

**STATE OF VERMONT  
BOARD OF MEDICAL PRACTICE**

In re: Michael E. Schorsch, M.D.            )            Docket No. MPN 96-0910  
  )              
  )

**SPECIFICATION OF CHARGES**

NOW COMES the State of Vermont, by and through Attorney General William H. Sorrell and alleges as follows:

1. Michael E. Schorsch, M.D. ("Respondent") holds medical license number 042-0006839 issued by the Vermont Board of Medical Practice on August 11, 1982. Respondent practices addiction medicine at his private medical office in Lebanon, New Hampshire. Respondent is also licensed to practice medicine in New Hampshire.

2. Jurisdiction in these matters vests with the Vermont Board of Medical Practice ("Board"), pursuant to 26 V.S.A. §§ 1353-57, 3 V.S.A. §§ 809-814, and other authority.

**I. Background**

3. The Board opened an investigation on September 23, 2010 upon receipt of a complaint from Patient A that Respondent had treated her for opioid dependency for approximately one year and then terminated her treatment without prior warning.

4. On December 8, 2010, Board Investigator Paula Nenninger and New Hampshire State Board of Medicine Investigator Dori Tothill interviewed Respondent. Upon inquiry by Investigator Tothill, Respondent stated that he

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orders buprenorphine for his practice, maintains a stock of buprenorphine at his office, and dispenses the drug to patients during the induction phase of his treatment. Respondent stated that he does not maintain a central inventory of the buprenorphine he dispenses from his office, but rather only notes in individual patient records the date and amount of buprenorphine he dispensed to the patient. Investigator Tothill asked Respondent what the indications were for prescribing Subutex rather than Suboxone. Respondent stated he prescribes Subutex to patients who have difficulty tolerating Suboxone, are pregnant or breast feeding, or have difficulty paying for Suboxone. Regarding his monitoring of his buprenorphine patients, Respondent stated that he is not a big fan of urine drug screens, has never done a pill count, and does not require patients to sign a written treatment contract.

5. Investigator Nenninger obtained Respondent's records for Patient A and nine other randomly selected patients to review as part of the Board's investigation.

6. On or about January 28, 2011, Respondent provided the Board his written response to Patient A's complaint and questions posed by Investigator Nenninger. Respondent stated that he terminated his treatment of Patient A because she was consistently dishonest with him and failed to make progress regarding employment and recovery-oriented activities. Respondent claimed that he provided Patient A ample warning that he would terminate her treatment for being dishonest and failing to make progress

toward employment and recovery-related activities.

7. Respondent stated that instead of written treatment contracts, he explains to patients that if they do not strive for and increasingly succeed in being honest with him about their mental health, legal, employment, and substance abuse problems, he will become less willing and able to help them.

8. Respondent stated that the frequency with which he administers urine drug screens to monitor patients depends on each patient's progress, and ranges from rarely to regularly.

9. Respondent stated that the frequency with which he utilizes pill counts to monitor patients ranges from never to occasionally.

## II. Respondent's treatment of Patients A-I

### Patient A

10. Respondent began treating Patient A on September 28, 2007. He dispensed four eight-milligram tablets of Suboxone to Patient A that day and provided her a prescription for six eight-milligram tablets of Suboxone. Respondent instructed her to return for a follow up appointment in four days.

11. Respondent did not perform and document a comprehensive history and physical examination of Patient A before he began treating her with Suboxone.

12. Respondent did not utilize an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient A and document it in her patient chart.

13. Respondent did not obtain from Patient A signed, written consent to treat her with buprenorphine.

14. Respondent did not obtain from Patient A a signed, written buprenorphine treatment agreement.

15. On May 27, 2010, Respondent terminated his treatment of Patient A. Respondent documented the basis of his decision in Patient A's chart as "I don't feel she is ready to work to recovery." He prescribed her forty-two eight-milligram tablets of Suboxone with instructions for her to take one and a half tablets per day and to taper her dosage as tolerated. Respondent documented in Patient A's chart that he also gave her list of other physicians who provide buprenorphine treatment.

16. During Respondent's treatment of Patient A, he did not use a tool to assess dose adjustments when he changed the changed the amount of Patient A's Suboxone dosage and document it in her patient chart.

17. During Respondent's treatment of Patient A, he did not refer her to a counselor and document it in her patient chart.

18. During Respondent's treatment of Patient A, he did not administer regular urine drug testing to monitor her treatment and document it in her chart.

19. During Respondent's treatment of Patient A, he did not random counts of her Suboxone pills to monitor her treatment and document it in her chart.

Patient B

20. Respondent began treating Patient B on June 21, 2006. He dispensed one two-milligram tablet of Suboxone to Patient B to take while she was at his office. Respondent also dispensed four two-milligram tablets of Suboxone to Patient B and instructed her to take one pill every three to four hours until she returned to his office for a follow up appointment the next day.

21. Respondent did not perform and document a comprehensive history and physical examination of Patient B before he began treating her with Suboxone.

22. Respondent did not test Patient B for pregnancy before dispensing and prescribing Suboxone to her and did not document the test in her patient chart.

23. Respondent did not utilize an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient B and document it in her patient chart.

24. Respondent did not obtain from Patient B signed, written consent to treat her with buprenorphine.

25. Respondent did not obtain from Patient B a signed, written buprenorphine treatment agreement.

26. On July 10, 2006, Respondent prescribed Patient B thirty eight-milligram tablets of Subutex and instructed her to take one and half tablets per day and return to his office for a follow up appointment on August 1, 2006.

Respondent documented the basis for his decision to change Patient B's prescription from Suboxone to Subutex as "still struggling [with] taste & nausea from Suboxone..."

27. When Respondent provided a copy of Patient B's chart to Investigator Nenninger on or about December 14, 2010, he was still treating Patient B with Subutex.

28. During Respondent's treatment of Patient B, he did not use a tool to assess dose adjustments when he changed the changed the amount of Patient B's Subutex dosage and document it in her patient chart.

29. During Respondent's treatment of Patient B, he did not refer her to a counselor and document it in her patient chart.

30. During Respondent's treatment of Patient B, he did not administer regular urine drug testing to monitor her treatment and document it in her chart.

31. During Respondent's treatment of Patient B, he did perform not random counts of her Suboxone and Subutex pills to monitor her treatment and document it in her chart.

32. While treating Patient B during the period of June 21, 2006 through December 14, 2010, Patient B reported to Respondent that her Subutex pills were lost, stolen, or damaged on at least nine different occasions. Following each report, Respondent provided Patient B with a prescription to replace the Subutex pills that she reported were lost, stolen, or damaged.

Patient C

33. Respondent began treating Patient C on October 10, 2005. He dispensed one two-milligram tablet of Suboxone to Patient C to take while she was at his office. Respondent also dispensed one two-milligram tablet of Suboxone to Patient C and instructed her to take it an hour later and return to his office at 2:30 that afternoon. When Patient C returned, Respondent dispensed two more two-milligram tablets of Suboxone and instructed her to take them that day and return to his office for a follow up appointment the next day.

34. Respondent did not perform and document a comprehensive history and physical examination of Patient C before he began treating her with Suboxone.

35. Respondent did not test Patient C for pregnancy before dispensing and prescribing Suboxone to her and did not document the test in her patient chart.

36. Respondent did not utilize an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient C and document it in her patient chart.

37. Respondent did not obtain from Patient C signed, written consent to treat her with buprenorphine.

38. Respondent did not obtain from Patient C a signed, written buprenorphine treatment agreement.

39. On May 28, 2010, Respondent prescribed Patient C ten eight-milligram tablets of Subutex and instructed her to take three tablets per day and return to his office for a follow-up appointment as soon as possible. The basis for Respondent's decision to change Patient C's prescription from Suboxone to Subutex documented in her chart was that she "lost Medicaid" and "cost factor."

40. On June 29, 2010, Respondent prescribed Patient C thirty eight-milligram tablets of Suboxone and instructed her to take three pills per day and return to his office for a follow-up appointment in three weeks.

41. When Respondent provided a copy of Patient C's chart to Investigator Nenninger on or about December 14, 2010, he was still treating Patient B with Suboxone.

42. During Respondent's treatment of Patient C, he did not use a tool to assess dose adjustments when he changed the changed the amount of Patient C's Suboxone dosage and document it in her patient chart.

43. During Respondent's treatment of Patient C, he did not administer regular urine drug testing to monitor her treatment and document it in her chart.

44. During Respondent's treatment of Patient C, he did not perform random counts of her Suboxone and Subutex pills to monitor her treatment and document it in her chart.

### Patient D

45. Respondent began treating Patient D on or about November 9, 2009. He dispensed at least one two-milligram tablet of Suboxone to Patient D that day and instructed him to take one two-milligram tablet every three to four hours for a total of six to eight milligrams later that day. Respondent further instructed Patient D to take one four-milligram dose of Suboxone every four to six hours for a total of twelve to sixteen milligrams the following day. When Patient D returned to Respondent's office on November 11, 2010, Respondent prescribed Patient D twenty-one eight-milligram tablets of Suboxone and instructed him to take one and a half tablets per day and return to his office for a follow up appointment in two weeks.

46. Respondent did not perform and document a comprehensive history and physical examination of Patient D before he began treating him with Suboxone.

47. Respondent did not utilize an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient D and document it in his patient chart.

48. Respondent did not obtain from Patient D signed, written consent to treat her with buprenorphine.

49. Respondent did not obtain from Patient D a signed, written buprenorphine treatment agreement.

50. When Respondent provided a copy of Patient D's chart to

Investigator Nenninger on or about December 10, 2010, he was still treating him with Suboxone.

51. During Respondent's treatment of Patient D, he did not use a tool to assess dose adjustments when he changed the amount of Patient D's Suboxone dosage and document it in his patient chart.

52. During Respondent's treatment of Patient D, he did not refer him to a counselor and document it in his patient chart.

53. During Respondent's treatment of Patient D, he did not administer regular urine drug testing to monitor his treatment and document it in his patient chart.

54. During Respondent's treatment of Patient D, he did not perform random counts of his Suboxone and Subutex pills to monitor his treatment and document it in his patient chart.

55. While treating Patient D during the period of November 9, 2009 through December 10, 2010, Patient D reported to Respondent that his cat damaged ten to twelve of his Suboxone tablets. In response, Respondent called in a telephonic prescription for Patient D for twelve eight-milligram Suboxone tablets.

#### Patient E

56. Respondent began treating Patient E on January 29, 2010. That day, he prescribed Patient E twenty-eight eight-milligram Subutex tablets and instructed her to take two tablets per day and return to his office for a follow

up appointment the next day.

57. Respondent did not perform and document a comprehensive history and physical examination of Patient E before he began treating her with Suboxone.

58. Respondent did not utilize an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient E and document it in her patient chart.

59. Respondent did not obtain from Patient E signed, written consent to treat her with buprenorphine.

60. Respondent did not obtain from Patient E a signed, written buprenorphine treatment agreement.

61. When Respondent provided a copy of Patient E's chart to Investigator Nenninger on or about December 10, 2010, he was still treating Patient B with Subutex.

62. During Respondent's treatment of Patient E, he did not use a tool to assess dose adjustments when he changed the changed the amount of Patient E's Subutex dosage and document it in her patient chart.

63. During Respondent's treatment of Patient E, he did not refer her to a counselor and document it in her patient chart.

64. During Respondent's treatment of Patient E, he did not administer regular urine drug testing to monitor her treatment and document it in her patient chart.

65. During Respondent's treatment of Patient E, he did not perform random counts of her Subutex pills to monitor her treatment and document it in her patient chart.

66. While treating Patient B during the period of January 29, 2010 through December 10, 2010, Patient E reported to Respondent that her Subutex pills were lost, stolen, or damaged on at least three different occasions. Following each report, Respondent provided Patient E with a prescription to replace the Subutex pills that she reported were lost, stolen, or damaged.

#### Patient F

67. Respondent began treating Patient F on January 20, 2009. That day, he prescribed Patient F eighteen eight-milligram Suboxone tablets and instructed her to take one tablet per day and return to his office for a follow up appointment in two and a half weeks.

68. Respondent did not perform and document a comprehensive history and physical examination of Patient F before he began treating her with Suboxone.

69. Respondent did not test Patient F for pregnancy before dispensing and prescribing Suboxone to her and did not document the test in her patient chart.

70. Respondent did not utilize an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for

Patient F and document it in her patient chart.

71. Respondent did not obtain from Patient F signed, written consent to treat her with buprenorphine.

72. Respondent did not obtain from Patient F a signed, written buprenorphine treatment agreement.

73. When Respondent provided a copy of Patient F's chart to Investigator Nenninger on or about December 10, 2010, he was still treating Patient F with Suboxone.

74. During Respondent's treatment of Patient F, he did not use a tool to assess dose adjustments when he changed the amount of Patient F's Suboxone dosage and document it in her patient chart.

75. During Respondent's treatment of Patient F, he did not refer her to a counselor and document it in her patient chart.

76. During Respondent's treatment of Patient F, he did not administer regular urine drug testing to monitor her treatment and document it in her patient chart.

77. During Respondent's treatment of Patient F, he did not perform random counts of her Suboxone pills to monitor her treatment and document it in her patient chart.

#### Patient G

78. Respondent began treating Patient G on May 2, 2009. He dispensed four eight-milligram tablets of Suboxone to Patient G and instructed

her to take half pill twice that day. Respondent further instructed Patient G to take one and a half pills each of the following two days and return to his office for a follow up appointment in three days.

79. Respondent did not obtain and document a comprehensive history and physical examination of Patient G before he began treating her with Suboxone.

80. Respondent did not test Patient G for pregnancy before dispensing and prescribing Suboxone to her and did not document the test in her patient chart.

81. Respondent did not utilize an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient G and document it in her patient chart.

82. Respondent did not obtain from Patient G signed, written consent to treat her with buprenorphine.

83. Respondent did not obtain from Patient G a signed, written buprenorphine treatment agreement.

84. When Respondent provided a copy of Patient G's chart to Investigator Nenninger on or about December 10, 2010, he was still treating Patient G with Suboxone.

85. During Respondent's treatment of Patient G, he did not use a tool to assess dose adjustments when he changed the changed the amount of Patient G's Suboxone dosage and document it in her patient chart.

86. During Respondent's treatment of Patient G, he did not administer regular urine drug testing to monitor her treatment and document it in her patient chart.

87. During Respondent's treatment of Patient G, he did not perform random counts of her Suboxone pills to monitor her treatment and document it in her patient chart.

#### Patient H

88. Respondent began treating Patient G on October 30, 2008. That day, he prescribed Patient F twenty-eight eight-milligram Suboxone tablets and instructed her to take two tablets per day and return to his office for a follow up appointment in two weeks.

89. Respondent did not perform and document a comprehensive history and physical examination of Patient H before he began treating her with Suboxone.

90. Respondent did not test Patient H for pregnancy before dispensing and prescribing Suboxone to her and did not document the test in her patient chart.

91. Respondent did not utilize an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient H and document it in her patient chart.

92. Respondent did not obtain from Patient H signed, written consent to treat her with buprenorphine.

93. Respondent did not obtain from Patient H a signed, written buprenorphine treatment agreement.

94. When Respondent provided a copy of Patient G's chart to Investigator Nenninger on or about December 10, 2010, he was still treating Patient H with Suboxone.

95. During Respondent's treatment of Patient H, he did not use a tool to assess dose adjustments when he changed the changed the amount of Patient H's Suboxone dosage and document it in her patient chart.

96. During Respondent's treatment of Patient H, he did not administer regular urine drug testing to monitor her treatment and document it in her patient chart.

97. During Respondent's treatment of Patient H, he did not perform random counts of her Suboxone pills to monitor her treatment and document it in her patient chart.

#### Patient I

98. Respondent began treating Patient I with buprenorphine on or about August 30, 2003. He dispensed four milligrams of Suboxone to Patient I that day and instructed him return the next day. When Patient I returned to Respondent's office on August 31, 2003 Respondent dispensed twelve milligrams of Suboxone to him and instructed him to take eight milligrams at his office, four milligrams later that day, and to return for a follow up appointment the next day. On September 1, 2010 Respondent prescribed

Patient I ten eight-milligram tablets of Suboxone and instructed him to take one and a half tablets per day and return to his office for a follow up appointment thereafter.

99. Respondent did not perform and document a comprehensive history and physical examination of Patient I before he began treating him with Suboxone.

100. Respondent did not utilize an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient I and document it in his patient chart.

101. When Respondent provided a copy of Patient D's chart to Investigator Nenninger on or about December 10, 2010, he was still treating him with Suboxone.

102. During Respondent's treatment of Patient I, he did not use a tool to assess dose adjustments when he changed the changed the amount of Patient D's Suboxone dosage and document it in his patient chart.

103. During Respondent's treatment of Patient I, he did not administer regular urine drug testing to monitor his treatment and document it in his patient chart.

104. During Respondent's treatment of Patient I, he did not perform random counts of his Suboxone pills to monitor his treatment and document it in his patient chart.

### III. State's Allegations of Unprofessional Conduct

#### Count 1

105. Paragraphs 1 through 104, above, are restated and incorporated herein by reference.

106. By one or more of the acts related to the care of Patient A, as described in Paragraphs 10 through 19 above, Respondent grossly failed to use and exercise on a particular occasion 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 by (a) failing to obtain signed, written consent for buprenorphine treatment from Patient A; and/or (b) failing to obtain a written, signed treatment contract from Patient A; and/or (c) failing to administer regular urine drug screens to Patient A; and/or (d) failing to administer pill counts on a random basis during his treatment of Patient A; and/or (e) failing to utilize and document an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient A; and/or (f) failing to conduct and document a comprehensive patient history and physical examination of Patient A; and/or (g) failing to document his referral of Patient A to counseling; and/or (h) failing to use and document a tool to assess buprenorphine dose adjustments for Patient A. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

107. Alternatively or cumulatively, by two or more of the acts related to the care of Patient A, as described in Paragraphs 10 through 19 above, Respondent failed to use and exercise on a particular occasion 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. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

108. Alternatively or cumulatively, Respondent's conduct failed to conform to the essential standards of acceptable and prevailing practice and constitutes one or more violations of 26 V.S.A. 1354(b)(2). Such conduct is unprofessional.

### Count 2

109. Paragraphs 1 through 108, above, are restated and incorporated herein by reference.

110. Respondent's conduct of terminating his treatment of Patient A without documenting the cause for said termination, merely providing her a list of physicians, and failing to provide her an appropriate plan to taper her use of buprenorphine constitutes abandonment of Patient A. Such conduct is unprofessional pursuant to 26 V.S.A. 1354(a)(4).

### Count 3

111. Paragraphs 1 through 110, above, are restated and incorporated herein by reference.

112. By one or more of the acts related to the care of Patient B, as described in Paragraphs 20 through 32 above, Respondent grossly failed to use and exercise on a particular occasion 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 by (a) failing to obtain signed, written consent for buprenorphine treatment from Patient B; and/or (b) failing to obtain a written, signed treatment contract from Patient B; and/or (c) failing to administer regular urine drug screens to Patient B; and/or (d) failing to administer pill counts on a random basis during his treatment of Patient B; and/or (e) failing to utilize and document an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient B; and/or (f) failing to conduct and document a comprehensive patient history and physical examination of Patient B; and/or (g) failing to document his referral of Patient B to counseling; and/or (h) repeatedly refilling buprenorphine prescriptions lost, stolen, or ruined by Patient B; and/or (i) failing to use and document a tool to assess buprenorphine dose adjustments for Patient B; and/or (j) failing to document the clinical reason(s) he prescribed Subutex instead of Suboxone for Patient B; and/or (k) failing to test and assess Patient B for pregnancy.

Respondent's conduct constitutes one or more violations of 26 V.S.A.

1354(a)(22). Such conduct is unprofessional.

113. Alternatively or cumulatively, by two or more of the acts related

to the care of Patient B, as described in Paragraphs 20 through 32 above, Respondent failed to use and exercise on a particular occasion 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. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

114. Alternatively or cumulatively, Respondent's conduct failed to conform to the essential standards of acceptable and prevailing practice and constitutes one or more violations of 26 V.S.A. 1354(b)(2). Such conduct is unprofessional.

#### Count 4

115. Paragraphs 1 through 114, above, are restated and incorporated herein by reference.

116. By one or more of the acts related to the care of Patient C, as described in Paragraphs 33 through 44 above, Respondent grossly failed to use and exercise on a particular occasion 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 by (a) failing to obtain signed, written consent for buprenorphine treatment from Patient C; and/or (b) failing to obtain a treatment contract from Patient C; and/or (c) failing to administer regular urine drug screens to Patient C; and/or (d) failing to administer pill counts on a random basis during his treatment of

Patient C; and/or (e) failing to utilize and document an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient C; and/or (f) failing to conduct and document a comprehensive patient history and physical examination of Patient C; and/or (g) failing to use and document a tool to assess buprenorphine dose adjustments for Patient C; and/or (j) failing to test and assess Patient C for pregnancy. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

117. Alternatively or cumulatively, by two or more of the acts related to the care of Patient C, as described in Paragraphs 33 through 44 above, Respondent failed to use and exercise on a particular occasion 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. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

118. Alternatively or cumulatively, Respondent's conduct failed to conform to the essential standards of acceptable and prevailing practice and constitutes one or more violations of 26 V.S.A. 1354(b)(2). Such conduct is unprofessional.

Count 5

119. Paragraphs 1 through 118, above, are restated and incorporated herein by reference.

120. By one or more of the acts related to the care of Patient D, as described in Paragraphs 45 through 55 above, Respondent grossly failed to use and exercise on a particular occasion 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 by (a) failing to obtain signed, written consent for buprenorphine treatment from Patient D; and/or (b) failing to obtain a written, signed treatment contract from Patient D; and/or (c) failing to administer regular urine drug screens to Patient D; and/or (d) failing to administer pill counts on a random basis during his treatment of Patient D; and/or (e) failing to utilize and document an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient D; and/or (f) failing to conduct and document a comprehensive patient history and physical examination of Patient D; and/or (g) failing to document his referral of Patient D to counseling; and/or (h) repeatedly refilling buprenorphine prescriptions lost, stolen, or ruined by Patient D; and/or (i) failing to use and document a tool to assess buprenorphine dose adjustments for Patient D. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

121. Alternatively or cumulatively, by two or more of the acts related to the care of Patient D, as described in Paragraphs 45 through 55 above, Respondent failed to use and exercise on a particular occasion 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. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

122. Alternatively or cumulatively, Respondent's conduct failed to conform to the essential standards of acceptable and prevailing practice and constitutes one or more violations of 26 V.S.A. 1354(b)(2). Such conduct is unprofessional.

#### Count 6

123. Paragraphs 1 through 122, above, are restated and incorporated herein by reference.

124. By one or more of the acts related to the care of Patient E, as described in Paragraphs 56 through 66 above, Respondent grossly failed to use and exercise on a particular occasion 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 by (a) failing to obtain signed, written consent for buprenorphine treatment from Patient E; and/or (b) failing to obtain a written, signed treatment contract from Patient E; and/or (c) failing to administer regular urine drug screens to Patient E; and/or (d) failing to administer pill counts on a random basis during his treatment of Patient E; and/or (e) failing to utilize and document an objective screening and assessment instrument to determine the

appropriateness of buprenorphine treatment for Patient E; and/or (f) failing to conduct and document a comprehensive patient history and physical examination of Patient E; and/or (g) failing to document his referral of Patient E to counseling; and/or (h) repeatedly refilling buprenorphine prescriptions lost, stolen, or ruined by Patient E; and/or (i) failing to use and document a tool to assess buprenorphine dose adjustments for Patient E. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

125. Alternatively or cumulatively, by two or more of the acts related to the care of Patient E, as described in Paragraphs 56 through 66 above, Respondent failed to use and exercise on a particular occasion 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. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

126. Alternatively or cumulatively, Respondent's conduct failed to conform to the essential standards of acceptable and prevailing practice and constitutes one or more violations of 26 V.S.A. 1354(b)(2). Such conduct is unprofessional.

#### Count 7

127. Paragraphs 1 through 126, above, are restated and incorporated herein by reference.

128. By one or more of the acts related to the care of Patient F, as described in Paragraphs 67 through 77 above, Respondent grossly failed to use and exercise on a particular occasion 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 by (a) failing to obtain signed, written consent for buprenorphine treatment from Patient F; and/or (b) failing to obtain a written, signed treatment contract from Patient F; and/or (c) failing to administer regular urine drug screens to Patient F; and/or (d) failing to administer pill counts on a random basis during his treatment of Patient F; and/or (e) failing to utilize and document an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient F; and/or (f) failing to conduct and document a comprehensive patient history and physical examination of Patient F; and/or (g) failing to document his referral of Patient F to counseling; and/or (h) failing to use and document a tool to assess buprenorphine dose adjustments for Patient F; and/or (i) failing to test and assess Patient F for pregnancy. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

129. Alternatively or cumulatively, by two or more of the acts related to the care of Patient F, as described in Paragraphs 67 through 77 above, Respondent failed to use and exercise on a particular occasion 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. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

130. Alternatively or cumulatively, Respondent's conduct failed to conform to the essential standards of acceptable and prevailing practice and constitutes one or more violations of 26 V.S.A. 1354(b)(2). Such conduct is unprofessional.

### Count 8

131. Paragraphs 1 through 130, above, are restated and incorporated herein by reference.

132. By one or more of the acts related to the care of Patient G, as described in Paragraphs 78 through 87 above, Respondent grossly failed to use and exercise on a particular occasion 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 by (a) failing to obtain signed, written consent for buprenorphine treatment from Patient G; and/or (b) failing to obtain a written, signed treatment contract from Patient G; and/or (c) failing to administer regular urine drug screens to Patient G; and/or (d) failing to administer pill counts on a random basis during his treatment of Patient G; and/or (e) failing to utilize and document an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient G; and/or (f) failing to

conduct and document a comprehensive patient history and physical examination of Patient G; and/or (g) failing to use and document a tool to assess buprenorphine dose adjustments for Patient G; and/or (h) failing to test and assess Patient G for pregnancy. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

133. Alternatively or cumulatively, by two or more of the acts related to the care of Patient G as described in Paragraphs 78 through 87 above, Respondent failed to use and exercise on a particular occasion 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. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

134. Alternatively or cumulatively, Respondent's conduct failed to conform to the essential standards of acceptable and prevailing practice and constitutes one or more violations of 26 V.S.A. 1354(b)(2). Such conduct is unprofessional.

#### Count 9

135. Paragraphs 1 through 134, above, are restated and incorporated herein by reference.

136. By one or more of the acts related to the care of Patient H, as described in Paragraphs 88 through 97 above, Respondent grossly failed to use and exercise on a particular occasion 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 by (a) failing to obtain a written, signed treatment consent form from Patient H; and/or (b) failing to obtain a written, signed treatment contract from Patient H; and/or (c) failing to administer regular urine drug screens to Patient H; and/or (d) failing to administer pill counts on a random basis during his treatment of Patient H; and/or (e) failing to utilize and document an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient H; and/or (f) failing to conduct and document a comprehensive patient history and physical examination for Patient H; and/or (g) failing to use and document a tool to assess buprenorphine dose adjustments for Patient H; and/or (h) failing to test and assess Patient H for pregnancy. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

137. Alternatively or cumulatively, by two or more of the acts related to the care of Patient H, as described in Paragraphs 88 through 97 above, Respondent failed to use and exercise on a particular occasion 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. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

138. Alternatively or cumulatively, Respondent's conduct failed to

conform to the essential standards of acceptable and prevailing practice and constitutes one or more violations of 26 V.S.A. 1354(b)(2). Such conduct is unprofessional.

**Count 10**

139. Paragraphs 1 through 137, above, are restated and incorporated herein by reference.

140. By one or more of the acts related to the care of Patient I, as described in Paragraphs 98 through 104 above, Respondent grossly failed to use and exercise on a particular occasion 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 by (a) failing to administer regular urine drug screens to Patient I; and/or (b) failing to administer pill counts on a random basis during his treatment of Patient I; and/or (c) failing to utilize and document an objective screening and assessment instrument to determine the appropriateness of buprenorphine treatment for Patient I; and/or (d) failing to conduct and document a comprehensive patient history and physical examination for Patient I; and/or (e) failing to use and document a tool to assess buprenorphine dose adjustments for Patient I. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

141. Alternatively or cumulatively, by two or more of the acts related to the care of Patient I, as described in Paragraphs 98 through 104 above,

Respondent failed to use and exercise on a particular occasion 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. Respondent's conduct constitutes one or more violations of 26 V.S.A. 1354(a)(22). Such conduct is unprofessional.

142. Alternatively or cumulatively, Respondent's conduct failed to conform to the essential standards of acceptable and prevailing practice and constitutes one or more violations of 26 V.S.A. 1354(b)(2). Such conduct is unprofessional.

#### Count 11

143. Paragraphs 1 through 142, above, are restated and incorporated herein by reference.

144. Respondent's failure to maintain an inventory of the buprenorphine he keeps on hand at his office setting forth: (a) whether the inventory was taken at the beginning or close of business; (b) the name(s) of the buprenorphine kept on hand; (c) each finished form of the substance(s); (d) the number of dosage units of each finished form in the commercial container; (e) the number of commercial containers of each finished form; and (f) the disposition of the controlled buprenorphine violates 21 U.S.C., Chapter 13 and 21 C.F.R., Part 1304. Such conduct is unprofessional pursuant to 26 V.S.A. § 1354(a)(27).

145. Alternatively or cumulatively, Respondent's conduct violated 18

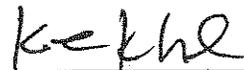
V.S.A. § 4210. Such conduct is unprofessional pursuant to 26 V.S.A. § 1354(a)(27).

WHEREFORE, Petitioner, State of Vermont, moves the Vermont Board of Medical Practice to take such disciplinary action against the medical license of Respondent Michael E. Schorsch, M.D. permitted by 26 V.S.A. §§ 1361(b) and/or 1398 as it deems proper.

Dated at Montpelier, Vermont this 17th day of September, 2012.

STATE OF VERMONT

WILLIAM H. SORRELL  
ATTORNEY GENERAL

By:   
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The foregoing Specification of Charges, filed by the State of Vermont, as to Michael E. Schorsch, M.D., Vermont Board of Medical Practice docket number MPC 96-0910, are hereby issued.

Dated at Burlington, Vermont this \_\_\_ day of September, 2012.

VERMONT BOARD OF MEDICAL PRACTICE

By:   
Robert G. Hayward, M.D.  
Secretary, Vermont Board of Medical Practice

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