) for whom Respondent also maintained no patient medical records. When asked about this issue by Investigator Ciotti, Respondent advised, through legal counsel, that he issued the prescription to Person A because Person A was having family problems and not sleeping. Nonetheless, Respondent prescribed this controlled substance to Person A without setting forth the medical basis for the prescription ordered and without documenting the results of any medical history or examination that may have been performed.

32. On August 11, 2005, Respondent issued a prescription for Lorazepam 1 mg (quantity 10) to a person (Person B) for whom Respondent also maintained no patient medical records. When asked about this issue by Investigator Ciotti, Respondent advised, through legal counsel, that he issued the prescription to Person B because Person B was suffering from anxiety. Nonetheless, Respondent prescribed this controlled substance to Person B without setting forth the medical basis for the prescription ordered and without documenting the results of any medical history or examination that may have been performed.

II. State's Allegations of Unprofessional Conduct

Count 1

33. Paragraphs 1 through 32, above, are restated and incorporated by reference.

34. Respondent's conduct in engaging in the practice of medicine, including seeing patients and writing prescriptions, during the period of December 1-7, 2004 without having timely renewed his medical license constitutes a violation of 26 V.S.A. § 1314 (prohibiting the illegal practice of medicine or surgery) and therefore further constitutes a violation of 26 V.S.A. § 1354(a)(27) (failure to comply with provisions of federal or state statutes or rules governing the practice of medicine or surgery). Such conduct is unprofessional.

Count 2

35. Paragraphs 1 through 34, above, are restated and incorporated by reference.

36. Respondent's conduct in providing various false and misleading statements to a Board investigator in 2006 constitutes multiple violations of 13 V.S.A. § 1754(a) (false report to law enforcement authorities) and therefore further constitutes multiple violations of 26 V.S.A. § 1354(a)(27) (failure to comply with provisions of federal or state statutes or rules governing the practice of medicine or surgery). Such conduct is unprofessional.

37. Alternatively or cumulatively, Respondent's conduct constitutes multiple violations of 26 V.S.A. § 1354(a)(7) (conduct which evidences unfitness to practice medicine) and is unprofessional.

38. Alternatively or cumulatively, Respondent's conduct constitutes multiple violations of 26 V.S.A. § 1398 (refusal or revocation of licenses) as it is dishonorable and/or unprofessional in character. Such conduct is thereby subject to Board discipline.

Count 3

39. Paragraphs 1 through 38, above, are restated and incorporated by reference.

40. Respondent's conduct of billing Medicare/Medicaid for services of other medical professionals that were not provided "incident to" his practice from 2004 through 2007 constitutes multiple violations of 26 V.S.A. § 1354(a)(16)(gross overcharging for professional services on repeated occasions, including filing of false statements for collections of fees for which services are not rendered) and is unprofessional.

41. Alternatively or cumulatively, Respondent's conduct constitutes multiple violations of 42 C.F.R. § 410.26 (Centers for Medicare and Medicaid Services, HHS; services and supplies incident to a physician's professional services; conditions) and therefore further constitutes multiple violations of 26 V.S.A. § 1354(a)(27) (failure to comply with provisions of federal or state

statutes or rules governing the practice of medicine or surgery). Such conduct is unprofessional.

Count 4

42. Paragraphs 1 through 41, above, are restated and incorporated by reference.

43. Respondent's conduct of permitting a total of 9,500 tablets (2 mg) of the controlled drug Lorazepam to be ordered through his DEA number, delivered to his office and diverted to a family member's personal use from 2002 through 2007, of which he had actual or constructive knowledge, constitutes multiple violations of 18 V.S.A. § 4210 (authorized sales on written orders, records) and is unprofessional.

44. Alternatively or cumulatively, Respondent's conduct constitutes multiple violations of 18 V.S.A. § 4223 (fraud or deceit in obtaining or seeking to obtain a regulated drug) and therefore further constitutes multiple violations of 26 V.S.A. §§ 1354(a)(27) (failure to comply with provisions of federal or state statutes or rules governing the practice of medicine or surgery). Such conduct is unprofessional.

45. Alternatively or cumulatively, Respondent's conduct constitutes a violation of 26 V.S.A. § 1354(b)(2) (failure to conform to the essential standards of acceptable and prevailing practice) and is unprofessional.

Count 5

46. Paragraphs 1 through 45, above, are restated and incorporated by reference.

47. Respondent's conduct of prescribing the controlled drugs Lorazepam and/or Oxycodone to an immediate family member on at least eight occasions from 1999 through 2001 constitutes multiple violations of 26 V.S.A. § 1354(b)(2) (failure to conform to the essential standards of acceptable and prevailing practice) and is unprofessional.

48. Alternatively or cumulatively, Respondent's conduct does not conform to *American Medical Association Opinions*, No. 8.19 (self-treatment or treatment of immediate family members) and therefore constitutes multiple violations of 26 V.S.A. § 1354(b)(2) (failure to conform to the essential standards of acceptable and prevailing practice). Such conduct is unprofessional.

49. Alternatively or cumulatively, Respondent's conduct does not conform to *Board of Medical Practice Rules*, No. 4.3 (self-prescribing and prescribing for family members) and therefore further constitutes multiple violations of 26 V.S.A. § 1354(b)(2) (failure to conform to the essential standards of acceptable and prevailing practice). Such conduct is unprofessional.

Count 6

50. Paragraphs 1 through 49, above, are restated and incorporated by reference.

51. Respondent's conduct of prescribing, on at least 16 occasions from 1999 through 2003 and on at least 29 occasions from 2004 through 2007, non-controlled drugs to an immediate family member apparently without setting forth the medical basis for each prescription ordered and without documenting the results of any medical history or examination that may have been performed constitutes multiple violations of 26 V.S.A. § 1354(b)(2) (failure to conform to the essential standards of acceptable and prevailing practice) and is unprofessional.

52. Alternatively or cumulatively, Respondent's conduct does not conform to *American Medical Association Opinions*, No. 8.19 (self-treatment or treatment of immediate family members) and therefore constitutes multiple violations of 26 V.S.A. § 1354(b)(2) (failure to conform to the essential standards of acceptable and prevailing practice). Such conduct is unprofessional.

53. Alternatively or cumulatively, Respondent's conduct constitutes multiple violations of 26 V.S.A. § 1354(a)(22) (gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions, that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent physician engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred) and is unprofessional.

Count 7

54. Paragraphs 1 through 53, above, are restated and incorporated by reference.

55. Respondent's conduct of prescribing, on April 5, 2004, a controlled drug to a person, who was not a family member, apparently without setting forth the medical basis for the prescription ordered and without documenting the results of any medical history or examination that may have been performed constitutes a violation of 26 V.S.A. § 1354(b)(2) (failure to conform to the essential standards of acceptable and prevailing practice) and is unprofessional.

56. Alternatively or cumulatively, Respondent's conduct constitutes a violation of 26 V.S.A. § 1354(a)(22) (gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions, that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent physician engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred) and is unprofessional.

Count 8

57. Paragraphs 1 through 56, above, are restated and incorporated by reference.

58. Respondent's conduct of prescribing, on August 11, 2005, a controlled drug to a second person, who was also not a family member, apparently without setting forth the medical basis for the prescription ordered

and without documenting the results of any medical history or examination that may have been performed constitutes a violation of 26 V.S.A. § 1354(b)(2) (failure to conform to the essential standards of acceptable and prevailing practice) and is unprofessional.

59. Alternatively or cumulatively, Respondent's conduct constitutes a violation of 26 V.S.A. § 1354(a)(22) (gross failure to use and exercise on a particular occasion or the failure to use and exercise on repeated occasions, that degree of care, skill and proficiency which is commonly exercised by the ordinary skillful, careful and prudent physician engaged in similar practice under the same or similar conditions, whether or not actual injury to a patient has occurred) and is unprofessional.

Count 9

60. Paragraphs 1 through 59, above, are restated and incorporated by reference.

61. Respondent's conduct of ordering through his DEA number, on September 3, 2003, and diverting for his personal use a total of 100 tablets of the controlled drug Hydrocodone w/ APAP 7.5/750 (Vicodin) constitutes a violation of 26 V.S.A. § 1354(b)(2) (failure to conform to the essential standards of acceptable and prevailing practice) and is unprofessional.

62. Alternatively or cumulatively, Respondent's conduct does not conform to *American Medical Association Opinions*, No. 8.19 (self-treatment or treatment of immediate family members) and therefore constitutes a violation of

26 V.S.A. § 1354(b)(2) (failure to conform to the essential standards of acceptable and prevailing practice). Such conduct is unprofessional.

63. Alternatively or cumulatively, Respondent's conduct does not conform to *Board of Medical Practice Rules*, No. 4.3 (self-prescribing and prescribing for family members) and therefore constitutes a violation of 26 V.S.A. § 1354(b)(2) (failure to conform to the essential standards of acceptable and prevailing practice). Such conduct is unprofessional.

64. Alternatively or cumulatively, Respondent's conduct does not comply with *Board of Medical Practice Rules*, No. 4.3 (self-prescribing and prescribing for family members) and therefore constitutes a violation of 26 V.S.A. § 1354(a)(27) (failure to comply with provisions of federal or state statutes or rules governing the practice of medicine or surgery). Such conduct is unprofessional.

65. Alternatively or cumulatively, Respondent's conduct constitutes a violation of 18 V.S.A. § 4223 (fraud or deceit in obtaining or seeking to obtain a regulated drug) and therefore further constitutes a violation of 26 V.S.A. § 1354(a)(27) (failure to comply with provisions of federal or state statutes or rules governing the practice of medicine or surgery). Such conduct is unprofessional.

Count 10

66. Paragraphs 1 through 65, above, are restated and incorporated by reference.

67. Respondent's conduct of storing the controlled substance Ambien in his office without keeping a record of such drug received by him and a record of such drug administered, dispensed or professionally used by him otherwise than by prescription constitutes a violation of 18 V.S.A. § 4210 (authorized sales on written orders, records) and therefore further constitutes a violation of 26 V.S.A. § 1354(a)(27) (failure to comply with provisions of federal or state statutes or rules governing the practice of medicine or surgery). Such conduct is unprofessional.

WHEREFORE, petitioner, State of Vermont, moves the Board of Medical Practice, pursuant to 26 V.S.A. § 1356-1361 and/or 1398, to revoke, or take any other action it deems appropriate as to, the medical license of Respondent, Alban J. Coghlan, M.D.

DATED at Montpelier, Vermont this 7th day of January 2010

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:



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Foregoing Charges, In re: Alban J. Coghlan, M.D., Docket No. MPC 112-0806, are hereby issued and corrected as proposed by the State of Vermont on February 8, 2010:

By: Margaret Funk Martin
Margaret Funk Martin
Secretary, Vermont Board of Medical Practice

Signed and Dated at Middlebury, Vermont this 12th day of February 2010.

Office of the
ATTORNEY
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