

# STATE OF COLORADO

## BOARD OF MEDICAL EXAMINERS

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### VIA CERTIFIED MAIL

March 18, 1999  
Case #5199011510

Michael C. Saathoff, M.D.

Dear Dr. Saathoff:

Inquiry Panel A of the Colorado Board of Medical Examiners has concluded its inquiry regarding your recent urine drug screens which tested positive for morphine. The Panel determined that the matter may not warrant the commencement of formal proceedings against your license to practice medicine. However, the Panel voted to administer disciplinary action to you in the form of this letter of admonition.

After a review of the available information, the Panel found that your relapse in December of 1998 was a clear violation of your Stipulation and Final Agency Order. It was the Panel's opinion that your decision to consume controlled substances so soon after your promise not to do so indicated a disregard for continued medical licensure in Colorado.

By this letter, the Panel hereby admonishes you and cautions you that any additional violation may lead to the commencement of formal disciplinary proceedings against your license to practice medicine, wherein this letter of admonition may be entered into evidence as aggravation.

You are advised that you have the right within twenty (20) days after receipt of this letter to make written request that formal disciplinary proceedings be initiated against you to adjudicate the propriety of the conduct upon which this letter of admonition is based. If such request is timely made, this letter of admonition will be deemed vacated, and the matter will be processed by means of a formal complaint and hearing, in accordance with the provisions of the Medical Practice Act governing the discipline of licensed physicians.

Very truly yours,

FOR THE BOARD OF MEDICAL EXAMINERS  
INQUIRY PANEL A

*Irene Aguilar, M.D.*

Irene Aguilar, M.D.

Chair

IA/de

xc: David A. Burlage, Esq.

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OFFICE OF THE  
ATTORNEY GENERAL

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BEFORE THE STATE BOARD OF MEDICAL EXAMINERS

STATE OF COLORADO

RECEIVED

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE  
TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF MICHAEL C.  
SAATHOFF, M.D., LICENSE NO. 36371,

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel A ("Panel") of  
the Colorado State Board of Medical Examiners ("Board") and Michael C. Saathoff, M.D.  
("Respondent") as follows:

JURISDICTION AND CASE HISTORY

1. Respondent was licensed to practice medicine in the state of Colorado on August 14, 1997 and was issued license no. 36371 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 July 21, 1998 Respondent was discovered after normal business hours in another physician's office. Controlled substances were later found to be missing from this other physician's office.
4. On July 22, 1998, Respondent was admitted to West Pines Hospital in Wheat Ridge, Colorado for evaluation. From there he was transferred to the Farley Center in Williamsburg, Virginia. He was in treatment at Farley from July 25, 1998 through October 16, 1998. Respondent was diagnosed as polysubstance dependent.
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 related to the July 21, 1998 incident and Respondent's subsequent hospitalization without the necessity of holding a formal disciplinary hearing. The parties anticipate that the July 21, 1998 incident may result in Respondent being convicted of a crime. It is the intent of the parties to resolve any criminal conviction that Respondent may later receive arising out of this incident. It is further the intent of the parties to resolve any issue of substance abuse or dependence on the part of Respondent prior to the

effective date of this agreement. No other issues are resolved by this agreement. In particular, the Panel is not waiving its rights to proceed regarding unprofessional conduct as set out in § 12-36-117(1)(a), C.R.S. in the event Respondent has engaged in such conduct. The Panel stipulates that it is not aware, at the effective date of this Order, of any such conduct on the part of Respondent.

6. Respondent understands that:

a. Respondent has the right to be represented by an attorney of the Respondent's choice and is so represented;

b. Respondent has the right to a formal disciplinary hearing pursuant to § 12-36-118(5), C.R.S.

c. By entering into this Order, Respondent 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; and

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.

7. Respondent specifically admits and agrees that he suffers from polysubstance dependency, unprofessional conduct as defined in § 12-36-117(1)(i), C.R.S.

#### **PROBATIONARY TERMS**

8. Respondent's license to practice medicine is hereby placed on probation for five years. During the probationary period, Respondent agrees to be bound by the terms and restrictions set forth below.

#### **ABSTINENCE FROM ADDICTIVE SUBSTANCES**

9. Respondent shall totally abstain from the use of alcohol and the use of any habit-forming drug or controlled substance, other than as administered, dispensed or prescribed by an authorized person other than Respondent. Respondent shall use such habit-forming drug or controlled substance only as directed by such authorized person and only for the condition identified by such authorized person.

#### **AUTHORIZED USE OF ADDICTIVE SUBSTANCES**

10. Except in the case of a bona fide medical emergency, the Respondent shall not use a habit-forming drug or controlled substance given by an authorized person unless Respondent has received prior written approval of the use from the treatment monitor. In the case of a bona

in a medical emergency, Respondent may use the habit-forming drug or controlled substance as prescribed by the authorized person, but must notify the treatment monitor within 24 hours of the use. Also within 24 hours of the use, Respondent must obtain written approval from the treatment monitor for continued use of the habit-forming drug or controlled substance.

11. Approvals for the use of habit-forming drugs or controlled substances made by the treatment monitor shall go only to the particular medication, indication, dosage and amount of refills understood and acknowledged by the treatment monitor. The burden shall be on the Respondent to assure that the treatment monitor understands fully the drug regimen the treatment monitor is approving.

### TREATMENT MONITORING

12. During the probationary period, Respondent shall receive such medical treatment as is determined to be appropriate by the Colorado Physician Health Program ("CPHP"). All instructions to Respondent by CPHP shall constitute terms of this Order, and must be complied with. 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. CPHP shall monitor Respondent's compliance with this Order in the following manner:

a. CPHP shall test Respondent's urine to insure compliance with this Order. CPHP shall require Respondent to submit to urine tests on randomly selected days on a frequency of twelve times per month. Upon notice to Respondent by CPHP that a urine sample must be given, Respondent must provide a urine sample as soon as possible, but in no event later than 6:00 p.m. that same day. Within these guidelines, CPHP shall make reasonable effort to insure that the Respondent will not be able to predict which days Respondent will be tested. CPHP shall take all reasonable measures, including observation of the giving of the urine sample, to insure that the urine testing is effective.

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

13. Respondent shall not consume any substance such as poppy seeds, cough syrup or mouthwash that results in a "false positive" for urine testing. Any false positive caused by the consumption of poppy seeds, cough syrup or mouthwash shall constitute a violation of this Order. Any consumption of any other substance Respondent has reason to believe will cause a false positive shall also constitute a violation of this Order.

14. Nothing in this agreement shall limit the ability of CPHP to test more frequently or for more substances than set forth above or to impose any other condition as part of its treatment of Respondent.

15. Within 30 days of the effective date of this Order, Respondent shall complete an unrestricted release permitting CPHP to disclose to the Panel all privileged information concerning Respondent in its possession, including information generated by other sources. Any revocation of such release by Respondent shall constitute a violation of this Order.

16. If at any time, CPHP feels that any of the above requirements are no longer necessary CPHP may petition the Panel to relax the above requirements. If the Panel agrees to such a relaxation, it shall so inform CPHP by written notice. Thereafter, Respondent may comply with this Order as set forth in that notice.

### PRACTICE MONITORING

17. During the probationary period, Respondent's medical practice shall be monitored by a "practice monitor." Within 30 days of the effective date of this Order, the 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. The nominee shall not have been disciplined by the Board.

18. 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.

19. 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 review at least five charts maintained by Respondent. 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 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 hospitals. If Respondent has admitted fewer than five patients, the practice monitor shall review all the patients so admitted, 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.

20. If at any time the practice monitor believes Respondent is not in compliance with this Order, is unable to practice with skill and with safety to patients or has otherwise committed unprofessional conduct as defined in § 12-36-117(I), C.R.S., the practice monitor shall immediately inform the Panel.

21. 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.

#### EARLY TERMINATION FROM PRACTICE MONITORING

22. After eighteen months of successful practice monitoring, Respondent may petition the Panel for early termination of practice monitoring. The Panel shall have sole discretion as to its decision on any such petition. The Panel's decision shall be unreviewable.

#### OUT OF STATE PRACTICE

23. Respondent may wish to leave Colorado and practice in another state. At any time, whether to practice out of state, or for any other reason, Respondent may request that the Board place Respondent's license on inactive status as set forth in § 12-36-137, C.R.S. Upon the approval of such request, Respondent may cease to comply with those provisions of this Order titled "Authorized Use of Addictive Substances," "Treatment Monitoring" and "Practice Monitoring." Failure to comply with any of these provisions, while inactive, shall not constitute a violation of this Order. While inactive, Respondent must comply with all other provisions of this Order, particularly the provision titled

"Abstinence From Addictive Substances." Unless Respondent's license is inactive, Respondent must comply with all provisions of this Order, irrespective of Respondent's location. The probationary period will be tolled for any period of time Respondent's license is inactive. Respondent may resume the active practice of medicine at any time as set forth in § 12-36-137(5), C.R.S. With such request, Respondent shall nominate a practice monitor as provided above. Respondent shall be permitted to resume the active practice of medicine only after approval of the practice monitor.

24. Having left the state, Respondent may not wish to return. In order to prevent the probationary period from being tolled indefinitely, Respondent may request to surrender Respondent's license. Respondent may request to surrender Respondent's license at any time and for any reason, irrespective of whether Respondent's license is inactive. Upon approval of such a request by the Panel, Respondent's license shall be deemed surrendered and the probation completed. Thereafter, Respondent may not apply for a new license issued by the Board.

#### TERMINATION OF PROBATION

25. Upon the expiration of the probationary period, Respondent may request restoration of Respondent's license to unrestricted status. If Respondent has complied with the terms of probation, and if Respondent's probationary period has not been tolled, such release shall be granted by the Panel in the form of written notice.

#### OTHER TERMS

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

27. 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.

28. 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.

29. Respondent shall obey all state and federal laws during the probationary period.

30. Respondent presently holds privileges at the following hospitals:

- a. St. Mary Corwin Hospital.
- b. Parkview Memorial Hospital.

31. This Order and all its terms shall have the same force and effect as an order entered after a formal disciplinary hearing pursuant to § 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 § 12-36-118(5)(g)(IV), C.R.S. This Order and all its terms also



constitute a valid board order for purposes of § 12-36-117(1)(u), C.R.S. In addition to any other sanction that may be imposed, failure to comply with the terms of this Order shall toll the probationary period.

32. This Order shall be admissible as evidence at any future hearing before the Board.
33. 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.
34. Invalidation of any portion of this Order by judgment or court order shall in no way affect any other provision, which provision shall remain in full force and effect.
35. This Order shall be effective upon approval by the Panel and signature by a Panel member. 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, it is void.
36. Upon becoming effective, this Order shall be open to public inspection and shall be reported as required by law.



Michael C. Saathoff, M.D.

5 St. Andrews Ct

Peab, CO 81001

Address

The foregoing was acknowledged before me this 19<sup>th</sup> day of November, 1998  
by Michael C. Saathoff, M.D.



NOTARY PUBLIC

My Commission expires: November 10, 2001



THE FOREGOING Stipulation and Final Agency Order is approved and effective this  
10<sup>th</sup> day of December, 1998.

FOR THE COLORADO STATE BOARD OF  
MEDICAL EXAMINERS

INQUIRY PANEL A

*Gene Ogulinski*

APPROVED AS TO FORM:

FOR THE RESPONDENT

FOR THE BOARD OF MEDICAL EXAMINERS

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