

**BEFORE THE COLORADO MEDICAL BOARD
STATE OF COLORADO**

CASE NOS. 2018-6901-B; 2021-857-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
HOWARD WEISS, M.D., LICENSE NUMBER DR-41466,**

Respondent.

**IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel B
("Panel") of the Colorado Medical Board ("Board") and Howard Weiss, 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 April 17, 2003 and was issued license number DR-41466, 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 September 9, 2018, the Board received a complaint from another physician alleging Respondent engaged in substandard practice, improper prescriptions, and abuse of a patient (Patient 1). On or about May 1, 2019, the Board requested information regarding Respondent's care of five additional patients (Patients 2 through 6). Respondent's treatment of Patients 1 through 6 comprise the matters set forth in Case Number 2018-6901-B.**
- 4. On or about November 22, 2019, the Panel voted to summarily suspend Respondent's license to practice medicine, effective November 27, 2019, pursuant to Section 24-4-104(4), C.R.S.**
- 5. On November 22, 2019, the Panel reviewed case number 2018-6901-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)(c)(V), C.R.S.**

6. On or about January 2021, the Board was contacted by federal law enforcement requesting information regarding Respondent's care of fifteen additional patients (Patients 7 through 21). Shortly thereafter, the Board opened Case Number 2021-857-B.

7. On February 10, 2021, pursuant to Section 12-240-125(4), and in relation to Case Number 2021-857-B, the Panel issued a Complaint to Respondent instructing him to respond within 30 days. On February 18, 2021, Respondent responded by advising the Board that he had retired from the practice of medicine and planned to relinquish his license. On February 22, 2021, the Panel reviewed case number 2021-857-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)(c)(V), C.R.S.

8. It is the intent of the parties and the purpose of this Stipulation and Final Agency Order ("Order") to provide for a resolution of all matters set forth in case numbers 2018-6901-B and 2021-857-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.

9. 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), 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 other than those in paragraph 10 and all subparts thereto 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

10. 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 physician specializing in psychiatry.
- b. Respondent's care of Patients 1-21 fell below the generally accepted standards of medical practice in the following ways:
 - i. Failing to coordinate care with other prescribing physicians;
 - ii. Prescribing excessive quantities and/or dosages of certain benzodiazepines and opiates/opioids based on his clinical judgment and patient interactions;
 - iii. Concurrently prescribing benzodiazepines and opiates/opioids to multiple patients without sufficient medical justification
 - iv. Repeatedly failing to make essential medical entries justifying Respondent's prescribing practice
 - v. Failing to conduct appropriate evaluations of patients for signs of medication misuse, abuse, or diversion.
 - vi. Failing to provide a substantive response or records related to his treatment for the Patients referenced in the February 10, 2021 complaint letter.
- c. Given his retirement, Respondent offered to voluntarily relinquish his medical license and no longer practice medicine in exchange for full resolution of any pending or future Medical Board matters.

11. Respondent admits and the Panel finds that the acts or omissions described in the factual basis above, if proven, would constitute unprofessional conduct pursuant to Sections §12-240-121(1)(j) and (y), C.R.S. Respondent denies that he engaged in unprofessional conduct pursuant to these sections. These sections state as follows:

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

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

(y) Failing to respond in an honest, materially responsive, and timely manner to a complaint issued pursuant to section 12-240-125(4)

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

PERMANENT RELINQUISHMENT OF LICENSE

13. Commencing on the effective date of this Order, Respondent's License in the State of Colorado is permanently relinquished. Respondent understands and acknowledges that he is permanently relinquishing a license to practice medicine in Colorado. Respondent agrees not to apply for reactivation, reinstatement 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 12-240-125(5)(e), C.R.S. regarding application for licensure.

14. Following 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 to practice medicine granted by the state of Colorado.

OTHER TERMS

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

16. 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.

17. 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.

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

19. 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.

20. 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.

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

22. 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.

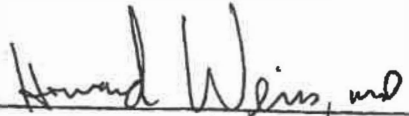
23. During the pendency of any action arising out of this Order, the terms of this Order shall be deemed to be in full force and effect and shall not be tolled.

24. 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.

25. 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.


26. 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.

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Howard Weiss, M.D.

THE FOREGOING Stipulation and Final Agency Order is approved this ____
day of January 30, _____, 2023

FOR THE COLORADO MEDICAL BOARD
INQUIRY PANEL B


Paula E. Martinez
Program Director
Delegated Authority to Sign by Inquiry Panel

THE FOREGOING Stipulation and Final Agency Order is effective upon
service to Respondent, on January 30 _____, 2023


J. Beannon

APPROVED AS TO FORM:

**FOR THE RESPONDENT
HOWARD WEISS, M.D.**

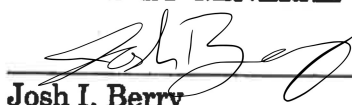
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**FOR THE COLORADO MEDICAL
BOARD**

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