

BEFORE THE COLORADO MEDICAL BOARD

STATE OF COLORADO

CASE NOS. 2015-5118-B and 2015-5131-B

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**STIPULATION AND FINAL AGENCY ORDER**

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IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF JONATHAN COVEY, M.D., LICENSE NUMBER DR-30258,

Respondent.

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

**JURISDICTION AND CASE HISTORY**

1. Respondent was licensed to practice medicine in the state of Colorado on July 12, 1990, and was issued license number DR-30258, which Respondent has held continuously since that date ("License").

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

3. On October 20, 2016, the Panel reviewed case numbers 2015-5118-B and 2015-5131-B and determined that further proceedings by formal complaint were warranted pursuant to Section 12-36-118(4)(c)(IV), C.R.S.

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 2015-5118-B and 2015-5131-B, 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 Respondent's choice, and Respondent, and Respondent is represented by counsel in this matter;

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. Respondent practices as a psychiatrist.

b. Respondent communicated ineffectively and demonstrated a lack of sensitivity with patient E.G.

c. Respondent confused the dosage of Lyrica he prescribed for patient N.C. with the dosage for gabapentin.

7. Respondent admits and 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), C.R.S., which states:

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

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

8. Based upon the above, the Parties stipulate that the terms of this Order are authorized by Section 12-36-118(5)(g)(III), C.R.S.

### **LETTER OF ADMONITION**

9. This provision shall constitute a Letter of Admonition as set forth in Sections 12-36-118(4)(c)(III)(A) and 12-36-118(5)(g)(III), C.R.S. Respondent is hereby admonished for the acts and omissions described in the factual basis above.

10. By entering this Order, Respondent agrees to waive the rights provided by Section 12-36-118(4)(c)(III)(B), C.R.S., to contest this Letter of Admonition.

### **PROBATIONARY TERMS**

11. Respondent's License to practice medicine is hereby placed on probation indefinitely, commencing on the effective date of this Order, until Respondent successfully completes the ProBe Ethics Program as set forth in paragraphs 13-16 herein, and the

Clinician-Patient Communication course from the Center for Personalized Education for Physicians ("CPEP") as set forth in paragraphs 17-19 herein. All terms of probation shall be effective throughout the probationary period and shall constitute terms of this Order.

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

### **ProBE ETHICS PROGRAM**

13. Within one (1) year of the effective date of this Order, Respondent shall successfully complete the ProBE Professional/Problem Based Ethics Program ("ProBE") conducted by CPEP.

14. Respondent shall sign any and all releases necessary to allow CPEP to communicate with the Panel directly. Respondent shall not revoke such releases prior to successful completion and final assessment following completion of ProBE. Any failure to execute such a release or any premature revocation of such a release shall constitute a violation of this Order.

15. In order to successfully complete ProBE, Respondent's participation in the course must be rated as successful, without condition or qualification. The Board in its discretion may impose further remedial coursework if Respondent receives a conditional pass or negative assessment from CPEP.

16. Respondent shall provide proof of timely and successful completion of ProBE to the Panel within one (1) year of the effective date of this Order.

### **CPEP COMMUNICATION COURSE ADVANCED SKILLS IN CLINICIAN-PATIENT COMMUNICATION**

17. Within thirty (30) days of the effective date of this Order, Respondent shall contact CPEP for the purposes of enrolling in the two and one-half day Advanced Skills in Clinician-Patient Communication course ("CPEP Clinician-Patient Communication Course").

18. Respondent must successfully complete all portions of the CPEP Clinician-Patient Communication Course within one (1) year of the effective date of this Order.

19. Respondent shall request that CPEP provide the Panel with a final report following completion of the course. Respondent shall assure that such a final report is received by the Panel within one (1) year of the effective date of this Order.

### **TOLLING OF THE PROBATIONARY PERIOD**

20. 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 (5) 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.

21. 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**

22. 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 the state of Colorado that constitutes the practice of 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.

23. 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.

### **TERMINATION OF INDEFINITE PROBATION**

24. After successful completion of all probationary terms, Respondent may submit a written request for restoration of Respondent's License to unrestricted status. If Respondent has complied with all requirements set forth in this Order, such release shall be granted by the Panel in the form of a written notice.

### **OTHER TERMS**

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

26. 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.

27. 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.

28. If Respondent is licensed by any other jurisdiction, Respondent shall report this Order to all other jurisdictions in which Respondent is licensed.

29. 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.

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

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

NONE

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32. 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.

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

34. 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.

35. 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.

36. Respondent 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 or other authorized person, it is void.

37. 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.

38. 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 the Federation of State Medical Boards, the National Practitioner Data Bank, and as otherwise required by law.

Jonathan Covey, MD  
JONATHAN COVEY, M.D.

THE FOREGOING was acknowledged before me this 5<sup>th</sup> day of April,  
2017, by Jonathan Covey, M.D., in the County of El Paso, State of  
Colorado.

[Signature]  
NOTARY PUBLIC

05/13/20  
My commission expires

**BENJAMIN DAVIES**  
Notary Public - State of Colorado  
Notary ID 20164018501  
My Commission Expires May 13, 2020

THE FOREGOING Stipulation and Final Agency Order is approved this 20<sup>th</sup> day of

April, 2017.

FOR THE COLORADO MEDICAL BOARD  
INQUIRY PANEL B

Eric R Groese

~~TY T. HIGUCHI, M.D., Ph.D.~~  
Acting Chair, Inquiry Panel B Eric R Groese

THE FOREGOING Stipulation and Final Agency Order is effective upon service to

Respondent, on April 20,, 2017.

Asin Jackson

APPROVED AS TO FORM

FOR RESPONDENT

Mary B. Fletcher

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