

BEFORE THE COLORADO MEDICAL BOARD  
STATE OF COLORADO

CASE NO. 2016-508-A

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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 DAVID  
J. MULLER, M.D., LICENSE NUMBER DR-16635,

Respondent.

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IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel A  
("Panel") of the Colorado Medical Board ("Board") and David J. Muller, 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 14, 1970 and was issued license number DR-16635, 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 October 13, 2016, the Panel reviewed case number 2016-508-A and determined that further proceedings by formal complaint were warranted pursuant to Section 12-36-118(4)(c)(IV), C.R.S. The Panel thereupon referred the matter to the Attorney General 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 number 2016-508-A, 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. The Respondent acknowledges and the Panel finds that, if the Panel were to prove the following facts at hearing, it would constitute a prima facie case of unprofessional conduct as defined in the Medical Practice Act, and would subject Respondent to discipline. Respondent denies the following allegations:

- a. Respondent is a psychiatrist who treated Patient 1 for anxiety and chronic pain. Respondent prescribed combinations of medications that could be harmful to Patient 1 without appropriate initial or on-going evaluations. Respondent prescribed numerous controlled substances over a three-year period, including monthly prescriptions for opioids, hypnotics and benzodiazepines, for his psychiatric patient. Respondent's documentation of his treatment of Patient 1 fell below generally accepted standards of practice.

7. Respondent admits and the Panel finds that the acts or omissions described in the factual basis above, if proven, constitute 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.

### **RETIREMENT AND RELINQUISHMENT OF LICENSE**

9. Respondent is in the process of retiring from the practice of medicine. Commencing on December 31, 2016, Respondent's License in the state of Colorado is hereby relinquished. Following the relinquishment of Respondent's License, Respondent shall perform no act requiring a license issued by the Board, nor shall Respondent perform any act in any other location pursuant to the authority of a License granted by the state of Colorado.

10. Respondent understands and acknowledges that he is permanently relinquishing a License in Colorado. Respondent agrees not to apply for renewal, reinstatement, reactivation or issuance of a new license to practice medicine in Colorado at any time in the future. Respondent specifically waives any right to which he may be entitled pursuant to Section 12-36-118(5)(i), C.R.S. regarding application for licensure.

### **PRESCRIBING RESTRICTION**

11. Commencing on the effective date of this Order, Respondent shall not prescribe, possess, maintain a supply of, administer or dispense any controlled substance or other habit-forming drugs.

### **OTHER TERMS**

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

13. 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.

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

16. 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.

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

None

18. This Order and all its terms shall have the same force and effect as an order entered after a formal hearing pursuant to Section 12-36-118(5)(g)(III), C.R.S., except that it may not be appealed. This Order and all its terms also constitute a valid board order for purposes of Section 12-36-117(1)(u), C.R.S.

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

20. 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.

21. 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.

22. 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.

23. 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.

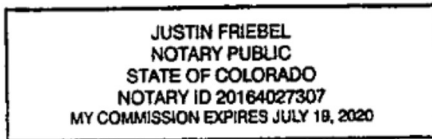
24. Upon becoming effective, this Order shall be open to public inspection and shall be publicized pursuant to the Board's policies and procedures. This Order constitutes discipline against Respondent's license. Additionally, this Order shall be reported to the Federation of State Medical Boards, the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

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David J. Muller M.D.

David J. Muller, M.D.

THE FOREGOING was acknowledged before me this 15 day of October,  
2016 by David J. Muller, M.D. in the County of Denver, State of  
Colorado.

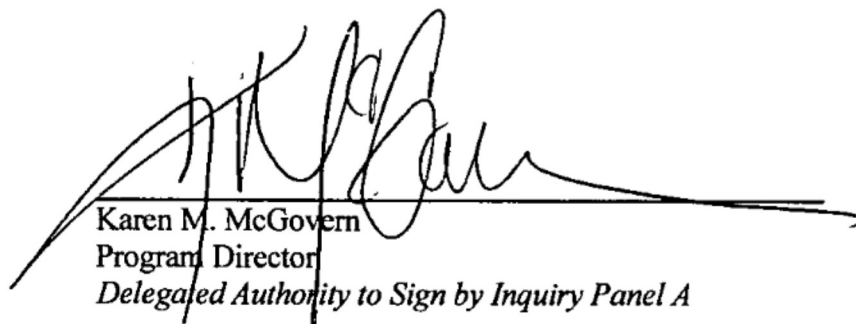


Justin Friebel  
NOTARY PUBLIC

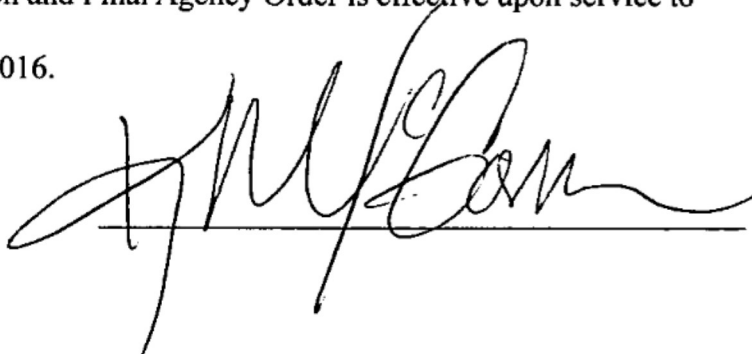
07/19/2020  
My commission expires

THE FOREGOING Stipulation and Final Agency Order is approved this 18 day of  
October, 2016.

FOR THE COLORADO MEDICAL BOARD  
INQUIRY PANEL A

  
Karen M. McGovern  
Program Director  
*Delegated Authority to Sign by Inquiry Panel A*

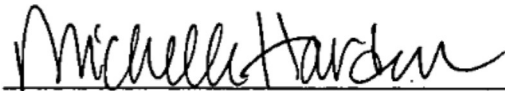
THE FOREGOING Stipulation and Final Agency Order is effective upon service to  
Respondent, on October 18, 2016.



APPROVED AS TO FORM:

FOR RESPONDENT  
DAVID J. MULLER, M.D.

MESSNER REEVES LLP



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