

BEFORE THE STATE BOARD OF MEDICAL EXAMINERS  
STATE OF COLORADO

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**STIPULATION AND FINAL AGENCY ORDER**

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IN THE MATTER OF THE APPLICATION FOR A LICENSE TO PRACTICE  
MEDICINE IN THE STATE OF COLORADO OF STEPHAN J. KITSON, M.D.,

Applicant.

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IT IS HEREBY STIPULATED and agreed by and between the Colorado State Board of Medical Examiners ("Board"), Panel B acting as licensing subcommittee pursuant to C.R.S. § 12-36-104(3) ("Panel") and Stephan J. Kitson, M.D. ("Applicant"), as follows:

• **JURISDICTION AND CASE HISTORY**

1. On September 10, 2006, Applicant filed an application with the Board for a license to practice medicine in the State of Colorado.
2. The Panel considered Applicant's application and decided to grant Applicant a restricted license to practice medicine in Colorado subject to the terms and conditions of this Stipulation and Final Agency Order ("Order").
3. The Panel and the Board have jurisdiction over Applicant and over the subject matter of this proceeding.
4. It is the intent of the parties and the purpose of this Order to grant Applicant a license to practice medicine subject to the restrictions described herein without the necessity of holding a formal 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. Applicant understands that:
  - a. Applicant has the right to be represented by an attorney of the Applicant's choice, and Applicant has voluntarily chosen to proceed without representation;
  - b. Applicant has the right to a formal hearing pursuant to C.R.S. §§ 12-36-116 and 24-4-104(9);
  - c. By entering into this Order, Applicant is knowingly and voluntarily giving up the right to a hearing, admits the facts contained in this Order, and relieves the Panel of its burden of proving such facts;

d. Applicant 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. Applicant is knowingly and voluntarily waiving the right to seek judicial review of this Order.

6. Applicant specifically admits and agrees that:

a. Applicant was licensed to practice medicine in the state of Utah in 1990, where he practiced as a psychiatrist. Applicant had inappropriate sexual contact with two patients between 1994 and 1996. Applicant's Utah medical license was revoked for unprofessional conduct in 1997, but was reissued in 2003 subject to 5 years probation and other terms.

b. Applicant has not practiced medicine since 1997. Applicant underwent an assessment in July 2007 through the Center for Personalized Education for Physicians ("CPEP"), which made recommendations for Applicant's return to practice.

7. Applicant admits that the conduct set forth above constitutes unprofessional conduct as defined in C.R.S. § 12-36-117(2), which states:

The discipline of a license to practice medicine or of a license to practice as a physician assistant in another state, territory, or country shall be deemed to be unprofessional conduct. For purposes of this subsection (2), "discipline" includes any sanction required to be reported pursuant to 45 CFR 60.8. This subsection (2) shall apply only to discipline that is based upon an act or omission in such other state, territory, or country that is defined substantially the same as unprofessional conduct pursuant to subsection (1) of this section.

8. Based upon the above, Applicant agrees that the Panel is authorized by C.R.S. § 12-36-116(1)(b), (c), and (d) to order such conditions upon Applicant's practice as it deems appropriate. Applicant acknowledges that by accepting this license in lieu of a hearing, Applicant waives all remedies outlined in C.R.S. § 24-4-104(9), as provided by C.R.S. § 12-36-116(3).

#### **ISSUANCE OF LICENSE**

9. Commencing on the effective date of this Order, Applicant shall be licensed to practice medicine in Colorado subject to all terms of this Order.

#### **PERMANENT PRACTICE RESTRICTION**

10. Applicant's license to practice medicine is permanently limited to medication evaluation and management, which must be in the context of a group practice. Applicant shall

not practice outside the scope of this restriction, provide individual psychotherapy, counseling, or any other treatment.

### **PROBATIONARY TERMS**

11. Applicant's license to practice medicine is hereby placed on probation on the effective date of this Order. Applicant agrees to be bound by the probationary terms and conditions set forth herein.

12. Applicant's probation shall proceed with the following conditions, which are further defined and contained in this Order:

- a. Applicant may not engage in any patient care or medical practice until he completes the Education Plan;
- b. Upon completion of the Education Plan, Applicant may begin patient care and medical practice subject to:
  - i. the Preceptor Period for at least 6 months; and
  - ii. the Quality Review Period for at least 18 months;
- c. Treatment Monitoring shall be continuous for 5 years upon the effective date of this Order;
- d. Applicant must complete a Boundaries Course within 6 months of the effective date of this Order; and
- e. Applicant must complete the Disclosure Requirement before engaging in any patient care or medical practice.

### **TREATMENT AND MONITORING**

13. Applicant shall receive such medical treatment as is determined to be appropriate by the Colorado Physician Health Program ("CPHP"). All instructions to Applicant by CPHP shall constitute terms of this Order, and Applicant must comply with any such instructions. Failure to comply with such instructions shall constitute a violation of this Order. CPHP shall also function as the "treatment monitor" as that term is used in this Order.

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

15. Applicant shall ensure that his treating psychologist is approved by CPHP and that the treating psychiatrist submits updates to CPHP regarding Applicant's status on a monthly basis and in accordance with any additional instructions from CPHP.

16. Applicant shall ensure that a workplace colleague is approved by CPHP to provide regular updates to CPHP. Applicant shall ensure that the workplace colleague submits updates to CPHP on a quarterly basis and in accordance with any additional instructions from CPHP.

17. Within 30 days of the effective date of this Order, and as often as may reasonably be required to allow the Panel access to Applicant's privileged information, Applicant shall complete an unrestricted release permitting CPHP to disclose to the Panel all privileged information concerning Applicant in its possession. Applicant shall also complete any and all unrestricted releases as are necessary to permit CPHP to disclose to the Panel information generated by other sources. Any revocation of such release by Applicant shall constitute a violation of this Order. In the event Applicant revokes such release, CPHP may, due to confidentiality concerns, refuse to acknowledge Applicant's participation in CPHP. CPHP's refusal to acknowledge Applicant's participation with that organization shall constitute a violation of this Order.

18. It is the responsibility of the Applicant to provide information to CPHP in a timely and complete manner and to assure that CPHP's reports are timely and complete.

19. The terms of Applicant's Treatment and Monitoring shall continue for 5 years commencing on the date that the Panel authorizes Applicant to begin patient care and medical practice.

#### **EDUCATION PLAN**

20. Before engaging in any patient care or medical practice, Applicant shall complete the following Education Plan.

21. Applicant shall successfully complete continuing medical education and self-study in the areas of:

- a. Current pharmacology;
- b. Recent pharmacological advances in psychiatry;
- c. Psychotic disorders; and
- d. Judgment.

The content of this education must include medication management for affective disorders, psychotic disorders, and tardive dyskinesia; starting doses and new indications for SSRIs; atypical antipsychotics; monitoring drug side effects for drugs including Depakote; differential diagnosis, such as schizophreniform disorder; differentiation between diagnostic categories, such as brief psychotic episode; and anticipating pragmatic aspects of practice and potential conflicts.

22. Applicant shall provide the Panel with written proof of his successful completion of these terms.

## **PROFESSIONAL BOUNDARIES COURSE**

23. Within six months of the effective date of this Order, Applicant shall successfully complete a professional boundaries course recommended by CPHP (“Boundaries Course”). All recommendations of CPHP with respect to the Boundaries Course shall constitute terms of this Order.

24. Applicant shall provide the Panel with written proof from CPHP of his timely and successful completion of these terms.

## **DISCLOSURE REQUIREMENT**

25. Applicant shall create a document entitled “Information Regarding Practice Policies.” The document shall inform patients that Applicant’s license to practice medicine has been disciplined by a state medical board for sexual contact with a patient. The document shall also contain the following paragraph:

Sexual relationships between a physician and a patient are never appropriate and are prohibited by state law (see Colorado Revised Statutes). Engaging in a social relationship with your physician is contrary to the promotion of the therapeutic and professional physician-patient relationship and is therefore inappropriate under any circumstances. The boundaries set forth above are necessary to ensure you the highest quality of care and are solely for your protection. If you have any concerns about the standards of my care, please inform me of those concerns so that we can discuss them fully. In addition, you are invited to bring your concerns to the attention of the Colorado Board of Medical Examiners. The Colorado Board of Medical Examiners may be contacted at the following address:

Colorado State Board of Medical Examiners  
1560 Broadway, Suite 1300  
Denver, CO 80202  
FAX: 303-894-7692  
TELEPHONE: 303-894-7690  
Web site: [www.dora.state.co.us/medical/](http://www.dora.state.co.us/medical/)

26. Applicant must present to the Panel a copy of his proposed disclosure document with the information described above for the Panel’s approval. Applicant must receive the Panel’s approval of the document before Applicant begins patient care and medical practice.

27. Before evaluating or treating any prospective patient, Applicant shall ensure that a copy of the document described above is signed and dated by each patient and placed in each patient’s respective medical chart.

## PRECEPTOR REQUIREMENT

28. Upon completion of the Education Plan, these Preceptor Requirement terms shall go into effect concurrently with the Quality Review terms, below.

29. For a period of at least 6 months beginning when Applicant undertakes the practice of medicine, Applicant may provide patient care and practice medicine with the engagement of a preceptor ("Preceptor Period"). During the Preceptor Period, Applicant may not practice medicine without the engagement of a preceptor.

30. Applicant shall nominate, in writing, a proposed preceptor for the Panel's approval. The nominee shall be a physician licensed by the Board, currently practicing medicine in Colorado, and experienced in psychiatry. The Board shall not have disciplined the nominee.

31. Applicant's nomination for preceptor shall set forth how the nominee meets the above criteria. With the written nomination, Applicant shall submit a current *curriculum vitae* of the nominee and a letter, signed by the nominee, that contains a statement from the nominee that the nominee has read this Order, understands, agrees to perform the obligations set forth herein, can be fair and impartial in performing these obligations.

32. Upon approval by the Panel, for the duration of the Preceptor Period, the preceptor shall perform the following:

- a. Retrospective review and provide consultation and guidance on all Applicant's cases for a period of at least 6 months;
- b. Conduct regularly scheduled meetings with Applicant to:
  - i. review cases and documentation,
  - ii. discuss decisions related to cases,
  - iii. review specific pharmacological choices,
  - iv. review psychiatric topics,
  - v. develop continuing education plans; and
- c. Be available to Applicant during the course of clinical practice and for timely telephone consultation.

33. Applicant shall ensure that the preceptor provides reports to the Panel on a monthly basis. Each report shall include the preceptor's description of the preceptor's activities and Applicant's progress as to each of the requirements in Paragraph 32 of this Order.

34. If at any time the preceptor believes Applicant 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 C.R.S. § 12-36-117(1), the practice monitor shall immediately inform the Panel.

35. It is the responsibility of the Applicant to ensure that the preceptor's reports are timely and complete. Failure of the preceptor to perform the duties set forth above may result in a notice from Board staff requiring nomination of a new preceptor. Upon such notification, Applicant shall nominate a new preceptor according to the procedure set forth above. The Preceptor Period shall be tolled for any such time that Applicant is not engaging a preceptor.

36. At the end of the Preceptor Period, Applicant may petition the Panel in writing to terminate the Preceptor Requirement terms. If Applicant has complied with all terms of the Preceptor Requirement, and if the Preceptor Requirement time has not been tolled, the Panel shall grant such release in the form of written notice.

### QUALITY REVIEW

37. For eighteen months following Applicant's successful completion of the Education Plan, a "quality reviewer" shall monitor Applicant's medical practice ("Quality Review Period"). CPEP shall nominate, in writing, a proposed quality reviewer 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 Applicant's practice of medicine. The nominee must be knowledgeable in Applicant's area of practice. If Applicant is or becomes board-certified in an area of practice, it is preferred, but not required, that the nominee be board-certified by that same board. If Applicant has or obtains 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.

38. CPEP shall submit information regarding the nominee including a current *curriculum vitae* and acknowledgment that the nominee has read and understands the limitations on Applicant's license and the terms of this Order. The Panel shall review and determine, in its discretion, whether to approve the nominee. If the Panel approves the nominee, CPEP shall determine the date that the quality reviewer will begin monitoring Applicant's medical practice.

39. Upon approval by the Panel, the quality reviewer shall perform the following:

a. Each month, for the first three months of the Quality Review Period, the quality reviewer shall review at least ten patient charts maintained by Applicant. The quality reviewer shall make reasonable efforts to review charts from all offices, hospitals, and other settings in which Applicant practices. Additionally, the quality reviewer shall make reasonable efforts to ensure randomized review such that Applicant has no notice of which charts will be selected for review. The quality reviewer is authorized to review, and Applicant shall make available, such other medical records maintained by Applicant as the quality reviewer deems appropriate.

b. After the first three months of the Quality Review Period, the quality reviewer will review charts on a quarterly basis. Each quarter, the quality reviewer shall review at least ten charts maintained by Applicant. The quality reviewer shall make reasonable efforts to review charts from all offices, hospitals, and other settings in which Applicant practices. Additionally, the quality reviewer shall make reasonable efforts to ensure randomized review such that Applicant has no notice of which charts will be selected for review. The quality reviewer is authorized to review, and Applicant shall make available, such other medical records maintained by Applicant as the quality reviewer deems appropriate.

c. CPEP shall submit quarterly written reports to the Panel that shall include the following:

- i. a description of each of the cases reviewed; and
- ii. as to each case reviewed, CPEP's opinion whether Applicant is practicing medicine in accordance with generally accepted standards of medical practice.

40. If at any time CPEP or the quality reviewer believes Applicant 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 § 12-36-117(1), C.R.S., CPEP and/or the quality reviewer shall inform the Panel in a timely manner.

41. If the quality review is interrupted for any reason, the Panel has the discretion to allow CPEP to arrange for a new quality reviewer. The Quality Review Period shall be tolled for any such time that Applicant is not being monitored by a quality reviewer.

42. It is the responsibility of Applicant to cooperate fully with CPEP and the quality reviewer. Failure of the quality reviewer to perform the duties set forth above may result in a notice from Board staff requiring the nomination of a new quality reviewer. Upon such notification, CPEP shall nominate a new quality reviewer according to the procedure set forth above. CPEP shall nominate the new quality reviewer within 30 days of such notice.

#### **TOLLING OF THE PROBATIONARY, PRECEPTOR, AND QUALITY REVIEW PERIODS**

43. The probationary period, Preceptor Period, and Quality Review Period shall each be tolled for any such time that Applicant is not engaged in the full-time active practice of medicine.

44. During the time when any of the probationary, Preceptor, or Quality Review Periods is tolled, Applicant must comply with all other terms of this Order and all other terms of probation. Unless otherwise specified, all terms of the Order shall remain in effect, regardless of whether any of the probationary, Preceptor, or Quality Review Periods has been tolled, from the effective date of such period until the date probation is terminated.



**OUT OF STATE PRACTICE**

45. Applicant may wish to leave Colorado and practice in another state. At any time, whether to practice out of state or for any other reason, Applicant may request that the Board place Applicant's license on inactive status as set forth in C.R.S. § 12-36-137. Upon the approval of such request, Applicant may cease to comply with this Order. Failure to comply with this Order while inactive shall not constitute a violation of this Order. While inactive, Applicant shall not perform any act in the state of Colorado that constitutes the practice of medicine, nor shall Applicant perform any act in any other location pursuant to the authority of a license to practice medicine granted by the state of Colorado. Unless Applicant's license is inactive, Applicant must comply with all provisions of this Order, irrespective of Applicant's location. The probationary period will be tolled for any period of time Applicant's license is inactive.

46. Applicant may apply to resume the active practice of medicine at any time as set forth in C.R.S. § 12-36-137(5). With such request, Applicant shall nominate a preceptor as provided above, shall have CPEP nominate a quality reviewer as provided above, and shall cause CPHP to perform an updated evaluation of Applicant. Applicant shall be permitted to resume the active practice of medicine only after the Panel approves the preceptor, quality reviewer, and updated evaluation from CPHP.

**OTHER TERMS**

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

48. 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.

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

50. So that the Board may notify hospitals of this agreement pursuant to C.R.S. § 12-36-118(13), Respondent presently holds privileges at the following hospitals:

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51. This Order and all its terms shall have the same force and effect as an order entered after a formal hearing pursuant to C.R.S. §§ 12-36-116(3) and 24-4-104(9), except that it may not be appealed. Failure to comply with the terms of this Order may be sanctioned by the Panel as set forth in C.R.S. § 12-36-118(5)(g)(IV). This Order and all its terms also constitute a valid board order for purposes of C.R.S. § 12-36-117(1)(u).

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

53. 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.

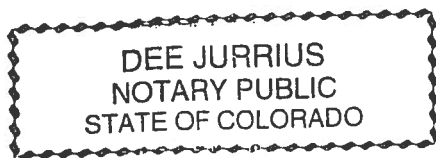
54. This Order shall be effective upon approval by the Panel and signature by a Panel member. Applicant acknowledges that the Panel may choose not to accept the terms of this Order and that if the Order is not approved by the Panel and signed by a Panel member, it is void.

55. Upon becoming effective, this Order shall be open to public inspection and publicized pursuant to the Board's standard policies and procedures. Additionally, this Order shall be reported the Federation of State Medical Boards, the National Practitioner Data Bank/Healthcare Integrity and Protection Data Bank and as otherwise required by law.

*Stephan Kitson MD*

STEPHAN J. KITSON, M.D.

Stephan J. Kitson, M.D., acknowledged the foregoing before me this 13 day of November, 2007.



My Commission Expires 05/26/2009

*Deo Jurrius*

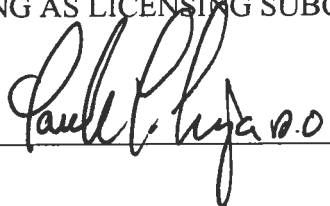
NOTARY PUBLIC

5/26/2009

Commission expiration date

THE FOREGOING Stipulation and Final Agency Order is approved and effective  
this 16 day of November, 2007.

FOR THE COLORADO STATE BOARD OF  
MEDICAL EXAMINERS, PANEL B,  
ACTING AS LICENSING SUBCOMMITTEE



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APPROVED AS TO FORM:

FOR THE BOARD OF MEDICAL EXAMINERS  
JOHN W. SUTHERS  
Attorney General



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