

BEFORE THE COLORADO MEDICAL BOARD
STATE OF COLORADO

CASE NOS. 2016-6249-B & 2022-6020-B

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE
LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF BRIAN
K. WISE, M.D., LICENSE NUMBER DR-41287,

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel B
("Panel") of the Colorado Medical Board ("Board") and Brian K. Wise, 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 February 14, 2003 and was issued license number DR-41287, 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 April 19, 2018, the Panel reviewed case number 2016-6249-B and determined that further proceedings by formal complaint were warranted pursuant to Section 12-240-125(4)(c)(V), C.R.S. The Panel thereupon referred the matter to the Attorney General pursuant to Section 12-240-125(4)(e)(V), C.R.S.

4. On February 17, 2023, the Panel reviewed case number 2022-6020-B and determined that further proceedings by formal complaint were warranted pursuant to Section 12-240-125(4)(c)(V), C.R.S. The Panel thereupon referred the matter to the Attorney General pursuant to Section 12-240-125(4)(e)(V), C.R.S.

5. 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 2016-6249-B and 2022-6020-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.

6. 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 12-240-125(4)(c)(V) and 12-240-125(5)(a), 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

7. Respondent specifically admits and the Panel finds that:

a. Between and including 2003 through 2017, Respondent provided psychiatric treatment to Patients A, B, C, D, and E.

b. Respondent's treatment of Patients A, B, C, D, and E failed to meet generally accepted standards of medical practice. Specifically:

i. Respondent did not require urine screens for Patient A. Respondent did not coordinate Patient A's care with Patient A's other providers. Respondent did not appropriately treat Patient A's opiate and benzodiazepine dependency;

ii. Respondent did not require urine screens for Patient B. Respondent prescribed amphetamines, benzodiazepines and Suboxone to Patient B without a sufficient basis in the medical record as to why these medications were prescribed;

- iii. Respondent did not require urine screens for Patient C. Respondent did not recognize that Patient C was receiving prescriptions for Suboxone from two providers, one of whom was Respondent; and
 - iv. Respondent did not require urine screens for Patient D. Respondent prescribed Ritalin and controlled substances without a sufficient basis in the medical record as to why these medications were prescribed; and
 - v. Respondent provided medications to Patient E without a sufficient basis in the medical record explaining why the medications were prescribed.
- c. Respondent repeatedly failed to make essential entries in the medical records for Patients A, B, C, D, and E. Specifically, Respondent did not maintain patient medical records in a manner that would allow another medical provider to follow the care provided and the bases for Respondent's medical decisions and/or there was insufficient data documented in the patient histories to justify the bases for the diagnoses made; and
 - d. Respondent provided care and treatment, and prescribed medication, including controlled substances, to a practitioner who had similarly prescribed him with medication, including controlled substances, amounting to an inappropriate physician-patient relationship and boundary violation.

8. Respondent admits and the Panel finds that the acts and/or omissions described in the factual basis above constitutes unprofessional conduct pursuant to Section 12-240-121(1)(j) and (v) C.R.S., which states:

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

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

(v) Falsifying or repeatedly making incorrect essential entries or repeatedly failing to make essential entries on patient records.

9. Based upon the above, the Parties stipulate that the terms of this Order are authorized by Section 12-240-125(5)(c)(III).

LETTER OF ADMONITION

10. This provision shall constitute a Letter of Admonition as set forth in Sections 12-240-125(4)(c)(IV) and 12-240-125(5)(c)(III), C.R.S. Respondent is hereby admonished for the acts and omissions described in the factual basis above.

11. By entering this order, Respondent agrees to waive the rights provided by Section 12-20-404(4)(b)(I), C.R.S., to contest this Letter of Admonition.

PROBATIONARY TERMS

12. Respondent's license to practice is hereby placed on probation indefinitely 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.

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

CONTROLLED DRUGS PRESCRIBING COURSE

14. Respondent shall enroll in and successfully complete the continuing medical education course titled Prescribing Controlled Drugs offered at either the Center for Personalized Education for Professionals ("CPEP") (Denver, Colorado) or Vanderbilt University School of Medicine (Nashville, TN) ("Prescribing Course"). Respondent shall be solely responsible to enroll and pay for the Prescribing Course.

15. Respondent admits and certifies that on July 10 through 12, 2019, he completed the CPEP Prescribing Controlled Drugs Course. The parties agree that such completion satisfies the requirement stated herein for completion of the Prescribing Course within three months of the effective date of this Order.

MEDICAL RECORD KEEPING SEMINAR

16. Respondent shall enroll in and successfully complete the continuing medical education course titled Medical Record Keeping Seminar offered at the Center for Personalized Education for Professionals ("CPEP") (Denver, Colorado). Respondent shall be solely responsible to enroll and pay for the Seminar.

17. Respondent admits and certifies that on June 14, 2019, he completed the CPEP Medical Record Keeping Seminar. The parties agree that such completion satisfies the requirement stated herein for completion of the CPEP Medical Record Keeping Seminar within three months of the effective date of this Order.

PROBE: ETHICS AND BOUNDARIES PROGRAM

18. Within one year of the effective date of this Order, Respondent shall enroll in and successfully complete the continuing medical education course titled PROBE: Ethics & Boundaries Program ("PROBE") offered through the Center for Personalized Education for Professionals ("CPEP") (Denver, Colorado). Respondent shall be solely responsible to enroll and pay for the Seminar.

19. 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.

20. To successfully complete the PROBE: Ethics & Boundaries Program, 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.

21. Respondent shall provide the Panel with written proof of Respondent's timely and successful completion of the CPEP PROBE: Ethics & Boundaries Program.

PRACTICE MONITORING

22. For a period of one year from the date the Panel formally approves a practice monitor, 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. Unless otherwise agreed to, the Board shall not have disciplined the nominee.

23. 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.

24. Upon approval by the 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 shall review at least five 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 at least 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 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 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.

25. 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 12-240-121(1), C.R.S., the practice monitor shall immediately inform the Panel.

26. Respondent shall ensure that all reports by the practice monitor are complete and timely submitted to the Board. Respondent understands that the Board

may accept a report, reject a report, refer the matter for additional disciplinary proceedings or take any further action authorized by law. If a report is rejected, the period it covers does not count toward the total amount of time for practice monitoring.

27. 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.

TOLLING OF THE PROBATIONARY PERIOD

28. 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.

29. 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

30. 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 12-240-141, 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 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.

31. Respondent may resume the active practice of medicine at any time pursuant to written request and as set forth in Section 12-240-141(5), C.R.S.

TERMINATION OF INDEFINITE PROBATION

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

OTHER TERMS

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

34. 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.

35. 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.

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

37. 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.

38. During the probationary period, 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.

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

40. So that the Board may notify hospitals of this agreement pursuant to Section 12-240-125(11), C.R.S., Respondent presently holds privileges at or is employed by the following hospitals and facilities:

41. 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 12-240-125(5)(c)(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 12-240-125(5)(c)(IV), C.R.S. This Order and all its terms also constitute a valid board order for purposes of Section 12-240-121(1)(n), C.R.S.

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

43. 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.

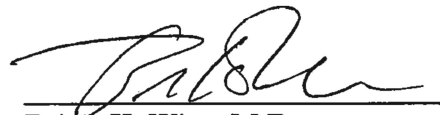
44. During the pendency of any action arising out of this Order, the terms of this Order shall be deemed to be in full force and effect and shall not be tolled.

45. 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.

46. 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.

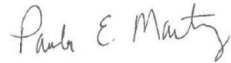
47. Upon becoming effective, this Order shall be open to public inspection and shall be publicized pursuant to the Board's standard policies and procedures. This Order constitutes discipline against Respondent's license. Additionally, this Order shall be reported to the Federation of State Medical Boards,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

4/20/2023
Date


Brian K. Wise, M.D.

THE FOREGOING Stipulation and Final Agency Order is approved this
__1st_ day of __May____, 2023.

FOR THE COLORADO MEDICAL BOARD
INQUIRY PANEL B



Paula Martinez
Program Director
Delegated Authority to Sign by Inquiry Panel

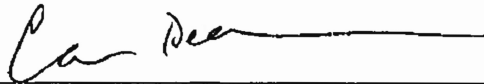
THE FOREGOING Stipulation and Final Agency Order is effective upon
service to Respondent, on __May 1st,_____, 2023.

APPROVED AS TO FORM:

FOR THE RESPONDENT
BRIAN K. WISE, M.D.

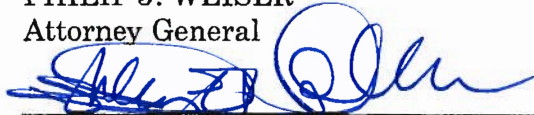
FOR THE COLORADO MEDICAL
BOARD

HERSHEY DECKER DRAKE



Carmen N. Decker
10463 Park Meadows Drive, Suite 209
Lone Tree, CO 80124
Telephone: 303-226-1669
carmen@hersheydecker.com

PHILIP J. WEISER
Attorney General



Ashley E. Moller*
First Assistant Attorney General
Business and Licensing Section
Attorneys for the Colorado Medical Board
Inquiry Panel B
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 8th Floor
Denver, Colorado 80203
Telephone: 720-508-6400
ashley.moller@coag.gov
*Counsel of Record