Profile - DR.0029309

General Disclaimer:
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Availability Disclaimer:
Healthcare professionals who have an inactive or lapsed license are not required to complete a Healthcare Professions Profile until they apply for reactivation or reinstatement. If you have questions about a missing Healthcare Professions Profile or any missing documents that should be listed, please contact the Healthcare Professions Profile Program at dora_dpo_hppp@state.co.us or 303-894-5942.

Malpractice Claims Disclaimer: Some studies have shown that there is no significant correlation between malpractice history and a healthcare professional's competence. At the same time, consumers should have access to malpractice information. To make the best healthcare decisions, you should view this information in perspective. You could miss an opportunity for high quality care by selecting a healthcare professional based solely on malpractice history. When considering malpractice data, please keep in mind: Malpractice histories tend to vary by profession and by specialty. Some professions or specialties are more likely than others to be the subject of litigation. You should take into account how long the healthcare professional has been in practice when considering malpractice averages. The incident causing the malpractice claim may have happened years before a payment is finally made. Sometimes, it takes a long time for a malpractice lawsuit to move through the legal system. Some healthcare professionals work primarily with high-risk patients. These healthcare professionals may have malpractice histories that are higher than average because they specialize in cases or patients who are at very high risk for problems. Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the healthcare professional. A payment in settlement of a malpractice action or claim should not be construed as creating a presumption that malpractice has occurred. You may wish to discuss information provided, and malpractice generally, with your healthcare professional.

Name Jonathan William Singer
Credential DR.0029309

Healthcare Profile - Physician Introduction

Healthcare Professions Profile | Introduction

Please be aware that this profile is only for your PHYSICIAN license. Do not provide information for other license types you hold on this profile. You will be required to complete a profile for every license you hold that is included in the profiling requirement.

All information provided in this profile must be updated within 30 days of any change of information unless your profession's statute says otherwise, or unless the question specifies otherwise.

Healthcare Profile - Location of Practice

Healthcare Professions Profile | Location of Practice

1. **Are you currently practicing in the healthcare profession associated with this profile?**
   Yes

Healthcare Profile - Location of Practice if Yes (WF)

Healthcare Professions Profile | Location of Practice

2. **Practice Locations:**

Address	City	State	Zip Code	Phone Number
8400 E Prentice Ave	Greenwood Village	Colorado	80111	3034880034
1401 Airport Pkwy	Cheyenne	Wyoming	82001	`3076354362

Healthcare Profile - Medical Education and Training

Healthcare Professions Profile | Education and Training

3. **School or Education Level:**
   Des Moines University College of Osteopathic Med

4. Please enter the year your initial Degree was achieved: *Only enter the year in YYYY format*
   1983

Healthcare Profile - Other Licenses

Healthcare Professions Profile | Other Licenses

5. **Have you ever held, or do you currently hold any other licenses in this profession from any other state, country or province?**
   Yes

Healthcare Profile - Other Licenses if Yes

Healthcare Professions Profile | Other Licenses

6. **Other Licenses:**

State	License Status	Year Originally Issued
Wyoming	Active	1984

Healthcare Profile - Board Certifications

Healthcare Professions Profile | Board Certifications

7. **Do you hold any current Board Certifications?**
   Yes

Healthcare Profile - Medical Board Certifications if Yes

Healthcare Professions Profile | Board Certifications

8. **Board Certifications:**

Certification
Family Medicine

Healthcare Profile - Practice Specialties

Healthcare Professions Profile | Practice Specialties

9. **Do you have a practice specialty in which you are appropriately trained and actively practicing?**
   Yes

Healthcare Profile - Medical Practice Specialties if Yes

Healthcare Professions Profile | Practice Specialties

10. **Practice Specialties:**

Specialty
Allergy and Immunology
Family Medicine
Other

Healthcare Profile - Colorado Hospital Affiliations

Healthcare Professions Profile | Colorado Hospital Affiliations

11. **Do you have a current affiliation or clinical privileges with any Colorado Hospital?**
No

Healthcare Profile - Other Facility and Out of State Hospital Affiliations

Healthcare Professions Profile | Other Facility and Out of State Hospital Affiliations

13. **Do you have a current affiliation with any healthcare facility or a non-Colorado hospital?**
No

Healthcare Profile - Business Ownership

Healthcare Professions Profile | Business Ownership

15. **Do you have a current business ownership interest in any healthcare-related business?**
No

Healthcare Profile - Employer

Healthcare Professions Profile | Employer

17. **Do you have an employer in the profession in which you are licensed or are applying for a license?**
No

Healthcare Profile - Employment Contracts

Healthcare Professions Profile | Employment Contracts

19. **Do you have a contract with any business whose mission relates to healthcare services or products where the value is greater than $5000 annually?**
No

Healthcare Profile - Disciplinary Actions

Healthcare Professions Profile | Disciplinary Actions

21. **Have you ever had public disciplinary action taken against your license by any board or licensing agency in any state or country?**
Yes

Healthcare Profile - Disciplinary Actions if Yes

Healthcare Professions Profile | Disciplinary Actions

22. **Disciplinary Actions:**

Discipline Year	State
2000	Wyoming
2001	Colorado
2002	Ohio
2009	Wyoming
2016	Colorado
2024	Colorado

Healthcare Profile - Restrictions and Suspensions

Healthcare Professions Profile | Restrictions and Suspensions

23. **Have you ever entered into any agreement or stipulation to temporarily cease your practice or had a board order issued restricting or suspending your license?**
Yes

Healthcare Profile - Restrictions and Suspensions if Yes

Healthcare Professions Profile | Restrictions and Suspensions

24. **Restrictions and Suspensions:**

Restriction Year	State
1990	Ohio
1999	Colorado
2000	Ohio
2011	Colorado
2011	Colorado

Healthcare Profile - Healthcare Facility Actions

Healthcare Professions Profile | Healthcare Facility Actions

25. **Since September 1, 1990, have you had any final actions resulting in involuntary limitations or probationary status on or reduction, nonrenewal, denial, revocation or suspension of medical staff membership or clinical privileges at a hospital or healthcare facility? You are not required to report a precautionary or administrative suspension unless you resigned your medical staff membership or clinical privileges while the suspension was pending.**
Yes

Healthcare Profile - Healthcare Facility Actions if Yes

Healthcare Professions Profile | Healthcare Facility Actions

26. **Healthcare Facility Actions:**

Facility Name	City	State	Type of Action	Year of Action	Duration	Terms Complete
USAF Warren AFB Hospital	Cheyenne	Wyoming	Denial	1986	1 year	Yes

Healthcare Profile - Termination of Employment

Healthcare Professions Profile | Termination of Employment

27. **Have you ever been terminated by an employer for a reason that would be considered a violation of your profession's practice law?**
No

Healthcare Profile - DEA Registration

Healthcare Professions Profile | DEA Registration

29. **Have you ever had to involuntarily surrender your United States Drug Enforcement Agency Administration Registration?**
No

Healthcare Profile - Convictions

Healthcare Professions Profile | Convictions

32. **Since you were issued a license to practice your profession in any state or country, have you had any final criminal conviction(s) or plea arrangement(s) resulting from the commission or alleged commission of a felony or crime of moral turpitude in any jurisdiction?**
No

Healthcare Profile - Malpractice Claims

Healthcare Professions Profile | Malpractice Claims

34. **Since September 1, 1990, have you had any final judgment, entered into a settlement, or paid an arbitration award for malpractice?**
Yes

Healthcare Profile - Malpractice Claims if Yes

Healthcare Professions Profile | Malpractice Claims

35. **Malpractice Claims:**

Year	State	Claim Type	Arbitrator, Mediator or Court
1999	Colorado	Settlement	Doctor's Company
2009	Wyoming	Settlement	Doctor's Company

Healthcare Profile - Malpractice Carrier Refusal

Healthcare Professions Profile | Malpractice Carrier Refusal

36. **Have you been denied liability insurance, or has your liability insurance coverage been limited, restricted or terminated by the insurance carrier?**
Yes

Healthcare Profile - Malpractice Carrier Refusal if Yes

Healthcare Professions Profile | Malpractice Carrier Refusal

37. **Malpractice Carrier Refusal:**

Carrier Refusal Year
1997

Healthcare Profile - Optional Narrative

Healthcare Professions Profile | Optional Narrative

38. **Optional Narrative:**
A.M.A. Physicians Recognition Award

Healthcare Profile - Attestation

Healthcare Professions Profile | Attestation

By submitting this Healthcare Professions Profile to the Division of Professions and Occupations you are attesting that:

- I am the person identified in this profile; or
- You are authorized to submit information on behalf of the person identified in this profile; and
- The information contained herein is true and correct to the best of my knowledge.

39. Submission Date:
06/07/2024

Review

It's a good idea to print this screen for your records as after you submit your application you will not be able to access it again. To do so follow the below steps:

- Select the "Print Review" button in the upper right hand corner of this page
- The Print Review window will open in a new browser tab. In that window select "Print" and your document will print to your selected printer.
- After printing, close the Print Review browser tab.

After you close the Print Review tab, you will be returned to this page and can complete your submission.

COLORADO MEDICAL BOARD
STATE OF COLORADO

Case Nos. 2017-9, 2018-5302, 2021-2652

Colorado Medical Board,
Petitioner,

v.

Jonathan Singer, D.O., License Number DR-0029309,
Respondent.

FINAL BOARD ORDER

This medical license discipline matter is before the Colorado Medical Board, Hearings Panel B, to review the Administrative Law Judge's Initial Decision, duly served upon the parties with the Board Procedural Order. The Initial Decision is attached as Exhibit 1 and is incorporated as set forth herein. Respondent filed exceptions to the Initial Decision and designated the record for review. Inquiry Panel A filed a response to the exceptions.

Considering the administrative record as a whole and oral arguments presented by the parties, the Hearings Panel unanimously enters this Final Board Order under §§ 12-240-125 and 24-4-105, C.R.S., for violations of § 12-240-121(1)(j), (n), (v), C.R.S., revoking Respondent's license to practice medicine in Colorado.

A. Standards of Review & Legal Authority

The purpose of regulating physicians under the Medical Practice Act is to protect the public against improper practice of the healing arts. §§ 12-240-102, 12-

240-106(1)(b).[1] The Hearings Panel possesses the authority to determine generally accepted standards of professional practice based on expert testimony in the record on a case-by-case basis. *See Bd. Med. Exam'rs v. McCroskey*, 880 P.2d 1188, 1194 (Colo. 1994). An administrative law judge's ("ALJ") determination of such standards is a mixed question of law and fact that the Hearings Panel reviews for a reasonable basis in law and substantial supporting record evidence. *Id*.

Where violations of the Medical Practice Act have been proven against a physician licensee, the Hearings Panel determines the extent of the discipline, first considering sanctions that are necessary to protect the public and only after it considers sanctions may it consider requirements designed to rehabilitate the licensee. § 12-240-125(5)(c)(III). Determining final disciplinary sanctions is a discretionary function of the agency. *Bd. of Med. Exam'rs v. Ogin*, 56 P.3d 1233, 1240 (Colo. App. 2002).

B. Discussion

No party asserts that any finding of fact is contrary to the weight of the evidence. The Hearings Panel adopts the Findings of Fact in their entirety. Next addressing Respondent's challenges to the ALJ's findings that Respondent violated the Medical Practice Act, the Hearings Panel determines that such findings are supported by substantial record evidence and a reasonable basis in the law.

1. Respondent's care failed to meet generally accepted standards of practice in violation of § 12-240-121(1)(j), C.R.S.

[1] No party disputes citation to the current version of the Medical Practice Act.

Respondent contends that the opinion testimony of the Inquiry Panel's expert witness, who was qualified in family practice medicine, is insufficient to support the ALJ's conclusions that Respondent's treatment of Patients A and D fell below generally accepted standards because the expert does not practice alternative medicine. The Hearings Panel disagrees.

Colorado licensees are required to exercise the same degree of knowledge, skill, and care as exercised by other physicians in the same "field of medicine," which standard must be established by expert testimony. *Bd. Med. Exam'rs v. McCroskey*, 880 P.2d 1188, 1194 (Colo. 1994).

The Hearings Panel first rejects Respondent's contention that, based on the language of § 12-240-121(5)(a), alternative medicine is the applicable field of medicine. Section12-240-121(5)(a) provides that "alternative medicine" means those health-care "methods of diagnosis, treatment, or healing that are not generally used but that provide a reasonable potential for therapeutic gain in a patient's medical condition that is not outweighed by the risk of the methods." The operative word in this provision is that alternative medicine is a "method" of diagnosis or treatment, without reference to those methods as a field of medicine. Giving effect to the plain meaning of the words used consistent with the purpose of the Medical Practice Act, the Hearings Panel declines to interpret this provision to establish alternative medicine as a field of medicine. This decision is consistent with other states that have expressly addressed the issue. *See, e.g., State Bd. of Reg. for Healing Arts v. McDonagh*, 123 S.W.3d 146, 149 (Mo. 2003) (upholding discipline against doctor of

osteopathy using alternative medical treatments in family practice and concluding "the relevant field must be determined not by the approach a particular doctor chooses to take, but by the standards in the field in which the doctor has chosen to practice"); *Gant v. Novello*, 302 A.D.2d 690, 693 (N.Y. 3d Dept. 2003) (applying standard of care applicable to all licensed physicians, regardless of difference in treatment regimes, and rejecting licensee's argument that practice in nonconventional field cannot be held to same standards as traditional medicine); *Gonzalez v. N.Y. State Dept. of Health*, 232 A.D.2d 886, 888-889 (N.Y. 3d Dept. 1996) (reasoning that alternative medicine practitioners must possess same basic scientific knowledge of nature of disease and disease process).

The Hearings Panel next rejects Respondent's assertion that reliance on the expert testimony of a family medicine practitioner contravenes the Medical Practice Act's express authorization to practice alternative medicine. Despite Respondent's rationale for preferring epinephrine because it is found in the body naturally, the Hearings Panel notes that nothing in the record establishes that the treatment of asthma, or the use of epinephrine to treat asthma, constitutes the practice of alternative medicine. *See, e.g.,* Initial Decision, Findings of Fact ¶¶16, 44. Based on substantial record evidence, the ALJ correctly found that the generally accepted standards for assessing and treating asthma involve using a spirometer, measuring forced expiratory volume and flow, disfavoring the use of epinephrine as a first-line treatment because of the risk of cardiac overstimulation, and serially monitoring oxygen levels for at least one hour. *See id.* Findings of Fact ¶¶36-38. The ALJ

properly concluded that Respondent failed to meet generally accepted standards of medical practice when assessing Patient A's condition using a subjective pitch test, administering epinephrine, and failing to properly monitor the patient's condition afterwards. *See id.* Findings of Fact ¶¶15-24, Conclusions of Law pp.15-16.

Concerning Patient D, the ALJ properly relied on expert testimony that the generally accepted standard requires timely referral concerning pelvic pain, made more urgent by potential findings from a CT scan, and hormone level testing before ordering discontinuation of prescribed progesterone. *See id.* Findings of Fact ¶¶59, 69-70, Conclusions of Law, p 16. The ALJ properly concluded that Respondent failed to meet generally accepted standards of medical practice by failing to timely address the findings of Patient D's CT scan, failing to convey to Patient D the seriousness and implications of the CT findings, failing to timely refer Patient D to an obstetrician/gynecologist, and stopping Patient D's progesterone without required blood testing for hormone levels. *See id.* Conclusions of Law p.16.

Based on its own review of the record concerning Respondent's care of Patients A and D, the Hearings Panel concludes that the ALJ properly considered expert testimony from the family medicine practitioner, that the ALJ's conclusions of law are supported by substantial record evidence, and that this result is consistent with § 12-240-121(5)(a).

2. Respondent violated a valid board order under § 12-240-121(1)(n), C.R.S.

Respondent next contends that because he prescribed hormones to Patient D in Wyoming, the conduct is not subject to the practice restriction on his Colorado

license. The Hearings Panel concludes that the ALJ's findings are properly based on Respondent's conduct in Colorado.

Both the 1999 Order and the 2016 Order place restrictions on Respondent's Colorado medical license and prohibit Respondent from providing hormone replacement therapy (other than progesterone and estrogen) to patients. Hearing Exhibits 18 (¶40) and 19 (¶¶3-7). The restriction specifies that the authority of Respondent's Colorado license—distinct from the authority to practice under Respondent's Wyoming license—includes Respondent's "medical decisions and orders" when physically located in Colorado. Hearing Exhibits 19 (¶6) and 18 (¶42).

On April 16, 2018, Respondent made medical decisions in Colorado to prescribe the hormone testosterone to Patient D and directed Patient D to obtain the prescription at Respondent's Wyoming office. *See* Initial Decision, pp.16-17. Though Respondent did not physically write the prescription in Colorado, Respondent's treatment of Patient D included making medical decisions while physically present in Colorado to treat Patient D with a hormone that he was restricted from prescribing in Colorado. By making medical decisions contrary to the prescribing restrictions, Respondent violated a valid Board order.

3. Respondent's documentation violates § 12-240-121(1)(v), C.R.S.

Regarding Respondent's 2014 documentation in Patient A's records, Respondent asserts for the first time that the Board is estopped from imposing discipline by the 2016 Order. The Hearings Panel disagrees.

The 2016 Order resolved seven cases. *See* 2016 Order, ¶4. Respondent does not assert that Patient A's case was one of the cases listed and resolved in the 2016 Order or identify any record evidence that the Inquiry Panel knew of the acts involving Patient A at the time the Order was issued. There being no legal basis to apply estoppel to the circumstances here, the Hearings Panel declines to extend the express terms of the 2016 Order to preclude discipline concerning Patient A.

The Hearings Panel further determines that the ALJ's conclusion—that Respondent engaged in unprofessional conduct by falsifying or repeatedly making incorrect essential entries or repeatedly failing to make essential entries on Patient A's records—is supported by a reasonable interpretation of the law and substantial record evidence. *See* Initial Decision*,* Findings of Fact ¶¶29, 48.

4. Revocation is required to protect the public.

Respondent contends revocation is not appropriate and that other disciplinary terms, such as continued monitoring, will satisfy public protection needs. The Hearings Panel determines that Respondent's violations of the Medical Practice Act warrant revocation.

In the 2016 Order, Respondent agreed that if it was established at a hearing that Respondent committed any act or omission constituting unprofessional conduct under the Medical Practice Act, the "final sanction *shall be* revocation." *See* 2016 Order, ¶23 (emphasis added). Given the violations established in this matter, revocation is the appropriate discipline in accordance with terms of the 2016 Order.

Even in the absence of the stipulated revocation term, revocation is proper based on the nature of the violations. Respondent's violation of the practice restriction, by directing Patient D in 2018 to obtain a prescription from him in Wyoming, is purposeful in nature. It also reflects Respondent's decision-making concerning patient care to have included all but the physical writing of the prescription in Colorado without adhering to the practice restriction that Respondent had agreed to and was ordered by the board.

The Hearings Panel concludes that revocation would be warranted on this basis alone.

Aggravating circumstances also exist. First is Respondent's repeated violation of valid board orders. In 2010, Respondent violated the same prescribing restriction contained in the 1999 Order. *See* 2016 Order, ¶6(a) (Respondent prescribed a hormone in violation of the practice restriction). Separately, Respondent failed to provide required practice monitor reports in violation of the 1999 Order. *See* Initial Decision, Finding of Fact ¶7 (admonishing Respondent in 2001). Similar to Respondent's conduct with Patient D, the Hearings Panel further notes Patient A's testimony describing Respondent's manner of prescribing contrary to the practice restriction. *See* Hearing Exhibit 40, p.42 (Patient A testified that Respondent recommended hormone replacement therapy with instruction to obtain a prescription from Respondent in Wyoming).

Second, Respondent's Colorado medical license has already been subject to severe and significant sanctions, with reasonable opportunities to rehabilitate. For

instance, the practice restriction is a result of Respondent's substandard care of numerous patients, namely administering thyroid hormone without adequate justification and without adequate monitoring of thyroid function, and adrenal cortex injection without medical justification. *See* 1999 Order, ¶3(a), (c).[2] The 1999 Order imposed a 30-day suspension, five-year probationary period, assessment and learning plan through Colorado Personalized Education for Physicians, and monthly practice monitoring.

The 2016 Order reflects discipline for additional substandard care and documentation, plus inappropriate conduct towards a patient in Wyoming. For this conduct, disciplinary terms included: the continued practice restriction, a second five-year probationary period, practice monitoring, monthly practice monitor chart reviews and reports, treatment monitoring, required written disclosures to patients, and required chaperones for female patients.

Given the prior admonishment, suspension, two five-year periods of practice monitoring and treatment monitoring, and other terms designed to rehabilitate the licensee, the Hearings Panel concludes that additional monitoring terms would not serve the public.

The Hearings Panel agrees with Respondent that his documentation violation in this case is remote in time and is mitigated, at least in part, by Respondent's

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[2] The Hearings Panel notes the agreed-upon mechanism for Respondent to petition to rescind the restriction. *See* 2016 Order, ¶28.

subsequent remediation with a practice monitor in 2016[3] and Respondent's recognition of the deficiency. *See* Initial Decision, Findings of Fact ¶¶29, 41. But as recounted above, this documentation issue is one of multiple documentation deficiencies resulting in discipline against Respondent's license, demonstrating deficiencies that recurred despite practice monitoring and chart reviews under the 1999 Order. *See* 1999 Order, pp.3-6; 2016 Order, ¶6(c)-(d).

Respondent asserts further mitigation through letters of support provided for the first time on exceptions. *See* Respondent's Exceptions, attachments. Because this information was not presented to the ALJ, they are not properly within the administrative record, *see* § 24-4-105(15)(a), and the Hearings Panel does not consider them.

The Hearings Panel concludes that Respondent's various violations of the Medical Practice Act in this case present a range of issues, from care departing from generally accepted standards at the assessment, treatment, and monitoring stages, to improper documentation and lack of adherence to the terms of his agreed-upon practice restriction. Given the seriousness of the violations established in this matter, the history of discipline spanning 25 years, and the agreed-upon revocation provision in the 2016 Order in the event of further unprofessional conduct, the

[3] The ALJ made no express findings concerning deficiencies in Respondent's recordkeeping for Patient D that occurred after the 2016 Order, *see, e.g.,* Hearing Tr. (8/1/2023) 272:5-18, 274:3-17, 275:5-8, and the Hearings Panel concludes none are needed to decide this matter.

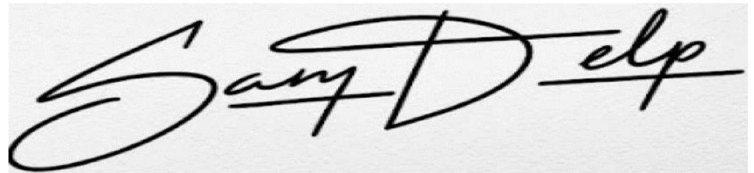
Hearings Panel determines that revocation is necessary to protect public health and safety, which cannot be achieved by means other than revocation.

C. Order

As discussed above, Hearings Panel B adopts the Findings of Fact and Conclusions of Law in the Initial Decision. Based on Respondent's acts or omissions that failed to meet generally accepted standards of medical practice, violation of a valid board order, and repeatedly failing to make essential entries on patient records in violation of the Medical Practice Act, § 12-240-121(1)(j), (n), (v), C.R.S., and pursuant to § 12-240-125(5)(c)(III), the Hearings Panel hereby revokes Respondent's license to practice medicine in Colorado.

Ordered this 5th day of June, 2024.

FOR THE COLORADO MEDICAL BOARD
HEARINGS PANEL B



SAM DELP
DIVISION DIRECTOR

This decision becomes final upon mailing. Any party adversely affected or aggrieved by any agency action may commence an action for judicial review before the Court of Appeals within forty-nine (49) days after the date of the service of this order. §§ 12-20-408, 12-240-127, and 24-4-106(11), C.R.S.

STATE OF COLORADO OFFICE OF ADMINISTRATIVE COURTS 1525 Sherman Street, Denver, Colorado 80203	
COLORADO MEDICAL BOARD, Petitioner, vs. JONATHAN SINGER, Respondent.	▲ COURT USE ONLY ▲ CASE NUMBER: ME 2018 0012
INITIAL DECISION	

The Colorado Medical Board ("Board") seeks to revoke the medical license of Dr. Jonathan Singer, DO ("Respondent"). Hearing in this matter was held before Administrative Law Judge ("ALJ") Tanya T. Light from the Office of Administrative Courts ("OAC") on August 1, 2, 3, 4 and 9, 2023 by video and Google Meet. Present at hearing and representing the Board were Brian J. Uranker, Assistant Attorney General II, and Jenna H. Anderson, Assistant Attorney General II. Respondent appeared and was represented by Kari Hershey, Esq. of Hershey Decker Drake. At hearing, the ALJ admitted into evidence the following stipulated exhibits: 7, 11, 18, 19, 22, 30, 32, 39, and 40. The ALJ also admitted exhibits 1-6, 8-10, 12, 15-17, 29-31, 33 and 34. Some of the admitted exhibits were admitted with redactions or were admitted only in part. The parties filed a "Combined Exhibit List" that the court adopts in full which sets forth in detail the portions of the exhibits that were admitted and the portions that were redacted or omitted. The hearing was recorded by Google Meet.

Procedural History

This case has a long history at the OAC. On October 2, 2018, the Board filed the first pleading in this case, its Formal Complaint of the Attorney General, Notice of Duty to Answer, Notice to Set, and Notice of Hearing ("First Formal Complaint") asserting three counts of violations of C.R.S. §§ 12-240-101, *et. seq*, the Colorado Medical Practice Act ("Act") and requesting an Initial Decision revoking Respondent's medical license. The matter was set for hearing on December 9 through 12, 2019. On July 8, 2019, the Board filed an unopposed Combined Motion for Leave to File Amended Formal Complaint and Unopposed Motion to Continue and Vacate the Scheduled Hearing and Reset ("Amended Formal Complaint"). In the Amended Formal Complaint, the Board sought to add allegations concerning another patient, "Patient D." The court granted the Unopposed Motion to Continue and Vacate the Scheduled Hearing and Reset, and the hearing was rescheduled for November 30 through December 3, 2020.

On August 29, 2019, Respondent filed an Answer to the Amended Formal Complaint. Also on August 29, 2019, Respondent filed a Motion to Dismiss Count II

Exhibit 1

pursuant to Rule 12(b)(5) of the Colorado Rules of Civil Procedure ("CRCP"). Count II alleged that Respondent had engaged in unprofessional conduct by violating a valid Board order. After reviewing the response and reply, on January 2, 2020, the undersigned denied the Motion to Dismiss Count II.

On October 2, 2020, the Board filed the "Panel's Forthwith Motion to Quash Subpoena to Produce Documents" ("Motion to Quash") which requested the undersigned quash a September 28, 2020 subpoena seeking Patient D's medical records. While the Motion to Quash was waiting resolution by the court, on October 6, 2020, the Board filed a new case against Respondent, which was docketed as OAC case number ME 2020-0010. On October 15, 2020, the undersigned stayed case 2018-0012 (this case) pending resolution of case ME 2020-0010. The stay vacated the hearing dates set for November 30 through December 3, 2020. On December 17, 2020, the parties filed a Proposed Amended Case Management Order in case ME 2018-0012, which the court granted on December 22, 2020. The Amended Case Management Order lifted the stay of this case, and rescheduled the hearing for May 20, 21, 24, and 25, 2021.

Concerning the Board's October 2, 2020 Motion to Quash, that issue was ripe for ruling on January 26, 2021, when the undersigned held oral arguments. On February 25, 2021, the court issued an order granting in part and denying in part the Board's Motion to Quash, and the Board appealed the portion denying in part the board's Motion to Denver District Court. On March 31, 2021, the parties filed an Unopposed Motion to Stay Proceedings pending the resolution of the Board's appeal of the Motion to Quash ruling to Denver District Court. On April 1, 2021, the undersigned granted that motion and this case was stayed pending resolution of that issue.

On September 28, 2022, Denver District Court Judge Honorable Andrew P. McCallin issued his ruling vacating the undersigned's discovery orders concerning Patient D's medical records in Denver District Court case number 2021CV31003. Based on that ruling, this court lifted the stay in this proceeding and set the matter for hearing at the OAC for August 1 through 4, 2023. As stated above, hearing was held on those days, plus an additional day on August 9, 2023. At close of hearing, the parties requested written closings, and the court granted that requested and imposed a deadline of September 12, 2023. On that date, the parties filed a Stipulated Motion to Extend Submission of Written Closings, requesting an extension of the deadline to September 18, 2021, which the court granted. On September 18, 2023, the Board field its written closing argument. Respondent filed motions to extend the deadline beyond September 18, 2023, to September 21, 2023, which the court granted in part and denied in part. Respondent filed his Amended Closing Statement on September 21, 203, and the record closed on that date.

ISSUE

Whether the Board has proven by a preponderance of the evidence that Respondent violated the Act, and if so, whether Respondent's medical license should be revoked, or if a lesser form of discipline is warranted.

FINDINGS OF FACT

Respondent

1. Respondent graduated from the University of Wisconsin with a bachelor's degree and a master's degree in food science. He attended the University of Iowa College of Osteopathic Medicine and graduated with honors. Respondent then served in the Air Force from 1984 to 1987. Upon honorable discharge from the Air Force, Respondent established a medical practice in Wyoming and was first licensed as a doctor in Wyoming in 1985. Respondent has continuously maintained his Wyoming medical license and practice to this day. Exhibits 10 and 18.

2. Respondent was first licensed as a physician in Colorado on January 19, 1989, and maintains a practice in Greenwood Village, Colorado. Respondent typically spends one day per week at his Cheyenne, Wyoming office, and the rest of the week at his Greenwood Village office.

3. According to Respondent, he was "a pioneer" in combining traditional and alternative medicine. He attends more than 100 hours of continuing medical education annually in the field of Integrative/Complementary/Functional medicine. Respondent testified that from early in his education, he has been interested in natural substances and functional/alternative medicine. *Id.*

4. According to Respondent, his functional medicine practice entails him finding and treating the underlying causes of disease as opposed to the western medical model of treating illnesses.

Discipline History and Practice Restrictions

5. Respondent has a long history of Board discipline. On April 22, 1999, the Board issued a Final Board Order to Respondent, and on May 24, 1999, the Board issued an Amended Final Board Order against Respondent's medical license. Notably for this case, Paragraphs 2 through 4 of the Amended Final Board Order state:

> 2. The practice restriction set forth in paragraph 3 of the Order is a permanent restriction which goes beyond the five-year probationary period set forth in paragraph 2 of the Order. Unless the monitoring Panel specifically rescinds the restriction pursuant to the provisions of paragraph 3 of the Order, it will remain in effect permanently.
>
> 3. With respect to the extent of the practice restriction, Respondent may provide Progesterone and Estrogen to patients. However, Respondent is prohibited from providing all other types of hormone replacement therapy to patients.
>
> 4. All patients for whom Respondent provides other types of hormone replacement other than Progesterone or Estrogen therapy must be referred

to another health care provider who may legally provide this type of therapy. The Hearing Panel advises Respondent to identify and notify affected patients in writing and strongly suggests that this patient population be transferred to another health care provider prior to Respondent's return to practice. Exhibit 19.

6. Paragraphs 6 and 7 of the Amended Final Board Order make distinctions concerning Respondent's medical practices in Colorado and in Wyoming. Paragraph 6 explains that when Respondent is physically located in Colorado, "all medical decisions and orders, including the prescription of medications by telephone, and regardless of the location of his patient constitute the practice of medicine in Colorado. Therefore, as long as and whenever, Respondent is physically located in Colorado, he can provide only those medical services permitted by this Amended order." *Id.* at ¶ 7. In contrast, the Amended Final Board Order states, "The terms of the Order and the Amended Order do not apply to Respondent's practice in Wyoming." *Id*.

7. On September 6, 2001, the Board issued a Letter of Admonition ("2001 LOA") to Respondent for failing to provide practice monitoring reports as required by the April 22, 1999 Final Board Order. Exhibit 22.

8. On February 2, 2010, the Wyoming Medical Board issued an order approving a November 12, 2009 Consent Decree involving Respondent's conduct toward a patient. Respondent successfully completed all the Consent Decree requirements. *See* Exhibit 18 at ¶ 6b.

9. On or about May 18, 2011, the Board and Respondent entered into a Second Interim Practice Agreement in lieu of summary suspension. *See Id.* 18 at ¶ 3.

10. On September 14, 2016, the Board and Respondent entered into a Stipulation and Final Agency Order (the "2016 FAO"). Pertinent terms of the 2016 FAO included five years of probation and monthly practice monitoring during the probation; treatment monitoring by CPHP[1]; and certain chaperoning requirements. Exhibit 18.

11. Paragraphs 38 through 40 of the 2016 FAO stated:

> 38. Respondent is permanently restricted from providing any type of hormone replacement therapy to patients. Respondent may petition the monitoring panel to rescind this restriction. The decision to rescind the practice restriction shall be at the sole discretion of the monitoring panel. The monitoring panel may only rescind the restriction if Respondent first establishes to the satisfaction of the monitoring panel that he is fully educated and proficient in evaluating and treating conditions requiring hormone replacement medications.

[1] The FAO does not indicate what the acronym CPHP stands for; it is assumed the parties are familiar with the term.

39. Respondent may provide Progesterone and Estrogen therapy to patients. However, Respondent is prohibited from providing all other types of hormone replacement therapy to patients.

40. All patients for whom Respondent provides other types of hormone replacement therapy other than Progesterone or Estrogen must be referred to another health care provider who may legally provide this type of therapy. Respondent is to identify and notify affected patients in writing and strongly suggest that this patient population be transferred to another health care provider. Exhibit 18.

12. Paragraphs 42, 43, and 54 of the FAO stated:

42. At all times during which Respondent is physically located in Colorado all medical decisions and orders, including the prescription of medications by telephone, and regardless of the location of his patient, constitute the practice of medicine in Colorado. Therefore, as long as and whenever, Respondent is physically located in Colorado, he can provide only medical services permitted by this Order.

43. The terms of this Order to not apply to Respondent's practice in Wyoming.

54. This Order shall be admissible as evidence at any proceeding or future hearing before the Board. Exhibit 18.

Patient A

13. Respondent began treating Patient A on October 1, 2010 in his Greenwood Village office. She presented to him complaining of asthma. Patient A was short of breath and breathing rapidly and had difficulty speaking. Exhibit 7 at Bates 0017.

14. On October 1, 2010, Patient A signed Respondent's "Informed Consent" form, which stated in part:

> I understand my treatment may involve, but not be limited to, traditional, nontraditional, alternative or complementary diagnostic and therapeutic techniques…some of these therapies may not be approved or officially sanctioned by the FDA, AMA, traditional medical practitioners or the Colorado Board of Medicine for the purposes used in this practice.
>
> Alternatives to Dr. Singer's methods are use of traditional medical diagnostics and therapeutics. Risks of Dr. Singer's methods are felt to be minimal since his techniques are more specific and detailed than that of traditional medical diagnostics and therapeutics. I

understand and consent to treatment by Dr. Singer in the aforescribed manner. Exhibit 7 at Bates 0024.

15. Respondent first treated Patient A with epinephrine. He also listened to the sound of air coming out of her mouth, or an "audible forced expulsion test." He referred to this method as a "pitch test." He listened to her breathing with his stethoscope. Respondent checked her oxygen, or "O2" level.

16. Respondent testified that epinephrine, also known as adrenaline, is his preference because it is a natural substance found in the body, and he prefers to use what the body uses. Respondent testified that he feels adrenaline is not used because it is not patentable like cortisol is for asthma. Respondent placed Patient A on 1 millimeter and then .2 millimeters of epinephrine. Respondent testified that he believes epinephrine is a better first line treatment than the albuterol.

17. Respondent did not treat Patient A with albuterol. He did not perform serial, or sequentially repeated, measurements of her pulse.

18. Respondent also testified that it is not necessary to use a nebulizer with asthmatics because epinephrine can be used instead.

19. Physicians treating asthmatic patients commonly use a measurement of lung function called "FEF1," which stands for forced expiratory flowrate over one second. "PEF" stands for peak expiratory flowrate and is also a measurement used. A device called a spirometer measures the airflow going in and out of an asthmatic patient. The spirometer measures the FEV.

20. Respondent testified that FEV is not a treatment used for patients having acute asthma attacks because it could worsen their condition. He explained that he did not use the PEV of FEF1 with Patient A because she was having a moderately severe asthma attack. He agreed that it is appropriate to use the FEV and FEF1 on a patient who is having a mild exacerbation of asthma.

21. Respondent testified that he could determine the severity of an asthmatic patient's attack by listening; that after many years of practice, he can determine a patient's condition by their physical presentation alone, and he does not need to use the FEV, FEF1 or a spirometer. Respondent never tested Patient A's asthma using the FEV or FEF1. He testified that he relied on his ears to distinguish a difference in an audible pitch or tone to assess Patient A's condition.

22. Respondent has not presented any scientific or peer-reviewed studies that support performing an audible forced expulsion test instead of a peak flow meter.

23. Respondent's handwritten notes of Patient A's January 29, 2014 visit are mostly illegible. However, it is clear that he used an incorrect date of January 30, 2014 as her appointment date. At hearing, Respondent could not determine from his

handwritten notes whether he took her vital signs that day. *See* Exhibit 7 at Bates 0031.

24. Respondent testified that Patient A had a good response with epinephrine and therefore he used that and did not need to use a peak flow meter. Respondent could not remember if he called Patient A within 24 hours of her January 29, 2014 appointment to check on her condition.

25. On February 7, 2014, Respondent saw Patient A again. He indicated in his medical notes that she went to an urgent care center the previous week for bronchitis, and was using Advair, Proventil, and mints to keep her airway open. Exhibit 7 at Bates 0037.

26. On September 22, 2014, Respondent saw Patient A at his Cheyenne, Wyoming office. She appeared to be in acute distress from an asthma attack and her O2 saturation was only 82%, which is dangerously low. Respondent testified that he gave her oxygen at the appointment; however, his SOAP[2] note for that day does not indicate this was the case. He also did not use a spirometer, FEV, or FEF1. Rather, he testified that he used his ears again instead – the audible forced expiration, or "pitch" test. He did not prescribe albuterol, and he testified that Patient A did not like how albuterol made her feel. Exhibit 7 at Bates 0034.

27. Respondent's September 22, 2014 SOAP note for Patient A states:

> Chief Complaint: Acute flair of asthma, short of breath, needs treatment today. recheck asthma. Appt time: 10:45 AM (arrival time: 10:52 AM). <u>Note transcribed from chart with additional information added from recall and for clarity on 1/12/17 at 6:44 PM</u>. (Emphasis added).
>
> Subjective: Patient is having an acute asthma attack and requests immediate treatment. Hard to breathe, not sure what triggered this attack this morning, weather change possibly. More stress as well. Not using asthma meds regularly only prn.
> Objective: Patient in acute distress, retractions present, nasal flaring, audible wheeze, bilateral wheeze with diminished airflow bilaterally. Heart RR at 100, BP normal. Skin no perioral cyanosis or fingertip changes. Neurol-normal cognition, not obtunded.
> Assessment 1. Acute asthma attack, moderately severe. 2. Allergies.
> Plan: 1. Primatene mist, pt prefers to albuterol.
> 2. Oxygen at home at hs and prn, O2 sat at rest on room air in office is 82.
> 3. Epinephrine 0.2 ml sq stat, good relief within a minute
> 4. Epipen for home use
> 5. Needs full pulmonary workup, patient declines, can't afford right now
> 6. F/U 1 week or sooner if needed. ER stat if worsens.
> Exhibit 7 at Bates 0034.

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[2] "SOAP" is an acronym for "Subjective, Objective, Assessment, Plan" and is the common method for medical providers to document their treatment of patients.

28. As seen above, Respondent did not write the SOAP note for the September 22, 2014 appointment with Patient A until January 12, 2017, after he received a "30-day letter" from the Board concerning a complaint filed by Patient A. Exhibit 7 at Bates 0034.

29. Concerning Respondent's SOAP note of Patient A, he admitted at hearing that his documentation did not meet the generally accepted standard of care. He testified that his documentation is better now that he has been working with a practice monitor. His documentation in 2014 was performed prior to working with a practice monitor.

30. On September 23, 2016, Patient A was seen by Respondent. She subsequently filed a complaint against him on December 27, 2016, in which she wrote:

> I requested copies of all medical records multiple times since 9/23/16. Dr. Singer treated me for breathing difficulties for several years. He treated me for asthma without ever testing me. I kept getting much worse. I had lung cancer. Exhibit 1.

31. The Academy of American physicians recommends treating mild asthma as follows:

> Initial PEF or FEV1 PEF greater than or equal to 70 percent of predicted or personal best. Clinical course: usually treated at home. Prompt relief with inhaled short-acting beta, agonist. Possible short course of oral systemic corticosteroids. Exhibit 16 at Bates 1497.

32. When asked if he followed the above recommendation in his practice, Respondent testified he did not.

<u>Dr. Tarek Arja, D.O.</u>

33. Dr. Tarek Arja, D.O. has an undergraduate degree in chemistry and is a doctor of osteopathy. He graduated with his DO in 1991 and completed his family practice residency at Presbyterian St. Luke's hospital in Denver. He has been board-certified in Family Practice since 1998.

34. Dr. Arja is currently on the medical staff of two hospitals. He served on the Board of Medical Examiners and on the Colorado Medical Board. Dr. Arja does not practice holistic medicine.

35. Dr. Arja was deemed an expert witness in the practice of family medicine at hearing.

36. Dr. Arja testified that the publication "National Heart, Lung and Blood Institute, National Asthma Education and Prevention Program, Expert Panel Report 3: Guidelines for the Diagnosis and Management of Asthma, Full Report 2007" is used by emergency room physicians treating asthmatic patients. The report states, "nonselective

agents (i.e. epinephrine, isoproterenol, metaproterenol) are not recommended due to their potential for excessive cardiac stimulation, especially in high doses." Exhibit 17 at Bates 1877.

37. Dr. Arja testified that a normal pulse oximeter reading is 89 or 90%, and that anything below that level is concerning because a patient could become hypoxic. He explained that during a severe asthma attack, the provider should start with a beta agonist treatment and should be taking serial pulse oximeter measurements every 15 minutes or so for at least an hour. Dr. Arja testified that there was no evidence in the record that Respondent performed serial pulse oximeter testing with Patient A, but that rather, he just sent her home.

38. In Dr. Arja's expert medical opinion, Respondent's treatment of Patient A did not meet the generally accepted standard of care.

<u>Dr. Floyd Russak, MD</u>

39. Dr. Floyd Russak, MD, is a physician practicing in Denver. He grew up in Denver and received a bachelor's degree in biology from Northwestern University. In 1981 he received his medical degree from George Washington Medical School, and his residency was completed at Harvard. Dr. Russak currently has a large, full-time internal medicine practice as well as a holistic internal medical practice. Dr. Russak was deemed an expert witness in internal medicine and holistic and alternative medicine at hearing.

40. Dr. Russack served as Respondent's practice monitor. *See* Exhibit 15.

41. Concerning Respondent's documentation, Dr. Russak testified that he saw improvement in record keeping with Patient D (who will be discussed below in the findings of fact) between 2014 and 2018, and that he saw a definite improvement between Respondent's notetaking for Patient A verses Patient D. Patient A was seen before Respondent entered into a stipulation with the Board, and Patient D was seen after the stipulation.

42. Concerning notetaking, Dr. Russak credibly testified that doctors do not always finish notes, and that notetaking and documentation are important, but are second after patient care.

43. Concerning treatment of asthmatic patients, Dr. Russack testified that medical devices are not always necessary – that physicians can use their senses and do not always have to use a peak flow device.

44. Concerning a nebulizer Beta 2 agonist verses the use of epinephrine, Dr. Russak testified that it was reasonable for Respondent to use epinephrine first; it works a bit faster and lasts a little longer. Dr. Russak testified that it was not outside the standard of care for Respondent to use epinephrine first with Patient A.

45. Concerning Respondent's failure to take serial pulse oximeter readings, Dr. Russak testified that he presented a study that indicated not doing so was acceptable.

46. Dr. Russak testified that a physician can "very much so" determine how well a patient is breathing by just listening. He explained that using a device (such as a spirometer or peak flow meter) could be helpful but is not necessary.

47. Dr. Russak testified that Respondent's care and treatment of Patient A on February 7, 2014 was reasonable.

48. Dr. Russak testified that he would have supplemented Respondent's September 22, 2014 SOAP note in the same manner Respondent did when he added to it in 2017. However, he testified that he would have provided more documentation such as indicating her oxygen levels before and after treatment.

49. When asked if Respondent's treatment of Patient A was within the generally accepted standards of care, Dr. Russak testified that he thought Respondent's care of Patient A was "quite good." However, he testified that Respondent's documentation of his treatment of Patient A could have been better.

Patient D

50. Patient D's first appointment with Respondent was on March 19, 2018 in Greenwood Village office. She wrote on the intake paperwork, "I believe I am progesterone deficient and excess estrogen or estrogen dominant." Exhibit 11 at Bates 1189.

51. On Respondent's March 19, 2018 SOAP note, he wrote:

> Subjective: Patient is here today for multiple problems including PMS, insomnia, painful tender breasts, infertility, anxiety, night sweats, hot flashes, problems with her memory, mood swings, foggy thinking, fatigue, midcycle pain, vaginal dryness, no libido and for about 3 weeks a month, pelvic pain and pressure which extends into her thighs. Patient believes she is progesterone deficient and estrogen dominant. *Id.* at Bates 1241.

52. Respondent had Patient A undergo testing and met with her in his Greenwood Village office on April 9, 2018 to review the lab results. On the SOAP note, he wrote, "Objective: [patient] tearful, very upset, begs me to fix her problems and asks many times if I think I can help her and fix what is wrong." Exhibit 11 at 1240.

53. On April 16, 2018, Respondent and Patient D had a telephone consultation in which she conveyed she was not doing any better. Respondent was in his Greenwood Village office. His SOAP note indicated as part of the Plan that Patient D, "F/U Cheyenne if she desires for low testosterone." *Id.* at 1239.

54. Respondent denied at hearing that he told Patient D during the April 16, 2018 telephone consultation to visit his Wyoming office if she wanted testosterone. He testified that he told all his patients that he could not prescribe them testosterone in Colorado, and that if they wanted a prescription they would have to go to his Cheyenne office. Respondent testified he never coerced patients to go to his Wyoming office and always disclosed to them his past history of discipline.

55. On May 1, 2018, Respondent treated Patient D in his Cheyenne office. He wrote that her chief complaint was low testosterone, and that she was there for replacement therapy. On Respondent's SOAP note for that appointment, he wrote:

> Subjective: Patient has had 24 h UH testing and has been on E2E3 and Progesterone replacement but not testosterone. She is here in Cheyenne today to see me and get a prescription for that written from my Wyoming office. Her ROS is unchanged and main symptoms of low testosterone levels are fatigue, weakness, poor stamina, chronic low back pain and low libido. She has no contraindications for replacement therapy. *Id.* at 1238.

56. On May 4, 2018, Respondent had a telephone consultation with Patient D from his Greenwood Village office. She reported she was still having problems, and that she ached in her low back and thighs midcycle. *Id.* at 1237.

57. On May 14, 2018, Respondent and Patient D had a telephone consultation out of Respondent's Greenwood Village office. He wrote, "[Patient D] having heavier flow, more [undecipherable], more pelvic pain, breasts are sore. Menses every 2 weeks." His assessment was that she had a hormonal imbalance, and his plan was to stop E2E3, continue progesterone, and recheck her urine hormone when she was "more stable." Exhibit 11 at Bates 1236.

58. On May 16, 2018, Patient D had an office visit with Respondent in his Greenwood Village office. In his SOAP note of that day, Respondent wrote:

> Subjective: More pain in the lower back, continues to have pelvic pain like she has for the last 15 years.
> ---
> Assessment:
> 1. Hormone imbalance
> 2. Low libido
> 3. Pelvic pain, chronic
> 4. LLQ [lower left quadrant] pain, not acute or critical.
> Plan:
> 1. CT abdomen and pelvis at Invision.
> 2.Urine hormone test, ZRT 5/28/18.
> 3. Get pelvic, pap, breast exam with Kaiser PCP
> 4. Sexual abuse counseling books suggested.

5. F/U after 1. Exhibit 11 at Bates 1235.

59. On May 24, 2018, Patient D had a CT scan of her abdomen and pelvis with intravenous contrast. The results were the following:

> Impression:
> 1. Heterogeneous enhancement of the uterus with small amount of pelvic free fluid and possible left hydrosalpinx. Findings could indicate pelvic inflammatory disease. Recommend clinical correlation and consider further evaluation with dedicated pelvic ultrasound as deemed clinically appropriate.
> 2. Otherwise no suggestion of acute process within the abdomen or pelvis.
> *Id.* at Bates 1186 (emphasis added).

60. On July 2, 2018, Respondent wrote on his SOAP note that he had an office visit with Patient D at his Greenwood Village location, but also wrote he had a teleconference with her. Concerning her chief complaint, Respondent wrote, "[Patient D had] telecon…to review ZRT urine metabolites test as well as CT abd [abdomen] and pelvis. Now has urinary urgency, frequency without pain. Also hip and LBP last half of menstrual cycle, chronic." *Id.* at 1234.

61. The July 2, 2018 SOAP note further stated:

> Subjective: Patient is now having hot flashes and 3 weeks of urinary urgency, frequency but without pain. No fever or chills or flank or bladder pain. Went off E2E3 and testosterone cream before doing the ZRT hormone test, still taking 25 mg cap of progesterone at hs. Emotional too and not sleeping well. Pain in lower abdomen and pelvis is better off hormones, flared up more on L side by ovary when she was on the estrogen.
> \---
> Assessment:
> 1. Urinary urgency and frequency, painless, new onset last 3 weeks. Etiol uncertain, hormonal?
> 2. Hydrosalpinx, L, etiol uncertain, w/u to be done at Kaiser.
> 3. Elevated am cortisol, etiol uncertain, stress likely.
> 4. Hormone imbalance, on BHRT
> 5. LBP [lower back pain], chronic, with bilat hip pain, last half of menstrual cycle.
> 6. Hot flashes.
>
> Plan:
> 1. Reviewed CT Abd pelvis in detail with patient. Has a tortuous L hydrosalpinx on scan, ddx, PID, STD, old laparoscopy for endometriosis fulguration scar, tubal neoplasia. Referred to Kaiser gynec to further w/u and treat.
> 2. Cheyenne – Change BHRT, stop progesterone, use E2E3 0.05/0.05 1 caap po at hs only. Stop testosterone cream. *Id.* (emphasis added).

62. At hearing Respondent testified that he was not sure whether he engaged in this telephone consultation from his Greenwood Village office – that he may have just recorded the SOAP note on his Greenwood Village SOAP note letterhead.

63. Respondent saw Patient D on July 6, 2018. She was there to discuss how she was doing on new medication. Respondent's SOAP note indicated:

> Subjective: hips hurting less on new BHRT. More tired, but falls asleep and stays asleep now without difficulty. Still has breast tenderness and moodiness. Going to see gynecologist at Kaiser in 4 days. Needs an updated CT report that includes mention of her ovaries on it.
> Objective: Still sounds very emotional but better.
> Assessment
> 1. Anxiety and depression, same.
> 2. Menopausal symptoms, better,
> 3. Hormone imbalance, better.
> Plan:
> 1. Continue BHRT, E2E3 only at hs.
> 2. FU after gynec visit next week.
> 3. Called Invision Radiologist for addendum to report to include mention of ovaries. Please have them fax us a copy of the addendum and send to patient. Exhibit 11 at 1233.

64. On July 10, 2018, Patient D filed a complaint against Respondent with the Board, stating in pertinent part:

> I went to Dr. Singer with certain medical issues that I had hoped he could help me with. Under his care I have had my prescriptions changed multiple times. Some of my symptoms have only gotten worse, and I've gotten new symptoms. I've told him my personal family history with breast and ovarian cancer and I feel like he is just throwing hormones at me and seeing what sticks. He has tested me multiple times only to be told that the test was performed at the wrong time and prescriptions were prescribed in error… I question why having to cross state lines to get a testosterone prescription only to find out that it could have been prescribed in the state of Colorado. I've never experienced a Dr. that has such a hard time remembering dates that were provided to him, test results that were ordered by him, and remembering to order prescriptions that he has prescribed.
> ---
> On April 16, 2018, I called Dr. Singer's office to see if my Complete Hormones (24HR) results were back yet…Dr. Singer called later that evening and stated…that…my testosterone levels were zero….He also stated that I will need to go to his office located in Cheyenne, Wyoming in order to get a prescription for testosterone. When I asked him why do I have to go to Wyoming for testosterone, he mumbled something about

Colorado law and said that I needed to become a Wyoming patient in order to get the prescription that he said I needed.

During the teleconference he seemed to not know what he was instructing me to do treatment wise in the past. He didn't seem to know what he had prescribed/advised me to take/not take…After discussing the results of the CT scan that he didn't know was already performed, he instructed me to F/U with a gynecologist for further investigation/testing. He also requested that I F/U with him in 5 days to see how treatment was going. On July 6, 2018, I spoke to Dr. Singer about how the estrogen only treatment has been going since starting on 7/2/18. I informed him that I was having hot flashes and he instructed me to continue treatment for 3 more weeks. Exhibit 8.

65. Respondent did not coordinate care of Patient D with her primary care physician. He testified that he asked for her medical records but did not receive them.

66. Respondent testified that he encourages his patients to follow up with their traditional doctors.

67. Concerning the CT scan results, Respondent testified that they were not urgent or an emergency, and that Respondent did not show signs of any acute illness.

68. PID, or pelvic inflammatory disease, is a serious condition that can lead to sepsis and death. It can also lead to scarring and infertility. Pelvic pain can be a sign of PID.

69. Dr. Arja testified that there was a five week delay from the time Patient D complained about pelvic pain until Respondent referred her to an obgyn, and that this delay "absolutely" did not meet the generally accepted standard of care.

70. Dr. Arja's was also concerned that Respondent had Patient D stop taking progesterone on July 2, 2018. He explained that the standard of care would be to take a blood test first to determine her hormone levels.

71. Dr. Russak testified that the lab tests of Patient D that Respondent ordered were appropriate and within the standard of care for doctors practicing alternative medicine. He further testified that having Patient D obtain a CT scan of her abdomen for pelvic pain was within the standard of care, and that he would have ordered a CT scan as well. He testified that it was reasonable for Respondent to order Patient D to follow up with her primary care physician at Kaiser after the CT scan because any abnormal results or acute findings should be seen by a primary care physician. Dr. Russak also testified that it was reasonable for Respondent to have Patient D stop taking progesterone for one week.

72. Dr. Russak testified that although the CT scan result was concerning about PID, it was not highly suggestive of that condition, and was not an urgent or emergent result.

73. Dr. Russak testified that Respondent's treatment of Patient D was within generally accepted standards of both alternative and traditional care.

CONCLUSIONS OF LAW

Burden of Proof

Section 12-240-125(5)(a) of the Act adopts the Colorado Administrative Procedure Act ("APA") for hearings concerning licensing and discipline of physicians. Pursuant to section 24-4-105(7) of the APA, the proponent of an order has the burden of proof, which shall conform "to the extent practicable" with that in civil non-jury district court cases, which is a preponderance of the evidence. The Board is the proponent of an order disciplining Respondent; therefore, the Board has the burden of proof.

The Asserted Violations in the Amended Formal Complaint

The Amended Formal Complaint is the operative pleading in this case. Count I alleges that Respondent engaged in unprofessional conduct by failing to meet generally accepted standards of care, in violation of what was at the time codified as section 12-36-117(p), and is now codified as section 12-240-121(1)(j). That section states, "Unprofessional conduct as used in this article 240 means any act or omission that fails to meet generally accepted standards of medical practice."

Count II of the Amended Formal Complaint alleges Respondent violated then-section 12-36-117(u), now codified as section 12-240-121(1)(n), which states, "Unprofessional conduct as used in this article 240 means violation of any valid board order or any rule promulgated by the board in conformance with law."

Finally, Count III asserts that Respondent violated then-section 12-36-117(1)(cc), now-codified at section 12-240-121(1)(v), stating, "Unprofessional conduct" as used in this article 240 means falsifying or repeatedly making incorrect essential entries or repeatedly failing to make essential entries on patient records."

Discussion

While both expert witnesses had impressive education and experience, the court found Dr. Arja's testimony more persuasive. Dr. Arja relied on peer-reviewed studies that have been accepted and used by the medical establishment for many years, such as the National Heart, Lung and Blood Institute's 2007 Full Report on the Guidelines for the Diagnosis and Treatment of Asthma.

Concerning Count I, the court concludes the Board has met its burden of proving

Respondent's conduct failed to meet generally accepted standards of medical practice in violation of section12-240-121(1)(j). Respondent's use of his "pitch" test to determine Patient A's status failed to meet generally accepted standards of care. Respondent provided no studies or scientific articles that supported the use of this test. The test appears to be subjective and entirely dependent upon Respondent's hearing, but not based on any objective standard. The court is persuaded that a spirometer, FEV, and FEF1 tests are the generally accepted standards of care in patients presenting as Patient A presented, but Respondent chose to solely rely on his pitch test in lieu of those tests. Furthermore, Respondent chose to use epinephrine as his first-line treatment of Patient A's asthma, when the literature clearly states that epinephrine is not recommended due to its potential for excessive cardiac stimulation. Dr. Arja's persuasive testimony was that a beta agonist should have been the first line treatment for Patient A, followed by serial pulse oximeter readings every 15 minutes for at least an hour. There is no indication in the record that Respondent took serial pulse oximeter readings of Patient A before sending her home. This failure is especially concerning given that Patient A's O2 reading was dangerously low at 82%. His failure to monitor Patient A's condition, especially after administering a cardiac-stimulating substance like epinephrine and especially considering the 82% O2 reading, failed to meet the generally accepted standards of care.

Respondent also failed to meet the generally accepted standard of care with Patient D. The CT scan indicated Patient D may have had PID, a serious and potentially fatal condition. There is no indication in the record that Respondent conveyed to Patient D the seriousness and implications of this finding. Respondent may have been focused on other issues as a practitioner of alternative medicine, but the PID finding happened on his watch, so to speak, in that he was the first medical provider other than the radiologist to see this result. Also, Patient D had been repeatedly complaining to Respondent of symptoms indicative of PID, such as the frequent pain she was experiencing, but even with this knowledge, Respondent failed to timely discuss the serious implications of PID with Patient D and failed to timely refer her to an ob/gyn. The court concludes that referring Patient D to her ob/gyn when he did, without communicating to her the risks associated with PID, fails to meet generally accepted standards of care. Moreover, the court concludes that the fact that Respondent instructed Patient D to immediately stop taking progesterone without first taking a blood test to determine her hormone levels failed to meet generally accepted standards of medical care. The court finds Dr. Arja's testimony more persuasive on this point. Although Dr. Russak testified that it was reasonable for Respondent to have Patient D stop taking progesterone for one week, that testimony was not persuasive. It appears to the court, as it appeared to Patient D, that Respondent was subjectively ordering her on and off various hormones without scientifically-based, objective reasons for doing so. For these reasons, the court concludes that the Board has met its burden of proving Respondent's conduct concerning his treatment of Patient D failed to meet generally accepted standards of medical care in violation of section12-240-121(1)(j).

Concerning Count II, the court concludes the Board has met its burden of proof. The Board ordered Respondent not to prescribe testosterone from his Colorado office. The court is persuaded by the evidence in the record that Respondent violated this Board

order when he specifically directed Patient D to his Cheyenne office in order for her to receive testosterone. Respondent denies that on April 16, 2018 during a telephone consultation with Patient D from his Greenwood Village office that he told her she had to travel to Cheyenne if she wanted testosterone. However, his testimony and his SOAP note conflict. The note states that the "Plan" was for Patient D to "F/U Cheyenne if she desires for low testosterone." Also, Patient' D's complaint states that "he also stated that I will need to go to his office located in Cheyenne, Wyoming in order to get a prescription for testosterone." When Patient D asked why this was so, Respondent "mumbled something about Colorado law and said that I needed to become a Wyoming patient in order to get the prescription that he said I needed." Based on this evidence, it simply is not credible to the undersigned that Respondent did not tell or direct Patient D to travel to Wyoming to receive testosterone. Nor is it persuasive to the court that instructing Patient D to travel to Wyoming to receive testosterone does not violate the Board order. The Board order is clear that if Respondent is physically located in Colorado, he cannot prescribe testosterone. He was physically located in Colorado on April 16, 2018 when he instructed Patient D on how she could receive a prescription for testosterone. For these reasons, the court concludes has met its burden of proving Respondent violated a valid Board order in violation of section 12-240-121(1)(n).

Finally, the court concludes the Board met its burden of proving Respondent engaged in unprofessional conduct by falsifying or repeatedly making incorrect essential entries or repeatedly failing to make essential entries on patient records in violation of section 12-240-121(1)(v). It is concerning to the court that Respondent "corrected" a September 22, 2014 SOAP note on January 12, 2017. He did not do so on his own accord; he did so only after receiving the Board's 30-day letter. It is not credible to the court that Respondent's memory was such that he could specifically recall what took place during a September 2014 appointment over two years later. This recreation of a SOAP note is persuasive evidence that Respondent failed to make an essential entry in 2014. Furthermore, Respondent's own expert witness admitted at hearing that Respondent's note taking was lacking, and that he, Dr. Russak, would have done more thorough documentation.

Discipline

Having concluded that Respondent violated the Act, the court must determine the appropriate discipline. Section 12-240-125(5)(c)(III) states:

> If the hearings panel finds the charges proven and orders that discipline be imposed, it shall also determine the extent of the discipline, which must be in the form of a letter of admonition, suspension for a definite or indefinite period, or revocation of license to practice. The hearings panel also may impose a fine of up to five thousand dollars per violation. In determining appropriate disciplinary action, the hearings panel shall first consider sanctions that are necessary to protect the public. Only after the panel has considered sanctions may it consider and order requirements designed to rehabilitate the licensee or applicant. If discipline other than revocation of a license to practice is imposed, the hearings panel may also order that the

> licensee be granted probation and allowed to continue to practice during the period of probation. The hearings panel may also include in any disciplinary order that allows the licensee to continue to practice such conditions as the panel may deem appropriate to assure that the licensee is physically, mentally, morally, and otherwise qualified to practice medicine, practice as a physician assistant, or practice as an anesthesiologist assistant in accordance with generally accepted professional standards of practice, including any or all of the following…

Here, the court concludes that the only form of discipline warranted is revocation of Respondent's license. The reason is that Respondent has had a long history of discipline and has been subject to practice monitoring and Board orders for many years but continues to violate the Act. Given Respondent's lengthy history of Board involvement, practice monitoring, and discipline, it appears to the court that at this time Respondent is not able to be regulated by the Board. When that is the case, unfortunately the only discipline left is revocation. The is charged with balancing a physician's interest in his license against protection of the public. Here, based on all the credible and persuasive evidence in the record, the scale tips in favor of public protection, and for that reason, Respondent's medical license must be revoked.

INITIAL DECISION

It is the Initial Decision of the Administrative Law Judge that Respondent's medical license should be revoked.

Done and signed this 12th day of January 2024.

/s/ Tanya T. Light
TANYA T. LIGHT
Administrative Law Judge

Exhibit 1

BEFORE THE COLORADO MEDICAL BOARD
STATE OF COLORADO

CASE NOS. 2017-9 & 2018-5302

FINAL BOARD ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS REGARDING JONATHAN WILLIAM SINGER, D.O., LICENSE NUMBER DR-0029309,

Respondent.

The Colorado Medical Board ("Board") Hearings Panel B ("Hearings Panel"), pursuant to and after formal proceedings before a duly qualified Administrative Law Judge ("ALJ") in accordance with the provisions of section 12-240-101, et al., of the Colorado Revised Statutes ("Act") and the Administrative Procedures Act ("APA"), and having reviewed the ALJ's Order Granting Respondent's Motion for Judgment on the Pleadings ("Order"), hereby enters the following findings and order:

1. Respondent Jonathan William Singer, D.O. ("Respondent") was served with a Formal Complaint, Notice of Duty to Answer, Notice to Set, and Notice of Hearing on October 6, 2020.

2. On or about September 15, 2016, Inquiry Panel A ("Panel") and Respondent entered into a Stipulation and Final Agency Order ("Stipulation"), whereby the parties agreed that Respondent's license may be automatically revoked if the Panel finds that Respondent has violated any term of probation, any term of the Stipulation, or any act or omission which constitutes unprofessional conduct pursuant to section 12-36-117, C.R.S. (now replaced by section 12-240-121, C.R.S.) Pursuant to the Stipulation, Respondent was placed on a five-year probationary period that included regular practice monitoring by a physician who met certain express conditions.

3. On or about October 3, 2020, the Panel revoked Respondent's medical license pursuant to the automatic revocation clause in his Stipulation, when Respondent used his practice monitor as his expert witness in an October 2, 2018 complaint (Case ME 2018-0012) against the Respondent alleging that he failed to meet generally accepted standards of medical practice, violated a valid Board order, and failed to perform required record keeping.

4. On October 15, 2020, Respondent filed a Motion for Judgment on the Pleadings and Determination as a Matter of Law in this case.

5. The ALJ's Order concluded that Respondent's endorsement of his practice monitor as an expert witness in case ME 2018-0012 did not violate the Stipulation, any other term of

probation, or section 12-240-121(n), C.R.S. Therefore the automatic revocation provision was not triggered, and Respondent's medical license should not have been revoked.

6. The ALJ's Order Granting Respondent's Motion for Judgment on the Pleadings ("Order") was rendered and received by the Board on November 10, 2020. A copy of the Order is attached to this Final Board Order and incorporated herein by reference.

7. The Order was served on Respondent and the Inquiry Panel on November 18, 2020.

8. Neither the Inquiry Panel nor Respondent filed exceptions.

9. Upon review of the ALJ's Order and Record, the Hearings Panel hereby:

a. Accepts the Findings of Fact, as set forth in the Order, in their entirety.

b. Adopts the Conclusions of Law, as set forth in the Order, in their entirety.

c. Adopts the ALJ's decision to grant Respondent's Motion for Judgment on the Pleadings and reverse the revocation of Respondent's medical license.

IT IS THEREFORE ORDERED by the Hearings Panel that revocation of Respondent's medical license is hereby REVERSED, from the effective date of this Final Board Order. The Final Board Order is hereby effective upon service to Respondent. Any party adversely affected or aggrieved by any agency action may commence an action for judicial review before the Court of Appeals within forty-nine (49) days after such action becomes effective. Reference sections 24-4-106(11) and 12-20-408, C.R.S.

SO ORDERED this 19th day of February, 2021.

FOR THE COLORADO MEDICAL BOARD
HEARINGS PANEL B

KAREN M. MCGOVERN
DEPUTY DIRECTOR OF LEGAL AFFAIRS

* * * * * * * * * COURTESY COPY * * * * * * * * *

STATE OF COLORADO OFFICE OF ADMINISTRATIVE COURTS 1525 Sherman Street, Denver, CO 80203	
Colorado Medical Board Petitioner, vs. Jonathan Singer Respondent.	▲ COURT USE ONLY ▲ CASE NUMBER: **ME 2020-0010**

NOTICE OF ORDER ISSUANCE

The attached Order granting motion for judgment on the pleadings was issued November 10, 2020 in the above referenced case.

Dated: November 10, 2020

/s/ Nicole Quarles

Nicole Quarles
Court Clerk

* * * * * * * * FOR INFORMATIONAL PURPOSES ONLY * * * * * * * * *

STATE OF COLORADO OFFICE OF ADMINISTRATIVE COURTS 1525 Sherman Street, 4th Floor, Denver, Colorado 80203	
COLORADO MEDICAL BOARD, Petitioner, vs. **JONATHAN SINGER, D.O.,** **License No. DR-29309,** Respondent.	▲ COURT USE ONLY ▲ **CASE NUMBER:** **ME 2020-0010**

ORDER GRANTING RESPONDENT'S MOTION FOR JUDGMENT ON THE PLEADINGS

Background and Summary

This case involves the October 3, 2020 revocation of the Colorado medical license of Dr. Jonathan Singer, D.O. ("Respondent"). In 2016 the Colorado Medical Board ("Board") and Respondent entered into a stipulation ("Stipulation") settling seven cases in lieu of a disciplinary hearing. The Stipulation contains an automatic revocation clause which permits Respondent's medical license to be immediately revoked upon violation of the Stipulation. Prior to October 3, 2020, Respondent was practicing under the Stipulation's five-year probationary period that included regular practice monitoring by a physician who met certain express conditions.[1]

On October 2, 2018, the Board filed a complaint against Respondent alleging that he failed to meet generally accepted standards of medical practice, violated a valid Board order, and failed to perform required record keeping. That case, captioned ME 2018-0012, was scheduled for a four-day hearing before the undersigned November 30 through December 3, 2020. On October 8, 2020, a pre-hearing conference was held in case ME 2018-0012. It was then that the undersigned learned of the October 3, 2020 revocation, as well as the October 6, 2020 filing of a Formal Complaint, Notice of Duty to Answer, Notice to Set and Notice of Hearing that resulted from the revocation, which is this case, ME 2020-0010. Because case ME 2020-0010 revoked Respondent's license, the parties agreed to a stay of case ME 2018-0012 pending the outcome of this case.

On October 15, 2020, Respondent filed a Motion for Judgment on the Pleadings and Determination as a Matter of Law ("Motion") in this case. On October 26, 2020, the Board filed its response, and on October 30, Respondent filed his reply. The Board objects to the Motion and seeks to propound discovery. Respondent argues that a

[1] *See* ¶¶ 8 and 10-14 of the Stipulation.

hearing is not necessary, and discovery not warranted. The ALJ concludes that case ME 2020-0010 can be decided on the pleadings because 1) the parties do not dispute that the Stipulation applies; 2) the Stipulation speaks for itself; 3) the Stipulation states that the sole issues for hearing after an automatic revocation "shall be limited to any of the issues identified in the notice of the revocation;"[2] 4) the notice of revocation is not disputed and speaks for itself; and 5) Respondent does not deny the conduct that the Board alleges was the violation of the Stipulation that triggered the automatic revocation clause.[3]

The Asserted Violation and the Notice of Revocation

On the September 30, 2020, the Board issued an "ORDER OF REVOCATION PURSUANT TO § 12-240-125(5)(c)(III), C.R.S."[4] ("Notice of Revocation"). It states:

> On September 29, 2020, the Panel concluded that Respondent's practice monitor no longer met the requirements set forth in the Order [the Stipulation]. By serving as Respondent's expert witness, the Panel concluded that the practice monitor had assumed the role of an advocate for Respondent and could no longer be fair and impartial in his evaluation of Respondent's practice. The Panel concluded that Respondent was practicing without an approved practice monitor, and that such action constituted a violation of paragraph 53 of the Order and a violation of a valid board order, pursuant to § 12-240-121(1)(n), C.R.S. ¶ 6.
>
> The Panel finds that Respondent has violated paragraph 11 of the Order [the Stipulation], which required Respondent to maintain a fair and impartial practice monitor during the probationary period. ¶ 7.

The 2016 Stipulation

On September 15, 2016, the Board and Respondent entered into the Stipulation. The automatic revocation clause that the Board relied upon in its Notice of Revocation states:

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[2] Stipulation, ¶ 22.

[3] *See* Respondent's answer to the ME 2020-2010 complaint where he states: "With respect to the allegations of ¶ 9 and its subpart, Dr. Singer admits that his Board approved practice monitor reviewed the care of the two patients at issue in Case ME 2018-0012 and was endorsed to rebut opinions of a Board retained expert who does not practice holistic medicine."

[4] Section 12-240-125(5)(c)(III), C.R.S states in part that "If the hearings panel finds the charges proven and orders that discipline be imposed, it shall also determine the extent of the discipline, which must be in the form of a letter of admonition, suspension for a definite or indefinite period, or revocation of license to practice."

> If, at any time during the probationary period, the Panel finds that Respondent has violated any term of probation, any term of this Order, or committed any act or omission which constitutes unprofessional conduct pursuant to section 12-36-117, C.R.S., the Panel may revoke Respondent's license to practice medicine automatically and immediately. Such revocation shall be effective three days after the date of mailing the notice of the revocation to Respondent by first-class mail to Respondent's address of record with the Board and shall remain in effect through the pendency of the hearing and any exceptions or appeal process. The notice of revocation shall set forth the grounds for the Board's action. ¶ 21.

As stated in paragraph 7 of the Notice of Revocation, the Board determined that Respondent violated paragraph 11 of the Stipulation, which states in full:

> Respondent's nomination for practice monitor shall set forth how the nominee meets the above criteria. With the written nomination, Respondent shall submit a letter signed by the nominee as well as a current curriculum vitae of the nominee. The letter from the nominee shall contain a statement from the nominee indicating that the nominee has read this Order and understands and agrees to perform the obligations set forth herein. The nominee must also state that the nominee can be fair and impartial in the review of the Respondent's practice.

Paragraph 53 is the other provision the Notice of Revocation cites. It states:

> This Order and all its terms shall have the same force and effect as an order entered after a formal disciplinary hearing pursuant to section 12-36- 118(5)(g)(III), C.R.S., except that it may not be appealed. Failure to comply with the terms of this Order may be sanctioned by the Inquiry Panel as set forth in section 12-36-118(5)(g)(IV), C.R.S. This Order and all its terms also constitute a valid board order for purposes of section 12-36-117(1)(u), C.R.S. ¶ 53.

<u>Interpretation of the Stipulation</u>

The parties agree that the Stipulation applies and is binding; they disagree about what it means. To determine the meaning, the ALJ relies on the following contract interpretation principles:

> [t]he intent of the parties to a contract is to be determined primarily from the language of the instrument itself. In ascertaining whether certain provisions of an agreement are ambiguous, the instrument's language must be examined and construed in harmony with the plain and generally accepted meaning of the words employed. Written contracts that are complete and free from ambiguity will be found to express the intention of the parties and will be enforced according to

their plain language. Extraneous evidence is only admissible to prove intent where there is an ambiguity in the terms of the contract. Terms used in a contract are ambiguous when they are susceptible to more than one reasonable interpretation. Absent such ambiguity, we will not look beyond the four corners of the agreement to determine the meaning intended by the parties. The mere fact that the parties may have different opinions regarding the interpretation of the contract does not itself create an ambiguity in the contract. *Ad Two, Inc. v. City and County of Denver*, 9 P.3d 373, 376-377 (Colo. 2000) (internal citations omitted).

Using these principles, the ALJ must determine the Stipulation's intent from the Stipulation itself and may only look outside its four corners if a term or terms are ambiguous. Upon review of the Stipulation, the ALJ concludes it is not ambiguous. It is not a complicated document. Its terms are clearly written. Most importantly, each word can be construed in harmony with its plain and generally accepted meaning. When using the plain and accepted meaning of each word, the Stipulation is not susceptible to more than one reasonable interpretation. The fact that the Board and Respondent disagree about the Stipulation's meaning does not create an ambiguity where one does not exist. Since the Stipulation is not ambiguous, nothing outside its four corners may be used to determine its meaning.

According to the Stipulation, the Board may automatically revoke Respondent's medical license if he does one of three things: violate any term of probation, violate any term of the Stipulation, or commit any act or omission which constitutes unprofessional conduct pursuant to section 12-36-117 (which the parties agree has been replaced by section 12-240-121). ¶ 21. Once the Board has revoked Respondent's license for one of these three reasons, the hearing on the revocation "shall be limited to the issues identified in the notice of the revocation."[5] This decision takes the place of the revocation hearing, as previously explained, and therefore the ALJ need only decide whether the issues identified in the Notice of Revocation result in automatic revocation of Respondent's medical license. The issues identified therein were that Respondent violated paragraph 11 of the Stipulation, which constituted a violation of paragraph 53 of the Stipulation as well as a violation of a valid board order pursuant to §12-240-121(1)(n), C.R.S.

Once more, the entirety of paragraph 11 states:

Respondent's nomination for practice monitor shall set forth how the nominee meets the above criteria. With the written nomination, Respondent shall submit a letter signed by the nominee as well as a

[5] *See* ¶ 22: "Within ten days of the effective date of revocation, Respondent may request a formal hearing, as provided by section 24-4-105, C.RS. If Respondent requests a hearing, the Board shall file any Notice of Charges promptly of such hearing request. The sole issues of such Notice and at such hearing shall be limited to any of the issues identified in the notice of the revocation."

> current curriculum vitae of the nominee. The letter from the nominee shall contain a statement from the nominee indicating that the nominee has read this Order and understands and agrees to perform the obligations set forth herein. The nominee must also state that the nominee can be fair and impartial in the review of the Respondent's practice.

As stated in this paragraph, several things are required from Respondent and from his proposed practice monitor. Respondent's duties are 1) to set forth in writing how his proposed practice monitor meets the Stipulation's practice monitor requirements; 2) submit to the Board a letter from the proposed practice monitor that includes certain statements; and 3) submit to the Board a copy of the proposed practice monitor's curriculum vitae. The proposed practice monitor's duties are 1) to sign a letter to the Board stating that he or she has read, understands, and agrees to perform the obligations of a practice monitor as set forth in the Stipulation, and 2) to state in the letter that he or she can be fair and impartial when reviewing Respondent's medical practice. Those five duties are the entirety of what is required by paragraph 11. Based on a plain reading of this paragraph, the ALJ concludes that Respondent's endorsement of his practice monitor to serve as an expert witness in case ME 2018-0012 does not violate paragraph 11 of the Stipulation. Nor does it violate any other term of the Stipulation.[6] Although the Board may argue that maintaining a neutral practice monitor is implied by this paragraph, Colorado's principles of contract interpretation do not permit the undersigned to read into the Stipulation provisions that are not stated. When a contract's terms are not ambiguous, and paragraph 11 is not ambiguous, implications are not permitted. Nor may the undersigned find that Respondent violated the "spirit" of the Stipulation.[7] There simply is no provision in the Stipulation that prohibits Respondent from endorsing his practice monitor as an expert witness in a case before

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[6] The undersigned reviewed the entire Stipulation. Paragraph 10 is the only provision that arguably prohibits Respondent from naming Dr. A as his expert witness. Paragraph 10 requires that "During the probationary period, a 'practice monitor' shall monitor Respondent's medical practice. Within 30 days of the effective date of this Order [the Stipulation], Respondent shall nominate, in writing, a proposed practice monitor for the Panel's approval. The nominee shall have no financial interest in Respondent's practice of medicine." The undersigned concludes Respondent did not violate paragraph 10 because the Board has not alleged that when Respondent nominated Dr. A as his practice monitor, Dr. A had any financial interest in Respondent's medical practice. Nor has the Board alleged that Dr. A currently has a financial interest in Respondent's medical practice. For sake of argument, even if naming Dr. A as a compensated expert gave Dr. A a financial interest in Respondent's medical practice, paragraph 14 clearly states that "failure of the practice monitor to perform the duties set forth above" results in notice from Board staff and a 30-day deadline for Respondent to nominate a new practice monitor. By the express words of the Stipulation, a violation of the Stipulation only occurs if Respondent fails to meet the 30-day deadline: "Failure to nominate a new monitor within 30 days of such notification shall constitute a violation of this Order." As of the date of this decision, Board staff has not given Respondent notice that he is required to name a new practice monitor, and thus the 30-day deadline has not begun.

[7] During a pre-hearing conference, an offhand statement was made that the naming of Respondent's practice monitor as his expert witness violated the spirit of the Stipulation.

the Board. Nor is there a provision requiring Respondent to ensure his practice monitor is neutral.[8] Indeed, the duty imposed when a practice monitor is not complying with the Stipulation's practice monitor requirements is a duty on Board staff:

> It is the responsibility of the Respondent to assure that the practice monitor's reports are timely and complete. Failure of the practice monitor to perform the duties set forth above may result in a notice from Board staff requiring the nomination of a new practice monitor. Upon such notification, Respondent shall nominate a new practice monitor according to the procedure set forth above. Respondent shall nominate the new monitor within 30 days of such notice. Failure to nominate a new monitor within 30 days of such notification shall constitute a violation of this Order. ¶ 14.

Although paragraph 22 of the Stipulation limits the issue of this decision to whether Respondent violated paragraph 11 of the Stipulation, the ALJ notes that Respondent's actions did not trigger the automatic revocation provision through the other two prohibitions listed in paragraph 21: Respondent did not violate any other term of his probation (nor did the Board allege he did); nor was his endorsement of his practice monitor as his expert an act or omission which constitutes unprofessional conduct pursuant to section 12-240-121. The Board alleged that the unprofessional conduct occurred by way of violation of section 12-240-121(n), which states that unprofessional conduct is a "violation of any valid board order or any rule promulgated by the board in conformance with law." The valid board order is the Stipulation, and as explained, Respondent did not violate any of its terms. Finally, the Board has not alleged that Respondent's endorsement of his practice monitor violated any Board rule.

To conclude, Respondent's endorsement of his practice monitor as an expert witness in case ME 2018-0012 did not violate the Stipulation, any other term of probation, or section 12-240-121(n). Therefore, the automatic revocation provision was not triggered, and Respondent's medical license should not have been revoked.

For all of the above reasons, the ALJ grants Respondent's Motion for Judgment on the Pleadings and reverses the revocation of Respondent's medical license. The pending motions concerning discovery in case ME 2020-0010 are rendered moot by this ruling. The stay imposed in case ME 2018-0012 will remain through any appeals of this decision.

SO ORDERED this 10th day of November 2020.

/s/ Tanya T. Light
TANYA T. LIGHT
Administrative Law Judge

[8] *See* paragraphs 10 through 14 of the Stipulation for the details of the practice monitor's requirements and duties.

BEFORE THE COLORADO MEDICAL BOARD
STATE OF COLORADO

CASE NO. 2010-1325, 2011-2987, 2011-1843, 2012-3805, 2014-1140, 2014-2167, 2016-3191 -A

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF JONATHAN SINGER, D.O., LICENSE NUMBER DR-29309,

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel A ("Panel") of the Colorado Medical Board ("Board") and Jonathan Singer, D.O. ("Respondent") (collectively, the "Parties") as follows:

JURISDICTION AND CASE HISTORY

1. Respondent was licensed to practice medicine in Colorado on January 19, 1989 and was issued license number DR-29309, which Respondent has held continuously since that date.

2. The Panel and the Board have jurisdiction over Respondent and over the subject matter of this proceeding.

3. On or about May 18, 2011, the Parties entered into a Second Interim Practice Agreement ("Interim Agreement") in lieu of summary suspension pursuant to section 24-4-104(4),C.R.S.. This Interim Agreement remains in effect until such time as a Final Board Order becomes effective in this case.

4. It is the intent of the parties and the purpose of this Stipulation and Final Agency Order ("Order") to provide for a settlement of all matters set forth in case numbers 2010-1325, 2011-2987, 2011-1843, 2012-3805, 2014-1140, 2014-2167 and 2016-3191 without the necessity of conducting a formal disciplinary hearing. This Order constitutes the entire agreement between the parties, and there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Order.

5. Respondent understands that:

   a. Respondent has the right to be represented by an attorney of the Respondent's choice and Respondent is represented by counsel;

b. Respondent has the right to a formal complaint and disciplinary hearing pursuant to sections 12-36-118(4)(c)(IV) and 12-36-118(5), C.R.S.;

c. By entering into this Order, Respondent is knowingly and voluntarily giving up the right to a formal complaint and disciplinary hearing, admits the facts contained in this Order, and relieves the Panel of its burden of proving such facts;

d. Respondent is knowingly and voluntarily giving up the right to present a defense by oral and documentary evidence and to cross-examine witnesses who would testify on behalf of the Panel; and

e. Respondent is knowingly and voluntarily waiving the right to seek judicial review of this Order.

FACTUAL BASIS

6. Respondent specifically admits and the Panel finds that:

a. The Board issued an Order effective May 24, 1999, that prohibited Respondent from providing hormone replacement therapy, other than progesterone or estrogen, to patients. In 2010, Respondent wrote a single prescription for a hormone;

b. On February 2, 2010, the Wyoming Board issued an order approving a November 12, 2009 Consent Decree, in which Respondent acknowledged inappropriate conduct toward a patient and agreed to 5 years of probation, including counseling and chaperone requirements, which were completed and Respondent's Wyoming license was restored to unrestricted, active status after 18 months by the Wyoming Board of Medicine;

c. During the month of September 2009, Respondent provided care and treatment for patient SS. Respondent documented his care and treatment on a medical flow sheet rather than SOAP notes;

d. Respondent provided care and treatment for KD, the Board alleges that Respondent diagnosed KD with candida intestinal overgrowth without adequate documented support.

7. The Panel finds that the acts and/or omissions described in the factual basis above constitutes unprofessional conduct pursuant to section 12-36-117(1)(p) (u) and (cc) C.R.S., which state:

(1) "Unprofessional conduct" as used in this article means:

(p) Any act or omission which fails to meet generally accepted standards of medical practice;

(u) Violation of any valid board order or any rule or regulation promulgated by the board in conformance with law;

(cc) ... repeatedly failing to make essential entries on patient records.

PROBATIONARY TERMS

8. Respondent's license to practice is hereby placed on probation for five (5) years commencing on the effective date of this Order. All terms of probation shall be effective throughout the probationary period and shall constitute terms of this Order.

9. During the probationary period, Respondent agrees to be bound by the terms and conditions set forth below.

PRACTICE MONITORING

10. During the probationary period, a "practice monitor" shall monitor Respondent's medical practice. Within 30 days of the effective date of this Order, Respondent shall nominate, in writing, a proposed practice monitor for the Panel's approval. The nominee shall be a physician licensed by the Board and currently practicing medicine in Colorado. The nominee shall have no financial interest in Respondent's practice of medicine. The nominee must be knowledgeable in Respondent's area of practice. If Respondent is board certified in an area of practice, it is preferred, but not required, that the nominee be board certified by that same board. If the Respondent has privileges at hospitals, it is preferred, but not required, that the nominee have privileges at as many of those same hospitals as possible. The Board shall not have disciplined the nominee.

11. Respondent's nomination for practice monitor shall set forth how the nominee meets the above criteria. With the written nomination, Respondent shall submit a letter signed by the nominee as well as a current *curriculum vitae* of the nominee. The letter from the nominee shall contain a statement from the nominee indicating that the nominee has read this Order and understands and agrees to perform the obligations set forth herein. The nominee must also state that the nominee can be fair and impartial in the review of the Respondent's practice.

12. Upon approval by the Panel, the practice monitor shall perform the following:

a. Each month, the practice monitor shall visit all the Colorado offices at which Respondent practices medicine and shall review a minimum

of five patient charts maintained by Respondent. The practice monitor shall make reasonable efforts to ensure that Respondent has no notice of which charts will be selected for review. The practice monitor is authorized to review such other medical records maintained by Respondent as the practice monitor deems appropriate.

b. Each month, the practice monitor shall review a minimum of five hospital charts of patients whom Respondent has admitted to, evaluated at, or treated at hospitals. If Respondent has admitted, evaluated, or treated fewer than five patients, the practice monitor shall review all the patients so admitted, evaluated, or treated, if any. The practice monitor shall make reasonable efforts to ensure that Respondent has no notice of which charts will be selected for review. The practice monitor is authorized to review such other hospital charts as the practice monitor deems appropriate.

c. The practice monitor shall submit quarterly written reports to the Panel.

d. The practice monitor's reports shall include the following:

(i) a description of each of the cases reviewed; and

(ii) to each case reviewed, the practice monitor's opinion whether Respondent is practicing medicine in accordance with generally accepted standards of medical practice.

13. If at any time the practice monitor believes Respondent is not in compliance with this Order, is unable to practice with skill and safety to patients, or has otherwise committed unprofessional conduct as defined in section 12-36-117(1), C.R.S., the practice monitor shall immediately inform the Panel.

14. It is the responsibility of the Respondent to assure that the practice monitor's reports are timely and complete. Failure of the practice monitor to perform the duties set forth above may result in a notice from Board staff requiring the nomination of a new practice monitor. Upon such notification, Respondent shall nominate a new practice monitor according to the procedure set forth above. Respondent shall nominate the new monitor within 30 days of such notice. Failure to nominate a new monitor within 30 days of such notification shall constitute a violation of this Order.

EARLY TERMINATION FROM PRACTICE MONITORING

15. After successful completion of eighteen (18) months of practice monitoring, Respondent may petition the Panel, in writing, for early termination of practice monitoring. The parties agree that the Panel's decision regarding such a petition shall be made at the sole discretion of the Panel. Respondent hereby waives any right to appeal the Panel's decision on this issue.

CPHP TREATMENT MONITORING

16. During the probationary period, Respondent shall receive such evaluation and medical treatment as is determined to be appropriate by CPHP. All instructions to Respondent by CPHP shall constitute terms of this Order, and Respondent must comply with any such instructions. Failure to comply with such instructions shall constitute a violation of this Order.

17. Within 30 days of the effective date of this Order, Respondent shall sign any and all releases necessary to allow CPHP to communicate with the Panel. Within 60 days of the effective date of this Order, Respondent shall provide the Panel with a copy of such releases. This information may include treatment program records that may be confidential under federal or state law. Respondent shall update any and all releases as often as may reasonably be required to allow the Panel access to Respondent's privileged or confidential information. Respondent shall not revoke such releases prior to successful completion of the probationary period as set forth in this Order. Any failure to execute such a release, failure to provide copies to the Panel, or any premature revocation of such a release shall constitute a violation of this Order. In the event Respondent revokes such release, CPHP may, because of confidentiality concerns, refuse to acknowledge Respondent's participation in CPHP. CPHP's refusal to acknowledge Respondent's participation with that organization shall constitute a violation of this Order.

18. Respondent shall also complete any and all unrestricted releases as are necessary to permit CPHP to disclose to the Panel information generated by other sources. Respondent authorizes the Panel to re-disclose and make public, consistent with Board Policy 10-18, information obtained from CPHP necessary for the limited purposes of enforcing this Order, seeking sanctions for noncompliance with this Order, or other purposes authorized in the Medical Practice Act. Medical records shall not become public records by virtue of such use. Any failure to execute such a release, failure to provide copies to the Panel, or any premature revocation of such a release shall constitute a violation of this Order.

19. CPHP shall function as the "treatment monitor" as that term is used in this Order. CPHP shall monitor Respondent's compliance with this Order and shall submit quarterly written reports to the Panel. The reports shall briefly describe Respondent's treatment monitoring with CPHP. The reports shall also state whether Respondent is in compliance with this Order. If at any time CPHP has reasonable cause to believe that Respondent has violated the terms of this Order, is unable to practice with skill and with safety to patients or has committed unprofessional conduct as defined in section 12-36-117(1), C.R.S., CPHP shall immediately inform the Panel.

20. It is the responsibility of the Respondent to provide information to CPHP in a timely and complete manner and to assure that all CPHP written reports are timely transmitted to the Panel.

AUTOMATIC REVOCATION

21. If, at any time during the probationary period, the Panel finds that Respondent has violated any term of probation, any term of this Order, or committed any act or omission which constitutes unprofessional conduct pursuant to section 12-36-117, C.R.S., the Panel may revoke Respondent's license to practice medicine automatically and immediately. Such revocation shall be effective three days after the date of mailing the notice of the revocation to Respondent by first-class mail to Respondent's address of record with the Board and shall remain in effect through the pendency of the hearing and any exceptions or appeal process. The notice of revocation shall set forth the grounds for the Board's action. Respondent must notify the Board of any change of address pursuant to Board Rule 270. Respondent hereby acknowledges and stipulates to this Rule's requirements.

22. Within ten days of the effective date of revocation, Respondent may request a formal hearing, as provided by section 24-4-105, C.R.S. If Respondent requests a hearing, the Board shall file any Notice of Charges promptly of such hearing request. The sole issues of such Notice and at such hearing shall be limited to any of the issues identified in the notice of the revocation.

23. At the hearing, if the Panel establishes that Respondent has violated any term of probation, any term of this Order, or committed any act or omission which constitutes unprofessional conduct pursuant to section 12-36-117, C.R.S., the parties hereby agree and stipulate that the final sanction shall be revocation.

24. If, after the hearing provided above, the Panel fails to meet its burden of establishing Respondent has engaged in unprofessional conduct, this Order shall continue in full force and effect.

25. The parties agree that this procedure satisfies all due process and consideration requirements.

26. The provisions of this automatic revocation clause do not prevent the Panel from initiating other disciplinary proceedings against Respondent for any violation of this Order or the Medical Practice Act, sections 12-36-101 et seq. C.R.S.

TOLLING OF THE PROBATIONARY PERIOD

27. If at any time, Respondent ceases the active clinical practice of medicine defined for the purposes of this Order as evaluating or treating a minimum of five patients per month, the probationary period shall be tolled for the time the Order is in effect and Respondent is not engaged in the active clinical practice of medicine.

28. Respondent must comply with all other terms of the Order and all other terms of probation. Unless otherwise specified, all terms of the Order and all

terms of probation shall remain in effect, regardless of whether the probationary period has been tolled, from the effective date of this Order until probation is terminated. The probationary period shall be tolled for any time that Respondent is not in compliance with any term of this Order.

OUT OF STATE PRACTICE

29. Respondent may wish to leave Colorado and practice in another state. At any time other than during a period of suspension imposed by this Order, and whether to practice out of state or for any other reason, Respondent may request, in writing, that the Board place Respondent's license on inactive status as set forth in section 12-36-137, C.R.S. Respondent's request to place his license on inactive status must include written evidence that Respondent has reported this Order to all other jurisdictions in which Respondent is licensed, as required by the "Other Terms" Section of this Order. Upon the approval of such request, Respondent may cease to comply with the terms of this Order. Failure to comply with the terms of this Order while inactive shall not constitute a violation of this Order. While inactive, Respondent shall not perform any act in Colorado that constitutes the practice medicine, nor shall Respondent perform any act in any other jurisdiction pursuant to the authority of a license to practice medicine granted by the state of Colorado. Unless Respondent's license is inactive, Respondent must comply with all terms of this Order, irrespective of Respondent's location. The probationary period will be tolled for any period of time Respondent's license is inactive.

30. Respondent may resume the active practice of medicine at any time pursuant to written request and as set forth in section 12-36-137(5), C.R.S. With such written request, Respondent shall demonstrate engagement in CPHP activities as required by CPHP and shall nominate any necessary monitor required by CPHP as provided above. Respondent shall cause CPHP to perform an updated evaluation of Respondent. Respondent shall be permitted to resume the active practice of medicine only after approval of the required monitor(s) and only after submission of and approval of an updated evaluation from CPHP.

TERMINATION OF PROBATION

31. Upon the expiration of the probationary period, Respondent may submit a written request for restoration of Respondent's license to unrestricted status. If Respondent has complied with the terms of probation, and if Respondent's probationary period has not been tolled, such release shall be granted by the Panel in the form of written notice.

PERMANENT CHAPERONE REQUIREMENT

32. Whenever Respondent is physically present with a female patient in Colorado, a third person female who is not related by blood or marriage shall be

continuously present as a chaperone. Respondent shall be responsible for arranging for the presence of the female chaperone. Respondent shall document the name of the chaperone in the patient's chart for each appointment or contact.

33. The chaperone requirement may not be waived unless the patient executes a knowing and voluntary waiver of the chaperone requirement. In order to establish a knowing and voluntary waiver of the female chaperone requirement, the female patient must sign the following statement:

Waiver of Colorado Medical Board's Chaperone Requirement

1) Dr. Singer was disciplined in Wyoming for a boundary violation with a female patient during an office visit.
2) Dr. Singer is required by the Colorado Medical Board to have a female chaperone present with all female patients.
3) By signing this form, I have read the terms and voluntarily waive the chaperone requirement required by the Colorado Medical Board.

____
Printed Patient's Name:_________________
Date:______________________________

34. The chaperone waiver form must be given to all female patients choosing to waive a female chaperone prior to the appointment time or, at the latest, at the time the patient presents to the office for her appointment. A new waiver must be executed upon each additional contact with Respondent.

35. The chaperone waiver form shall be contained on a page with no additional information. As described above, the page shall be titled "Waiver of Colorado Medical Board's Chaperone Requirement". The form shall be in, at a minimum, 14 point font. As described above, the waiver form must include a signature line and a place for each patient to print her name, together with the date of the signature.

36. No later than the 5th of each month, Respondent shall submit to the Panel a list of every female patient who waived her right to a female chaperone in the prior month, together with the date of the patient encounter.

Disclosure Requirement

37. Respondent shall create and use a document entitled "Patient Bill of Rights" as follows:

Patient Bill of Rights

You have the right as a patient in this office to:

Receive consistently high quality health care;

Be treated in full confidentiality with caring, kindness, respect and dignity;

Be treated regardless of your race, creed, religion, color or economic status;

Be treated in a physically safe environment;

Be treated in a psychologically safe environment, free of physically, emotionally or sexually inappropriate behavior on the part of the physician or staff.

You have the right to voice any objections or comments you may have without fear of reprisal. To report any problem(s) or violation(s) by this physician you may contact any of these organizations of which this physician is a member:

American Medical Association
American Osteopathic Association
American Academy of Family Physicians
Colorado Medical Board

PERMANENT PRACTICE RESTRICTION

38. Respondent is permanently restricted from providing any type of hormone replacement therapy to patients. Respondent may petition the monitoring panel to rescind this restriction. The decision to rescind the practice restriction shall be at the sole discretion of the monitoring panel. The monitoring panel may only rescind the restriction if Respondent first establishes to the satisfaction of the monitoring panel that he is fully educated and proficient in evaluating and treating conditions requiring hormone replacement therapy and in administration of hormone replacement medications.

39. Respondent may provide Progesterone and Estrogen therapy to patients. However, Respondent is prohibited from providing all other types of hormone replacement therapy to patients.

40. All patients for whom Respondent provides other types of hormone replacement therapy other than Progesterone or Estrogen therapy must be referred to another health care provider who may legally provide this type of therapy. Respondent is to identify and notify affected patients in writing and strongly suggest that this patient population be transferred to another health care provider.

41. Providing refills of medications to patients is the practice of medicine and is prohibited if such medication refill constitutes a prohibited hormone replacement therapy.

42. At all times during which Respondent is physically located in Colorado, all medical decisions and orders, including the prescription of medications by telephone, and regardless of the location of his patient, constitute the practice of

medicine in Colorado. Therefore, as long as and whenever, respondent is physically located in Colorado, he can provide only those medical services permitted by this Order.

43. The terms of this Order do not apply to Respondent's practice in Wyoming.

OTHER TERMS

44. The terms of this Order were mutually negotiated and determined.

45. Both parties acknowledge that they understand the legal consequences of this Order; both parties enter into this Order voluntarily; and both parties agree that no term or condition of this Order is unconscionable.

46. All costs and expenses incurred by Respondent to comply with this Order shall be the sole responsibility of Respondent, and shall in no way be the obligation of the Board or Panel.

47. Respondent shall report this Order to all other jurisdictions in which Respondent is licensed.

48. Respondent shall submit an update to his profile with the Healthcare Professions Profiling Program regarding this Order within thirty (30) days of the effective date of this Order.

49. During the probationary period or any period in which a physician is subject to prescribing restrictions, no physician shall perform an assessment of a patient's medical history and current medical condition, including a personal physical examination, for the purpose of concluding that a patient may benefit from the use of medical marijuana, recommending the use of medical marijuana or certifying a debilitating medical condition for an applicant to the Colorado Medical Marijuana Program. Respondent hereby understands and agrees that he shall not certify to the state health agency that a patient has a debilitating medical condition or that the patient may benefit from the use of medical marijuana.

50. Respondent shall obey all state and federal laws while the terms of this Order are in effect.

51. So that the Board may notify hospitals of this agreement pursuant to section 12-36-118(13), C.R.S., Respondent presently holds privileges at or is employed by the following hospitals and facilities:

52. None

53. This Order and all its terms shall have the same force and effect as an

order entered after a formal disciplinary hearing pursuant to section 12-36-118(5)(g)(III), C.R.S., except that it may not be appealed. Failure to comply with the terms of this Order may be sanctioned by the Inquiry Panel as set forth in section 12-36-118(5)(g)(IV), C.R.S. This Order and all its terms also constitute a valid board order for purposes of section 12-36-117(1)(u), C.R.S.

54. This Order shall be admissible as evidence at any proceeding or future hearing before the Board.

55. Invalidation of any portion of this Order by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

56. During the pendency of any action arising out of this Order, the terms of this Order shall be deemed to be in full force and effect and shall not be tolled.

57. Respondent acknowledges that the Panel may choose not to accept the terms of this Agreement and that if the Agreement is not approved by the Panel and signed by a Panel member or other authorized person, it is void.

58. This Order shall be effective upon (a) mailing by first-class mail to Respondent at Respondent's address of record with the Board, or (b) service by electronic means on Respondent at Respondent's electronic address of record with the Board. Respondent hereby consents to service by electronic means if Respondent has an electronic address on file with the Board.

59. Upon becoming effective, this Order shall be open to public inspection and shall be publicized pursuant to the Board's standard policies and procedures. This Order constitutes discipline against Respondent's license. Additionally, this Order shall be reported to the Federation of State Medical Boards, the National Practitioner Data Bank and as otherwise required by law.

---THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK---

Jonathan Singer, D.O.

THE FOREGOING was acknowledged before me this 14th day of

SEPTEMBER, 2016 by Jonathan Singer, D.O. in the County of

DOUGLAS, State of COLORADO.

NOTARY PUBLIC

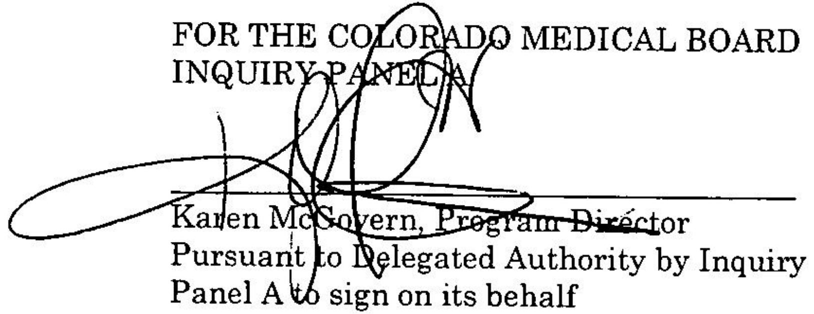
8/27/2020

My commission expires

DUSTIN W HERSHEY
Notary Public - State of Colorado
Notary ID 20124056098
My Commission Expires Aug 27, 2020

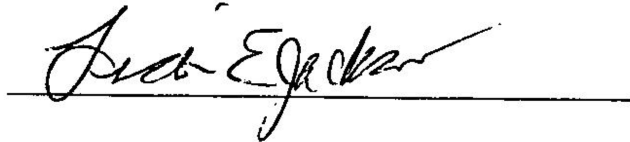
THE FOREGOING Stipulation and Final Agency Order is approved this 15th day of September, 2016.

FOR THE COLORADO MEDICAL BOARD
INQUIRY PANEL A



Karen McGovern, Program Director
Pursuant to Delegated Authority by Inquiry Panel A to sign on its behalf

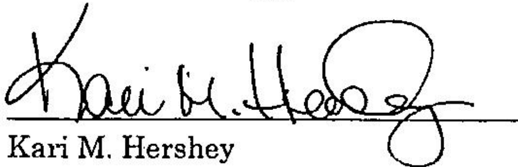
THE FOREGOING Stipulation and Final Agency Order is effective upon service to Respondent, on September 15, 2016.



APPROVED AS TO FORM:

FOR THE RESPONDENT
JONATHAN SINGER, D.O.

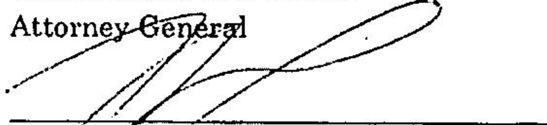
HERSHEY DECKER



Kari M. Hershey
10463 Park Meadows Dr., Suite 209
Lone Tree, CO 80124
Telephone: (303) 226-1680
FAX: (303) 226-1668

FOR THE COLORADO MEDICAL BOARD

CYNTHIA H. COFFMAN
Attorney General



Kyle C. Dumler*
Senior Assistant Attorney General
Business and Licensing Section
Attorneys for the Colorado Medical Board
Inquiry Panel A
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 8th Floor
Denver, Colorado 80203
Telephone: (720) 508-6415
FAX: (720) 508-6037
kyle.dumler@state.co.us
*Counsel of Record

BEFORE THE COLORADO MEDICAL BOARD
STATE OF COLORADO

CASE NO. 2011-001843-A

SECOND INTERIM PRACTICE AGREEMENT

IN THE MATTER OF THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF JONATHAN W. SINGER, D.O., LICENSE NUMBER DR-29309,

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel A ("Panel") of the Colorado Medical Board ("Board") and Jonathan W. Singer, D.O. ("Respondent") as follows:

1. Respondent was licensed to practice medicine in the state of Colorado on January 19, 1989 and was issued license number DR-29309, which Respondent has held continuously since that date.

2. The Panel and the Board have jurisdiction over Respondent and over the subject matter of this proceeding.

3. On January 13, 2011, the Panel reviewed case number 2011-001843-A and subsequently issued a notice of pre-suspension hearing pursuant to Board Rule 280, 3 C.C.R. 713-18, to determine whether summary suspension of Respondent's license was warranted pursuant to section 24-4-104(4), C.R.S.

4. On April 14, 2011, after a pre-summary suspension hearing at which Respondent was present with counsel, the Panel reviewed information relating to Board Case number 2011-001843-A. This information continued to raise concerns that Respondent may not be able to practice medicine with reasonable skill and safety to patients.

5. The parties have agreed to stay potential summary suspension proceedings while CPHP and the Panel further review Respondent's ability to practice medicine safely. Therefore, the parties have agreed to enter into this Second Interim Practice Agreement ("Second Interim Agreement") pursuant to which the summary suspension proceedings are stayed while investigations and evaluations continue so that the Panel may determine what action, if any, is warranted.

6. Respondent specifically agrees that while this Second Interim Agreement is in effect his practice is restricted in the following manner:

CHAPERONE REQUIREMENT

7. Whenever Respondent is physically present with a female patient, a third person who is not related to Respondent by blood or marriage shall be continuously present as a chaperone. Respondent shall be responsible for arranging for the presence of the chaperone. Respondent shall document the name of the chaperone in the patient's chart for each appointment or contact.

8. The chaperone requirement may not be waived unless the patient executes a knowing and voluntary waiver of the requirement. In order to establish a knowing and voluntary waiver of the chaperone requirement, any female patient who wishes to waive the chaperone requirement must sign the following statement:

Waiver of Colorado Medical Board's Chaperone Requirement

1) Dr. Singer was disciplined in Wyoming for a boundary violation with a female patient during an office visit.

2) Dr. Singer is under investigation in Colorado for the same boundary violation.

3) During the period of Colorado's investigation, Dr. Singer is required by the Colorado Medical Board to have a chaperone present with all female patients.

4) By signing this form, I have read the terms and voluntarily waive the chaperone requirement required by the Colorado Medical Board.

____

Printed Patient's Name: _______________

Date: ________________________

9. The chaperone waiver form must be given to all female patients choosing to waive a chaperone prior to her appointment time or, at the latest, at the time the patient presents to the office staff for her appointment. A new waiver form must be executed upon each additional contact with Respondent.

10. The chaperone waiver form shall be contained on a page with no additional information. As described above, the paper shall be titled "Waiver of Colorado Medical Board's Chaperone Requirement." All statements must be made in a minimum of 14 point font. As described above, the waiver form must include a signature line and a place for each patient to print her name, together with the date of her signature.

11. No later than the 5th of each month, Respondent shall submit to the Panel a list of every female patient who waived her right to a chaperone in the prior month, together with the date of the patient encounter.

DISCLOSURE REQUIREMENT

12. Respondent shall create a document entitled "Patient Bill of Rights" as follows:

Patient Bill of Rights

You have the right as a patient in this office to:
-consistently high quality medical/surgical care.
-be treated in full confidentiality with caring, kindness, respect and dignity.
-be treated regardless of your race, creed, religion, color or economic status.
-a physically safe environment, free of exposure to hazardous materials.
-a psychologically safe environment, free of physically, emotionally or sexually inappropriate behavior on the part of the physician or staff.

You have the right to voice any objections or comments you may have without fear of reprisal. To report any problems or violation by this physician please contact any of these organizations of which this physician is a member:
American Medical Association
American Osteopathic Association
American Academy of Family Physicians
Colorado Medical Board

13. The Respondent shall ensure that a copy of the above-described document is signed and dated by each of his current and future patients and placed in the respective medical chart of each of his current and future patients.

OTHER TERMS

14. This Second Interim Agreement shall remain in effect until such time as the parties reach a final disposition of this case or, in the event additional summary suspension proceedings are initiated, until such time as an order for summary suspension enters.

15. The Panel agrees that it will not institute summary suspension proceedings while this Second Interim Agreement is in effect so long as the Respondent remains in compliance with this Second Interim Agreement and so long as the Panel does not learn of substantially new information that would indicate that summary suspension is warranted.

16. Nothing in this Second Interim Agreement shall constitute disciplinary action, a finding that Respondent has engaged in unprofessional conduct, or any admission by Respondent of unprofessional conduct. There have been no final determinations regarding Respondent's professional competence or professional conduct. Nothing in this Second Interim Agreement shall constitute final actions as defined in section 24-4-102(1), C.R.S.

17. Nothing in this Second Interim Agreement shall preclude the Panel from initiating disciplinary action pursuant to section 12-36-118, C.R.S., or issuing a Final Agency Order even while this Second Interim Agreement is in effect.

18. Respondent understands that Respondent has the right to be represented by counsel of Respondent's choice in this matter, and Respondent is represented by counsel in this matter.

19. The terms of this Second Interim Agreement were mutually negotiated and determined.

20. Both parties acknowledge that they understand the legal consequences of this Second Interim Agreement, both parties enter into this Second Interim Agreement voluntarily, and both parties agree that no term or condition of this Second Interim Agreement is unconscionable.

21. This Second Interim Agreement and all its terms constitute a valid board order for purposes of section 12-36-117(1)(u), C.R.S.

22. So that the Board may notify hospitals of this Second Interim Agreement, Respondent presently holds privileges at the following hospitals:

____

____

23. Invalidation of any portion of this Second Interim Agreement by judgment or court order shall in no way affect any other provision, which provision shall remain in full force and effect.

24. This Second Interim Agreement shall be effective upon signature by Respondent. Respondent acknowledges that the Panel may choose not to accept the terms of this Second Interim Agreement and that if the Second Interim Agreement is not approved by the Panel and signed by a Panel member, it is void.

25. This Second Interim Agreement constitutes the entire agreement between the parties, and there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Second Interim Agreement. This Second Interim Agreement supersedes the Interim Agreement effective on February 16, 2011.

26. All costs and expenses incurred by Respondent to comply with this Second Interim Agreement shall be the sole responsibility of Respondent, and shall in no way be the obligation of the Board or Panel.

27. This Second Interim Agreement shall constitute a public record but is not reportable to the National Practitioner Data Bank or to the Healthcare Integrity Protection Data Bank.

JONATHAN W. SINGER, D.O.

The foregoing was acknowledged before me this 6 day of May, 2011 by JONATHAN W. SINGER, D.O., in the County of Arapahoe, State of Colorado.

NOTARY PUBLIC

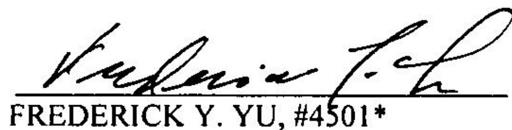
June 6, 2011
Commission expiration date

THE FOREGOING Second Interim Practice Agreement is approved and effective this 18 day of May, 2011.

FOR THE COLORADO MEDICAL BOARD
INQUIRY PANEL A

APPROVED AS TO FORM:

SHERMAN & HOWARD, LLC
Attorneys at Law



FREDERICK Y. YU, #4501*

Attorney for the Respondent

633 17th Street, Suite 3000
Denver, CO 80202
Telephone: (303) 297-2900
Facsimile: (303) 298-0940

*Counsel of Record

FOR THE COLORADO MEDICAL BOARD

JOHN W. SUTHERS

Attorney General

ASHLEY MOLLER KLEIN #29362*
MADELINE MELLERS, #34603*

Assistant Attorneys General
Business and Licensing Section

Attorneys for Colorado Medical Board,
Inquiry Panel A

1525 Sherman Street, 7th Floor
Denver, CO 80203
Telephone: (303) 866-5473
Facsimile: (303) 866-5395

*Counsel of Record

BEFORE THE COLORADO MEDICAL BOARD
STATE OF COLORADO

CASE NO. 2011-001843-A

INTERIM PRACTICE AGREEMENT

IN THE MATTER OF THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF JONATHAN W. SINGER, D.O., LICENSE NUMBER DR-29309,

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel A ("Panel") of the Colorado Medical Board ("Board") and Jonathan W. Singer, D.O. ("Respondent") as follows:

1. Respondent was licensed to practice medicine in the state of Colorado on January 19, 1989 and was issued license number DR-29309, which Respondent has held continuously since that date.

2. The Panel and the Board have jurisdiction over Respondent and over the subject matter of this proceeding.

3. On January 13, 2011, the Panel reviewed case number 2011-001843-A and subsequently issued a notice of pre-suspension hearing pursuant to Board Rule 280, 3 C.C.R. 713-18, to determine whether summary suspension of Respondent's license was warranted pursuant to section 24-4-104(4), C.R.S.

4. The Panel set the pre-suspension hearing for its next meeting, February 16, 2011. Due to scheduling conflicts, Respondent has requested a continuance until the Panel's meeting on April 14, 2011.

5. The parties have agreed to stay potential summary suspension proceedings while CPHP and the Panel further review Respondent's ability to practice medicine safely. Therefore, the parties have agreed to enter into this Interim Practice Agreement ("Interim Agreement") pursuant to which the summary suspension proceedings are stayed until Respondent can appear for a pre-suspension hearing. At its discretion, the Panel may determine whether to take action after the pre-suspension hearing or continue to enforce this Interim Agreement while investigations and evaluations continue.

6. Respondent specifically agrees that while this Interim Agreement is effect his practice is restricted in the following manner:

CHAPERONE REQUIREMENT

Whenever Respondent is physically present with a female patient, a third person shall be continuously present as a chaperone. Respondent shall be responsible for arranging for the presence of the chaperone. Respondent shall document the name of the chaperone in the patient's chart for each appointment or contact.

7. This Interim Agreement shall remain in effect until such time as the parties reach a final disposition of this case or, in the event additional summary suspension proceedings are initiated, until such time as an order for summary suspension enters.

8. The Panel agrees that it will not institute summary suspension proceedings prior to the pre-suspension hearing currently set for April 14, 2011, so long as the Respondent remains in compliance with this Interim Agreement and so long as the Panel does not learn of substantially new information that would indicate that summary suspension is warranted. At its discretion, the Panel may vacate this Interim Agreement following the pre-suspension hearing and institute summary suspension proceedings if it determines such proceedings to be necessary.

9. Nothing in this Interim Agreement shall constitute disciplinary action, a finding that Respondent has engaged in unprofessional conduct, or any admission by Respondent of unprofessional conduct. There have been no final determinations regarding Respondent's professional competence or professional conduct. Nothing in this Interim Agreement shall constitute final actions as defined in section 24-4-102(1), C.R.S.

10. Nothing in this Interim Agreement shall preclude the Panel from initiating disciplinary action pursuant to section 12-36-118, C.R.S., or issuing a Final Agency Order even while this Interim Agreement is in effect.

11. Respondent understands that Respondent has the right to be represented by counsel of Respondent's choice in this matter, and Respondent is represented by counsel in this matter.

12. The terms of this Interim Agreement were mutually negotiated and determined.

13. Both parties acknowledge that they understand the legal consequences of this Interim Agreement, both parties enter into this Interim Agreement voluntarily, and both parties agree that no term or condition of this Interim Agreement is unconscionable.

14. This Interim Agreement and all its terms constitute a valid board order for purposes of section 12-36-117(1)(u), C.R.S.

15. So that the Board may notify hospitals of this Interim Agreement, Respondent presently holds privileges at the following hospitals:

____

____

16. Invalidation of any portion of this Interim Agreement by judgment or court order shall in no way affect any other provision, which provision shall remain in full force and effect.

17. This Interim Agreement shall be effective upon signature by Respondent. Respondent acknowledges that the Panel may choose not to accept the terms of this Interim Agreement and that if the Interim Agreement is not approved by the Panel and signed by a Panel member, it is void.

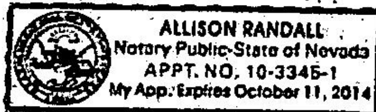
18. This Interim Agreement constitutes the entire agreement between the parties, and there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Interim Agreement.

19. All costs and expenses incurred by Respondent to comply with this Interim Agreement shall be the sole responsibility of Respondent, and shall in no way be the obligation of the Board or Panel.

20. This Interim Agreement shall constitute a public record but is not reportable to the National Practitioner Data Bank or to the Healthcare Integrity Protection Data Bank.

JONATHAN W. SINGER, D.O.

The foregoing was acknowledged before me this 10 day of February, 2011 by JONATHAN W. SINGER, D.O., in the County of Clark, State of Nevada.



Allison Randall
NOTARY PUBLIC

October 11, 2014
Commission expiration date

Best Copy Available

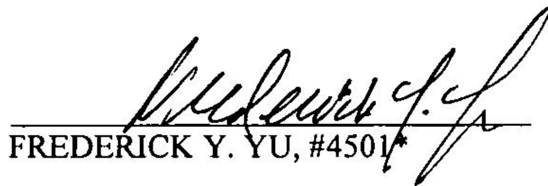
THE FOREGOING Interim Practice Agreement is approved and effective this 16th day of February, 2011.

FOR THE COLORADO MEDICAL BOARD
INQUIRY PANEL A

APPROVED AS TO FORM:

FOR THE COLORADO MEDICAL BOARD

SHERMAN & HOWARD, LLC
Attorneys at Law



FREDERICK Y. YU, #4501*

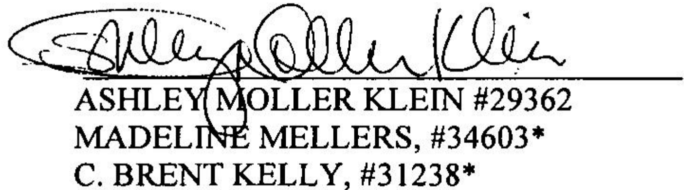
Attorneys for the Respondent

633 17th Street, Suite 3000
Denver, CO 80202
Telephone: (303) 297-2900
Facsimile: (303) 298-0940

*Counsel of Record

JOHN W. SUTHERS

Attorney General



ASHLEY MOLLER KLEIN #29362
MADELINE MELLERS, #34603*
C. BRENT KELLY, #31238*

Assistant Attorneys General
Business and Licensing Section

Attorneys for Colorado Medical Board,
Inquiry Panel A

1525 Sherman Street, 7th Floor
Denver, CO 80203
Telephone: (303) 866-5473
Facsimile: (303) 866-5395

*Counsel of Record

STATE OF COLORADO

BOARD OF MEDICAL EXAMINERS
Susan Miller
Program Administrator

1560 Broadway, Suite 1300
Denver, CO 80202-5140
Phone (303) 894-7690
Fax (303) 894-7692
V/TDD (303) 894-7880
http://www.dora.state.co.us/medical/

Department of Regulatory Agencies
M. Michael Cooke
Executive Director

Division of Registrations
Bruce M. Douglas, Director

Bill Owens
Governor

VIA CERTIFIED MAIL
September 6, 2001
Case #5101012070

Jonathan W. Singer, D.O.

Dear Dr. Singer:

Inquiry Panel A of the Colorado Board of Medical Examiners has concluded its inquiry regarding your failure to provide practice monitoring reports as required by the April 22, 1999 Final Board Order ("Order"). It was the Panel's decision not to commence with formal proceedings against your license to practice medicine. However, the Panel did vote to administer disciplinary action to you in the form of this letter of admonition.

After considering all of the available information, the Panel found that you have failed to comply with paragraph 8 of the Order which requires that all reports by your practice monitor must be submitted to the Panel on time. Failure to comply with the Board's Order constitutes unprofessional conduct. Because your practice monitoring reports were in arrears from October of 2000 through July 2001, your probationary period shall be tolled for the ten months that you were not in compliance with the Order.

By this letter, the Panel hereby admonishes you and cautions you that complaints disclosing any repetition of such practice may lead to the commencement of formal disciplinary proceedings against your license to practice medicine, wherein this letter of admonition may be entered into evidence as aggravation.

You are advised that it is your right to have this case reviewed by judicial procedure. To do so, you must submit a written request within twenty (20) days after receipt of this letter. In your request, you must clearly ask that formal disciplinary proceedings be initiated against you to adjudicate the propriety of the conduct upon which this letter of admonition is based. If such request is timely made, this letter of admonition will be deemed vacated, and the matter will be processed by means of a formal complaint and hearing. This is in accordance with the provisions of the Medical Practice Act governing the discipline of licensed physicians.

Very truly yours,

FOR THE BOARD OF MEDICAL EXAMINERS
INQUIRY PANEL A

Jane A Kennedy DO

Jane A. Kennedy, D.O.
Chair

JAK/de

H:\med\eccleston\panela\090601.doc(jp)

BEFORE THE STATE BOARD OF MEDICAL EXAMINERS

STATE OF COLORADO

ME 96-30

AMENDED FINAL BOARD ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF JONATHAN W. SINGER, D.O., LICENSE NO. 29309,

Respondent.

This matter came before Hearing Panel B of the Colorado Board of Medical Examiners ("the Hearing Panel") on May 21, 1999 for review of the Final Board Order ("the Order") issued on April 22, 1999 and Respondent's Request for Clarification, Hearing, and Stay Pending Clarification filed with the Hearing Panel on April 29, 1999. The April 22 Final Board Order is attached as Exhibit A. Having reviewed and discussed Respondent's requests, Hearing Panel B issues the following Order:

1. The provisions of the original Order remain in full force and effect, and are hereby incorporated in this Order.

2. The practice restriction set forth in paragraph 3 of the Order is a permanent restriction which goes beyond the five-year probationary period set forth in paragraph 2 of the Order. Unless the monitoring Panel specifically rescinds the restriction pursuant to the provisions of paragraph 3 of the Order, it will remain in effect permanently.

3. With respect to the extent of the practice restriction, Respondent may provide Progesterone and Estrogen therapy to patients. However, Respondent is prohibited from providing all other types of hormone replacement therapy to patients.

4. All patients for whom Respondent provides other types of hormone replacement therapy other than Progesterone or Estrogen therapy must be referred to another health care provider who may legally provide this type of therapy. The Hearing Panel advises Respondent to identify and notify affected patients in writing and strongly suggests that this patient population be transferred to another health care provider prior to Respondent's return to practice.

5. Providing refills of medications to patients is the practice of medicine and is prohibited if such medication refill constitutes a prohibited hormone replacement therapy.

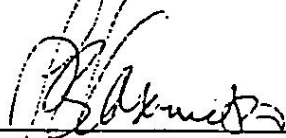
6. At all times during which Respondent is physically located in Colorado, all medical decisions and orders, including the prescription of medications by telephone, and regardless of the location of his patient, constitute the practice of

medicine in Colorado. Therefore, as long as and whenever, Respondent is physically located in Colorado, he can provide only those medical services permitted by this Amended Order.

7. The terms of the Order and the Amended Order do not apply to Respondent's practice in Wyoming.

Dated and signed this 24th day of May, 1999.

FOR THE COLORADO STATE BOARD OF MEDICAL EXAMINERS
HEARING PANEL B



Louis B. Kasunic, D.O.
Chair

BEFORE THE STATE BOARD OF MEDICAL EXAMINERS

STATE OF COLORADO

ME 96-30

FINAL BOARD ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF JONATHAN W. SINGER, D.O., LICENSE NO. 29309,

Respondent.

This matter came before Hearing Panel B of the Colorado Board of Medical Examiners ("the Hearing Panel") for review of the Initial Decision of Administrative Law Judge Marshall A. Snider ("the ALJ") issued in the above referenced case on March 31, 1998. That decision is incorporated by reference as though fully set forth herein.

On April 20, 1998, Petitioner Inquiry Panel A filed a Designation of Record and Transcripts and a Request for Oral Argument.

On April 30, 1998, Respondent filed a Designation of Record and Transcripts.

On May 11, 1998, Petitioner Inquiry Panel A filed a Response to Respondent's Designation of Record and Transcripts.

On November 23, 1998, Petitioner Inquiry Panel A filed Exceptions to the Initial Decision of the ALJ.

On January 6, 1999, Respondent filed Exceptions to the Initial Decision of the ALJ and a Response to the Exceptions of Inquiry Panel A.

On January 15, 1999, Petitioner Inquiry Panel A filed a Response to Respondent's Exceptions.

Pursuant to the Colorado Board of Medical Examiners' Rules and Regulations regarding Exceptions to Initial Decisions and Related Matters, Petitioner Inquiry Panel A's request for Oral Argument was granted.

On March 25, 1999, the Hearing Panel considered the Initial Decision of the ALJ, the subsequent pleadings filed by the parties as noted above, and the designated portions of the hearing record. The Hearing Panel also heard oral argument by the parties. Present during oral argument and deliberation was Conflicts Counsel from the Office of the Attorney General.

D.O.R.A.
Exhibit A

After due consideration of the record, including mitigating factors, and otherwise being fully advised in the premises, the Hearing Panel pursuant to Sections 12-36-118(5)(g)(III) and 24-4-105, C.R.S., makes the following FINDINGS AND CONCLUSIONS:

1. The ALJ's Findings of Fact are supported by the record and are affirmed and adopted by the Hearing Panel.

2. Respondent's Exceptions to the Initial Decision are not supported by the record and are rejected by the Hearing Panel.

3. The Hearing Panel reviewed Petitioner Inquiry Panel A's Exceptions to the Initial Decision of the ALJ and finds as follows:

> a) Respondent's diagnosis and treatment of thyroid disease in numerous patients constituted conduct which fell below generally accepted standards of medical practice because Respondent administered a thyroid hormone without adequate justification and without adequate monitoring of thyroid function.
>
> b) Respondent's use of desiccated thyroid for thyroid replacement therapy did not constitute conduct which fell below generally accepted standards of medical practice. The Hearing Panel's findings regarding the use of desiccated thyroid are specifically limited to the facts set forth in this case.
>
> c) Respondent's administration of an adrenal cortex injection fell below generally accepted standards of medical practice because he administered that substance without medical justification.

4. The Hearing Panel found the ALJ's Conclusions of Law, paragraphs 1, 2, 3, 4B, 4E, 4F, 4G, 4H, 4I, 4J, and 5 were supported by the record and are affirmed and adopted by the Hearing Panel.

5. The Hearing Panel rejects the ALJ's Conclusions of Law as set forth in paragraph 4A, 4C, and 4D.

Respondent argues that the ALJ did not believe the violations proved at hearing warranted revocation or suspension of his license. Further, Respondent argues that his continued practice is not incompatible with public protection. Respondent expressed his remorse for the harm he caused to patients and pointed out to the Hearing Panel that he did self-report these incidents to the proper authorities. Finally, Respondent argued that the prior disciplinary actions taken by the Air Force and the Ohio Medical Board were thirteen years ago and resulted from isolated incidents. Thus, Respondent believes the sanction recommended by the ALJ is more than adequate to ensure public protection.

Petitioner Inquiry Panel A argues that Respondent has demonstrated a continued and disturbing pattern of substandard medical practice in his career as evidenced by the past disciplinary actions taken by the Ohio Medical Board and the United States Air Force. Further, Petitioner Inquiry Panel A argues that Respondent's

unprofessional conduct is long-standing and pervades many areas of his medical practice. Finally, Petitioner Inquiry Panel A argues that Respondent has shown no remorse or contrition for his actions; thus, the current findings of the ALJ, aggravated by past disciplinary actions, warrant revocation by the Hearing Panel.

The Hearing Panel was not entirely persuaded by either the Inquiry Panel's or the Respondent's arguments. The Hearing Panel has considered the sanction recommended by the ALJ and his rationale for it. However, the Hearing Panel rejects the ALJ's recommended sanction as insufficient to protect the public welfare and safety.

THEREFORE, IT IS ORDERED that the license to practice medicine in the State of Colorado of Jonathan W. Singer, D.O., shall be subject to the terms and restrictions set forth below.

SUSPENSION OF PRACTICE

1. Respondent's license to practice medicine in Colorado is hereby suspended for a period of 30 days. Said suspension shall commence on May 3, 1999. During the period of suspension, Respondent shall perform no act defined as the practice of medicine in Section 12-36-106, C.R.S. This prohibition from practicing medicine shall apply irrespective of Respondent's location. Respondent may not practice medicine under the authority of his license issued by any other medical licensing board during the period of suspension.

PROBATIONARY TERMS

2. Following the 30 day suspension, Respondent's license to practice medicine is hereby placed on probation for five years. During the probationary period, Respondent will be bound by the terms and restrictions set forth below.

PRACTICE RESTRICTION

3. Respondent is permanently restricted from providing any type of hormone replacement therapy to patients. Respondent may petition the monitoring panel to rescind this restriction. The decision to rescind the practice restriction shall be at the sole discretion of the monitoring panel. The monitoring panel may only rescind the restriction if Respondent first establishes to the satisfaction of the monitoring panel that he is fully educated and proficient in evaluating and treating conditions requiring hormone replacement therapy and in administration of hormone replacement medications.

PRACTICE MONITORING

4. During the probationary period, Respondent's medical practice shall be monitored by a "practice monitor." Within 30 days of the date of this Order, the Respondent shall nominate, in writing, a proposed practice monitor for the monitoring panel's approval. The nominee shall be a physician licensed by the Board and currently practicing medicine in Colorado. The nominee shall have no financial interest in Respondent's practice of medicine. The nominee must be knowledgeable in Respondent's area of practice. If Respondent is board certified in an area of practice, it is preferred, but not required, that the nominee be board certified by that same

board. If the Respondent has privileges at hospitals, it is preferred, but not required, that the nominee have privileges at as many of those same hospitals as possible. The nominee shall not have been disciplined by the Board.

5. Respondent's nomination for practice monitor shall set forth how the nominee meets the above criteria. With the written nomination, Respondent shall submit a letter signed by the nominee as well as a current curriculum vitae of the nominee. The letter from the nominee shall contain a statement from the nominee indicating that the nominee has read this Order and understands and agrees to perform the obligations set forth herein. The nominee must also state that the nominee can be fair and impartial in the review of the Respondent's practice.

6. Upon approval by the monitoring panel, the practice monitor shall perform the following:

a) Each month, the practice monitor shall visit all the offices at which Respondent practices medicine, and review at least five charts maintained by Respondent. The practice monitor shall make reasonable efforts to insure that Respondent has no notice of which charts will be selected for review. The practice monitor is authorized to review such other medical records maintained by Respondent as the practice monitor deems appropriate.

b) Each month, the practice monitor shall review at least five hospital charts of patients whom Respondent has admitted to hospitals. If Respondent has admitted fewer than five patients, the practice monitor shall review all the patients so admitted, if any. The practice monitor shall make reasonable efforts to insure that Respondent has no notice of which charts will be selected for review. The practice monitor is authorized to review such other hospital charts as the practice monitor deems appropriate.

c) The practice monitor shall submit quarterly written reports to the monitoring panel.

d) The practice monitor's reports shall include the following:

i. a description of each of the cases reviewed; and

ii. as to each case reviewed, the practice monitor's opinion whether Respondent is practicing medicine in accordance with generally accepted standards of medical practice.

7. If at any time the practice monitor believes Respondent is not in compliance with this Order, is unable to practice with skill and with safety to patients or has otherwise committed unprofessional conduct as defined in 12-36-117(1), C.R.S., the practice monitor shall immediately inform the monitoring panel.

8. It is the responsibility of the Respondent to assure that the practice monitor's reports are timely and complete. Failure of the practice monitor to perform the duties set forth above may result in a notice from the Board staff requiring the nomination of a new practice monitor. Upon such notification, Respondent shall nominate a new practice monitor according to the procedure set forth above. Respondent shall nominate the new monitor within 30 days of such notice. Failure to nominate a new monitor within 30 days of such notification shall constitute a violation of this Order.

CPEP LEARNING PLAN

9. Within 30 days of the date of this Order, Respondent shall contact Colorado Personalized Education for Physicians ("CPEP") for the purposes of an assessment. Respondent shall complete and sign the written assessment within 90 days of the effective date of this Order. Respondent shall fully cooperate with CPEP in the completion of a written learning plan and shall sign the written learning plan within 180 days of the effective date of this Order. Respondent shall cause CPEP to send a copy of the signed, written learning plan to the monitoring panel. Respondent shall successfully complete the educational activities set out in the learning plan, including any final evaluation, within the time set out by CPEP, but in no event more than two years from the effective date of this Order. All instructions made by CPEP shall constitute terms of this Order, and shall be complied with within the time periods set out by CPEP.

10. Upon successful completion of the learning plan, including any final assessment, Respondent shall provide the Panel with written proof from CPEP of such successful completion.

OUT OF STATE PRACTICE

11. Respondent may wish to leave Colorado and practice in another state. At any time, whether to practice out of state, or for any other reason, Respondent may request that the Board place Respondent's license on inactive status as set forth in 12-36-137, C.R.S. Upon the approval of such request, Respondent may cease to comply with practice monitoring only. Failure to comply with practice monitoring while inactive shall not constitute a violation of this Order. While inactive, Respondent must comply with all other provisions of this Order. Unless Respondent's license is inactive, Respondent must comply with the practice monitoring provision, irrespective of Respondent's location. The probationary period will be tolled for any period of time Respondent's license is inactive.

12. Respondent may resume the active practice of medicine at any time as set forth in 12-36-137(5), C.R.S. With such request, Respondent shall nominate a practice monitor as provided above. Respondent shall be permitted to resume the active practice of medicine only after approval of the practice monitor.

TERMINATION OF PROBATION

13. Upon the expiration of the probationary period, Respondent may request restoration of Respondent's license to unrestricted status. If Respondent has complied with the terms of probation, and if Respondent's probationary period has not been

tolled, such release shall be granted by the monitoring panel in the form of written notice.

OTHER TERMS

14. All costs and expenses incurred by Respondent to comply with this Order shall be the sole responsibility of Respondent, and shall in no way be the obligation of the Board or Panel.

15. Respondent shall obey all state and federal laws during the probationary period.

16. So that the Board may notify hospitals of this agreement pursuant to 12-36-118(13), C.R.S., Respondent shall report to the Board in writing within 20 days of the date of this Order any hospitals where he presently holds privileges.

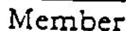
17. This Order shall be admissible as evidence at any future hearing before the Board.

18. During the pendency of any action arising out of this Order, the obligations of the parties shall be deemed to be in full force and effect and shall not be tolled.

The decision becomes final upon mailing. Any party adversely affected or aggrieved by any agency action may commence an action for judicial review before the Court of Appeals within 45 days after such action becomes effective. Reference Section 24-4-106(11) and 12-36-119, C.R.S.

Dated and signed this 22nd day of April, 1999.

FOR THE COLORADO STATE BOARD OF MEDICAL EXAMINERS
HEARING PANEL B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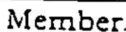
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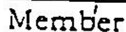
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