STATE OF WASHINGTON

DEPARTMENT OF HEALTH

Olympia, Washington 98504

RE: Andrew D. Pauli, MD
Master Case No.: M2011-842
Document: Statement of Charges

Regarding your request for information about the above-named practitioner; attached is a true and correct copy of the document on file with the State of Washington, Department of Health, Adjudicative Clerk Office. These records are considered Certified by the Department of Health.

Certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld: **NONE**

If you have any questions or need additional information regarding the information that was withheld, please contact:

Customer Service Center
P.O. Box 47865
Olympia, WA 98504-7865
Phone: (360) 236-4700
Fax: (360) 586-2171

You may appeal the decision to withhold any information by writing to the Privacy Officer, Department of Health, P.O. Box 47890, Olympia, WA 98504-7890.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

In the Matter of the License to Practice as a Physician and Surgeon of: **ANDREW D. PAULI, MD** License No. MD00024846 Respondent	**No. M2011-842** **STATEMENT OF CHARGES**

The Disciplinary Manager of the Medical Quality Assurance Commission (Commission) is authorized to make the allegations below, which are supported by the evidence contained in file number 2009-140483. The patients referred to in this Statement of Charges are identified in the attached Confidential Schedule.

1. ALLEGED FACTS

1.1 On July 1, 1987, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent's license is currently active.

1.2 During a time frame that included October through December 2009, Respondent participated in an internet site advertising hormone replacement therapy as an anti-aging therapy to consumers.

1.3 The standard of care for diagnosing adult growth hormone deficiency in adults requires first, that the physician have a high index of suspicion that the patient has growth hormone deficiency. Consideration for growth hormone replacement therapy in adults is indicated in patients with pituitary or brain disease, tumors or irradiation; patients who have suffered traumatic brain injury; patients with AIDS wasting syndrome or rare patients with short bowel syndrome. In addition, adults who have had childhood onset growth hormone deficiency should be considered for continued growth hormone therapy as adults. The diagnosis of growth hormone deficiency must be achieved by obtaining an insulin-like growth factor one (IGF-1) level and then perform the provocative (or stimulation) test. A simple measurement of serum IGF-I is not sufficient to make the diagnosis, except in patients who are also diagnosed as having panhypopituitarism. The stimulation test is required unless the patient has deficiencies in at least three other hormone levels or the patient has a history of childhood growth

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hormone deficiency. If growth hormone deficiency is determined by this standard, then the physician must look for the underlying cause. The FDA specifically bans the use of growth hormone as an "anti-aging" therapy or as an anabolic agent for sports. The use of growth hormone is contra-indicated in patients with active malignancy.

1.4 Respondent treated Patient A during a time frame between October 2004 and June 15, 2005. Respondent recommended growth hormone replacement to Patient A in December 2004 and Patient A began growth hormone replacement in January 2005. Patient A was a middle aged woman with weight gain and a host of minor complaints. Respondent purported to diagnose growth hormone deficiency based on a low serum IGF-1 level. There was no evidence of growth hormone stimulation testing. There was no notation that the patient had any condition that would indicate a work-up for growth hormone deficiency. The standard of care for initiating and maintaining growth hormone therapy was not met in this patient. Respondent's prescription of growth hormone for Patient A created an unreasonable risk of harm to Patient A. Respondent did not document telling Patient A of the risks of growth hormone therapy. Respondent did not document Patient A's informed consent to growth hormone therapy. Patient A stopped taking growth hormone in approximately March 2005.

1.5 Respondent treated Patient B between December 8, 2006 and October 2007. Patient B was a post-menopausal woman with numerous mild medical problems. Respondent purported to diagnose growth hormone deficiency based on a low serum IGF0f1 level. There was no evidence of growth hormone stimulation testing. There was no notation that the patient had any condition that would indicate a work-up for growth hormone deficiency. The standard of care for initiating and maintaining growth hormone therapy was not met in this patient. Respondent's prescription of growth hormone for Patient B created an unreasonable risk of harm to Patient B. Respondent did not document telling Patient B of the risks of growth hormone therapy. Respondent did not document Patient B's informed consent to growth hormone therapy.

1.6 Respondent treated Patient C between May 2003 and January 2008. Patient C was a middle-aged man with radiographic evidence of Coronary Artery Disease. During 2003, Patient C was taking testosterone. In 2001 the patient had a brain Magnetic Resonance Imaging that was normal, showing no pituitary pathology. There was no notation that the patient had any condition that would indicate a work-up

for growth hormone deficiency. Despite the IGF-1 normal level, Respondent indicated growth hormone therapy might be useful. Respondent provided Patient C's records as those of patients for whom he prescribed and treated with human growth hormone. There is no notation that Patient C had a condition that would indicate a work-up for growth hormone deficiency. Respondent failed to conduct growth hormone stimulation testing for Patient C and failed to conduct sufficient regular monitoring of Patient C's hormonal levels. Respondent failed to record the dates and amounts of hormone therapy recommended, prescribed and/or taken by Patient C. Respondent's initiation of an HGH regime for Patient C and Respondent's maintenance of HGH therapy for Patient C was below the standard of care and created an unreasonable risk of harm to Patient C.

1.7 Respondent treated Patient D between February 2003 and October 2007. Patient D was a healthy man Respondent purported to diagnose with growth hormone deficiency based on a normal IGF-1 level of 162 on February 20, 2003. Growth hormone therapy was suggested and patient had already obtained it. The patient continued on growth hormone replacement therapy and Respondent included Nordipen, an injectable form of the human growth hormone somatropin, in Patient D's treatment plan as late as October 4, 2007. Respondent did not document any growth hormone stimulation testing. There was no notation that the patient had any condition that would indicate a work-up for growth hormone deficiency. Respondent's initiation and maintenance of human growth hormone therapy for Patient D was below the standard of care and created an unreasonable risk of harm to Patient D.

1.8 Respondent treated Patient E between September 2006 and October 2007. Patient E came to Respondent because he was interested in using growth hormone. Respondent prescribed growth hormone for Patient E based on a normal IGF-1 levels. Respondent did not conduct growth stimulation testing of Patient E. There was no notation that Patient E had any condition that would indicate a work-up for growth hormone deficiency. Respondent's initiation and maintenance of human growth hormone therapy for Patient E was below the standard of care and created an unreasonable risk of harm to Patient E.

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1.9 Respondent's record keeping for Patients A, B, C, D and E is inadequate for purposes of establishing the basis for a diagnosis, documenting prescriptions, justifying prescribing of and maintenance of human growth hormone replacement therapy, documenting explanation of the risks of human growth hormone replacement, and documenting the patients' informed consent.

1.10 Respondent failed to cooperate by refusing to provide un-redacted patient files to the Commission as specifically requested on March 15, 2011. Respondent's redactions were extensive and appear to include omissions beyond the name, date of birth and contact information for Patient.

2. ALLEGED VIOLATIONS

2.1 Based on the Alleged Facts, Respondent has committed unprofessional conduct in violation of RCW 18.130.180 (4), (7), (8)(a); RCW 69.41.320, WAC 246-919-610, and 21 U.S.C.A. § 333 (e), which provide:

> **RCW 18.130.180 Unprofessional conduct.** The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:
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> . . .
>
> (4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;
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> . . .
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> (7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;
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> (8) Failure to cooperate with the disciplining authority by: (a) Not furnishing any papers, documents, records, or other items;
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> . . .
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> **RCW 69.41.320 Practitioners — Restricted use — Medical records.** (1)(a) A practitioner shall not prescribe, administer, or dispense steroids, as defined in RCW 69.41.300, or any form of autotransfusion for the purpose of

manipulating hormones to increase muscle mass, strength, or weight, or for the purpose of enhancing athletic ability, without a medical necessity to do so.

(b) A person violating this subsection is guilty of a gross misdemeanor and is subject to disciplinary action under RCW 18.130.180.

(2) A practitioner shall complete and maintain patient medical records which accurately reflect the prescribing, administering, or dispensing of any substance or drug described in this section or any form of autotransfusion. Patient medical records shall indicate the diagnosis and purpose for which the substance, drug, or autotransfusion is prescribed, administered, or dispensed and any additional information upon which the diagnosis is based.

WAC 246-919-610 Use of drugs or autotransfusion to enhance athletic ability. (1) A physician shall not prescribe, administer or dispense anabolic steroids, growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), other hormones, or any form of autotransfusion for the purpose of enhancing athletic ability.

(2) A physician shall complete and maintain patient medical records which accurately reflect the prescribing, administering or dispensing of any substance or drug described in this rule or any form of autotransfusion. Patient medical records shall indicate the diagnosis and purpose for which the substance, drug or autotransfusion is prescribed, administered or dispensed and any additional information upon which the diagnosis is based.

(3) A violation of any provision of this rule shall constitute grounds for disciplinary action under RCW 18.130.180(7). A violation of subsection (1) of this section shall also constitute grounds for disciplinary action under RCW 18.130.180(6).

21 U.S.C.A. § 333 (e) Prohibited distribution of human growth hormone (1) Except as provided in paragraph (2), whoever knowingly distributes, or possesses with intent to distribute, human growth hormone for any use in humans other than the treatment of a disease or other recognized medical condition, where such use has been authorized by the Secretary of Health and Human Services under section 355 of this title and pursuant to the order of a physician, is guilty of an offense punishable by not more than 5 years in prison, such fines as are authorized by Title 18, or both. (2) Whoever commits any offense set forth in paragraph (1) and such offense involves an individual under 18 years of

age is punishable by not more than 10 years imprisonment, such fines as are authorized by Title 18, or both.
(3) Any conviction for a violation of paragraphs (1) and (2) of this subsection shall be considered a felony violation of the Controlled Substances Act [21 U.S.C.A. § 801 et seq.] for the purposes of forfeiture under section 413 of such Act [21 U.S.C.A. § 853].
(4) As used in this subsection the term "human growth hormone" means somatrem, somatropin, or an analogue of either of them.
(5) The Drug Enforcement Administration is authorized to investigate offenses punishable by this subsection

2.2 The above violations provide grounds for imposing sanctions under RCW 18.130.160.

3. NOTICE TO RESPONDENT

The charges in this document affect the public health, safety and welfare. The Disciplinary Manager of the Commission directs that a notice be issued and served on Respondent as provided by law, giving Respondent the opportunity to defend against these charges. If Respondent fails to defend against these charges, Respondent shall be subject to discipline and the imposition of sanctions under Chapter 18.130 RCW.

DATED: March 13, 2012.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

DANI NEWMAN
DISCIPLINARY MANAGER

KRISTIN BREWER, WSBA # 38494
ASSISTANT ATTORNEY GENERAL

CONFIDENTIAL SCHEDULE

This information is confidential and is NOT to be released without the consent of the individual or individuals named below. RCW 42.56.240(1)

Patient A	Middle-aged Female: Respondent refused to divulge identity or date of birth to the Commission
Patient B	Middle-aged Female: Respondent refused to divulge identity or date of birth to the Commission
Patient C	Middle-aged Male: Respondent refused to divulge identity or date of birth to the Commission
Patient D	Middle-aged Male: Respondent refused to divulge identity or date of birth to the Commission
Patient E	Middle-aged Male: Respondent refused to divulge identity or date of birth to the Commission

STATE OF WASHINGTON

DEPARTMENT OF HEALTH

Olympia, Washington 98504

RE: Andrew D. Pauli, MD
Master Case No.: M2011-842
Document: Agreed Order

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STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

In the Matter of the License to Practice as a Physician and Surgeon of: **ANDREW D. PAULI, MD** License No. MD00024846 Respondent	No. M2011-842 **STIPULATED FINDINGS OF FACT, CONCLUSIONS OF LAW AND AGREED ORDER**

The Medical Quality Assurance Commission (Commission), through Teresa Landreau, Department of Health Staff Attorney, and Respondent, represented by Kenneth S. Kagan, stipulate and agree to the following.

1. PROCEDURAL STIPULATIONS

1.1 On March 13, 2012, the Commission issued a Statement of Charges against Respondent.

1.2 In the Statement of Charges, the Commission alleges that Respondent violated RCW 18.130.180 (4), (7), (8)(a); RCW 69.41.320, WAC 246-919-610, and 21 U.S.C.A. § 333 (e).

1.3 The Commission is prepared to proceed to a hearing on the allegations in the Statement of Charges.

1.4 Respondent has the right to defend against the allegations in the Statement of Charges by presenting evidence at a hearing.

1.5 The Commission has the authority to impose sanctions pursuant to RCW 18.130.160 if the allegations are proven at a hearing.

1.6 The parties agree to resolve this matter by means of this Stipulated Findings of Fact, Conclusions of Law and Agreed Order (Agreed Order).

1.7 Respondent waives the opportunity for a hearing on the Statement of Charges if the Commission accepts this Agreed Order.

1.8 This Agreed Order is not binding unless it is accepted and signed by the Commission.

1.9 If the Commission accepts this Agreed Order, it will be reported to the Health Integrity and Protection Databank (HIPDB) (45 CFR Part 61), the Federation of State

Medical Boards' Physician Data Center and elsewhere as required by law. HIPDB will report this Agreed Order to the National Practitioner Data Bank (45 CFR Part 60).

1.10 This Agreed Order is a public document. It will be placed on the Department of Health's website, disseminated via the Commission's electronic mailing list, and disseminated according to the Uniform Disciplinary Act (Chapter 18.130 RCW). It may be disclosed to the public upon request pursuant to the Public Records Act (Chapter 42.56 RCW). It will remain part of Respondent's file according to the state's records retention law and cannot be expunged.

1.11 If the Commission rejects this Agreed Order, Respondent waives any objection to the participation at hearing of any Commission members who heard the Agreed Order presentation.

2. FINDINGS OF FACT

Respondent and the Commission acknowledge that the evidence is sufficient to support the following findings, and the Commission makes the following findings of fact.

2.1 On July 1, 1987, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent's license is currently active.

2.2 During a time frame that included October through December 2009, Respondent participated in an internet site advertising hormone replacement therapy as an anti-aging therapy to consumers.

2.3 The standard of care for diagnosing adult growth hormone deficiency in adults requires first, that the physician have a high index of suspicion that the patient has growth hormone deficiency. Consideration for growth hormone replacement therapy in adults is indicated in patients with pituitary or brain disease, tumors or irradiation; patients who have suffered traumatic brain injury; patients with AIDS wasting syndrome or rare patients with short bowel syndrome. In addition, adults who have had childhood onset growth hormone deficiency should be considered for continued growth hormone therapy as adults. The diagnosis of growth hormone deficiency must be achieved by obtaining an insulin-like growth factor one (IGF-1) level and then performing the provocative (or stimulation) test. A simple measurement of serum IGF-I is not sufficient to make the diagnosis, except in patients who are also diagnosed as having panhypopituitarism. The stimulation test is required unless the patient has deficiencies in at least three other

hormone levels or the patient has a history of childhood growth hormone deficiency. If growth hormone deficiency is determined by this standard, then the physician must look for the underlying cause. The FDA specifically bans the use of growth hormone as an "anti-aging" therapy or as an anabolic agent for sports. The use of growth hormone is contra-indicated in patients with active malignancy.

2.4 Respondent treated Patient A during a time frame between October 2004 and June 15, 2005. Respondent recommended growth hormone replacement to Patient A in December 2004 and Patient A began growth hormone replacement in January 2005. Patient A was a middle aged woman with weight gain and a host of minor complaints. Respondent purported to diagnose growth hormone deficiency based on a low serum IGF-1 level. There was no evidence of growth hormone stimulation testing. There was no notation that the patient had any condition that would indicate a work-up for growth hormone deficiency. The standard of care for initiating and maintaining growth hormone therapy was not met in this patient. Respondent's prescription of growth hormone for Patient A created an unreasonable risk of harm to Patient A. Respondent did not document telling Patient A of the risks of growth hormone therapy. Respondent did not document Patient A's informed consent to growth hormone therapy. Patient A stopped taking growth hormone in approximately March 2005. There is nothing in Patient A's medical charts indicating actual harm to Patient A.

2.5 Respondent treated Patient B between December 8, 2006 and October 2007. Patient B was a post-menopausal woman with numerous mild medical problems. Respondent purported to diagnose growth hormone deficiency based on a low serum IGF-1 level. There was no evidence of growth hormone stimulation testing. There was no notation that the patient had any condition that would indicate a work-up for growth hormone deficiency. The standard of care for initiating and maintaining growth hormone therapy was not met in this patient. Respondent's prescription of growth hormone for Patient B created an unreasonable risk of harm to Patient B. Respondent did not document telling Patient B of the risks of growth hormone therapy. Respondent did not document Patient B's informed consent to growth hormone therapy. There is nothing in Patient B's medical charts indicating actual harm to Patient B.

2.6 Respondent treated Patient C between May 2003 and January 2008. Patient C was a middle-aged man with radiographic evidence of Coronary Artery Disease. During 2003, Patient C was taking testosterone. In 2001 the patient had a brain Magnetic Resonance Imaging that was normal, showing no pituitary pathology. There was no notation that Patient C had any condition that would indicate a work-up for growth hormone deficiency. Despite the IGF-1 normal level, Respondent indicated growth hormone therapy might be useful. Respondent provided Patient C's records as those of patients for whom he prescribed and treated with human growth hormone. Respondent failed to conduct growth hormone stimulation testing for Patient C and failed to conduct sufficient regular monitoring of Patient C's hormonal levels. Respondent failed to record the dates and amounts of hormone therapy recommended, prescribed and/or taken by Patient C. Respondent's initiation of an HGH regime for Patient C and Respondent's maintenance of HGH therapy for Patient C was below the standard of care and created an unreasonable risk of harm to Patient C. There is nothing in Patient C's medical charts indicating actual harm to Patient C.

2.7 Respondent treated Patient D between February 2003 and October 2007. Patient D was a healthy man. Respondent purported to diagnose with growth hormone deficiency based on a normal IGF-1 level of 162 on February 20, 2003. Growth hormone therapy was suggested and the patient had already obtained it. The patient continued on growth hormone replacement therapy and Respondent included Nordipen, an injectable form of the human growth hormone somatropin, in Patient D's treatment plan as late as October 4, 2007. Respondent did not document any growth hormone stimulation testing. There was no notation that the patient had any condition that would indicate a work-up for growth hormone deficiency. Respondent's initiation and maintenance of human growth hormone therapy for Patient D was below the standard of care and created an unreasonable risk of harm to Patient D. There is nothing in Patient D's medical charts indicating actual harm to Patient D.

2.8 Respondent treated Patient E between September 2006 and October 2007. Patient E came to Respondent because he was interested in using growth hormone. Respondent prescribed growth hormone for Patient E based on a normal IGF-1 levels. Respondent did not conduct growth stimulation testing of Patient E. There was no

notation that Patient E had any condition that would indicate a work-up for growth hormone deficiency. Respondent's initiation and maintenance of human growth hormone therapy for Patient E was below the standard of care and created an unreasonable risk of harm to Patient E. There is nothing in Patient E's medical charts indicating actual harm to Patient E.

2.9 Respondent's record keeping for Patients A, B, C, D and E is inadequate for purposes of establishing the basis for a diagnosis, documenting prescriptions, justifying prescribing of and maintenance of human growth hormone replacement therapy, documenting explanation of the risks of human growth hormone replacement, and documenting the patients' informed consent.

2.10 Respondent failed to cooperate by refusing to provide un-redacted patient files to the Commission as specifically requested on March 15, 2011. Respondent's redactions were extensive and appear to include omissions beyond the name, date of birth of, and contact information for patients.

3. CONCLUSIONS OF LAW

The Commission and Respondent agree to the entry of the following Conclusions of Law.

3.1 The Commission has jurisdiction over Respondent and over the subject matter of this proceeding.

3.2 Respondent has committed unprofessional conduct in violation of RCW 18.130.180 (4), (7), (8)(a); RCW 69.41.320, WAC 246-919-610, and 21 U.S.C.A. § 333 (e).

3.3 The above violations provide grounds for imposing sanctions under RCW 18.130.160

4. AGREED ORDER

Based on the Findings of Fact and Conclusions of Law, Respondent agrees to entry of the following Agreed Order.

4.1 **Probation.** The Commission places Respondent's license on PROBATION for four (4) years from the effective date of this Agreed Order.

4.2 **Restrictions.** Respondent shall not advertise hormone supplementation treatment for the duration of his probation. Respondent shall not provide human growth

hormone treatment to patients in Washington State. Any patient located in Washington State for whom such treatment may be indicated must be referred to other providers.

4.3 **Ethics Course**. Respondent will attend a two-day ethics course approved by the Commission Medical Consultant. The ProBE course offered by the Center for Personalized Education for Physicians (CPEP) in Denver, Colorado is pre-approved. Respondent will complete the course within one year of the effective date of this Agreed Order unless otherwise allowed in writing by the Commission Medical Consultant. Respondent will provide the course instructors with a copy of this Agreed Order prior to the course. Respondent will sign all necessary waivers to allow the Department staff to communicate with the course instructors as needed. Respondent will submit proof of the satisfactory completion of the course to the Commission. If the course requires Respondent to complete a written report, Respondent will assure that the Commission receives a copy of Respondent's written report. If the course instructors inform the Commission that Respondent did not receive an "unconditional pass" or otherwise satisfactorily complete the course, the Commission may require Respondent to re-take the course.

4.4 **Practice Reviews**. The Commission understands that Respondent at this time has no appointed office in which to see patients in Washington State. In order to facilitate monitoring of his compliance with this Agreed Order, Respondent will notify the Commission in writing in advance of personally meeting with patients within Washington State for treatment purposes. In the event that Respondent has practiced medicine within Washington State during the period of probation, he will be subject to practice audits. The representative will review patient records, interview Respondent and interview Respondent's employees or other auxiliary health care providers working with Respondent in Washington State. The representative will contact Respondent office to coordinate such practice review.

4.5 **Fine**. Respondent will pay a fine to the Commission in the amount of eight thousand dollars ($8,000.00). Respondent will pay the fine within one hundred twenty (120) days of the effective date of this Agreed Order. The fine will be paid by certified or cashier's check or money order, made payable to the Department of Health and mailed to

the Department of Health, Medical Quality Assurance Commission, at P.O. Box 1099, Olympia, Washington 98507-1099.

4.6 **Compliance appearances**. Respondent shall appear before the Commission on an annual basis and present proof of full compliance with this Agreed Order. Respondent shall continue to appear annually unless otherwise instructed in writing by the Commission or its representative. If Respondent has not practiced medicine within Washington, the Commission may accept written assurances of compliance in lieu of personal appearance, in the discretion of the Commission.

4.7 **Obey laws**. Respondent shall obey all federal, state and local laws and all administrative rules governing the practice of the profession in Washington.

4.8 **Termination.** Respondent may file a petition for termination of probation after two (2) years if Respondent has been in full compliance during that period. Respondent shall appear in person at a hearing on the petition. At the hearing, the Department may present evidence in opposition to be considered by the Commission. After considering the petition and the evidence presented, the Commission will have sole discretion to grant or deny Respondent's petition.

4.9 **Responsibility for costs of compliance.** Respondent is responsible for all costs he may incur in the course of complying with this Agreed Order.

4.10 **Consequences of Violation.** If Respondent violates any provision of this Agreed Order in any respect, the Commission may initiate further action against Respondent's license.

4.11 **Updated Address.** Respondent shall inform the Program and the Adjudicative Clerk Office, in writing, of changes in Respondent's residential and/or business address within thirty (30) days of the change.

4.12 **Effective Date.** The effective date of this Agreed Order is the date the Adjudicative Clerk Office places the signed Agreed Order into the U.S. mail. If required, Respondent shall not submit any fees or compliance documents until after the effective date of this Agreed Order.

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5. COMPLIANCE WITH SANCTION RULES

5.1 The Commission applies WAC 246-16-800, *et seq.*, to determine appropriate sanctions. Tier B of the "Practice Below Standard of Care" schedule, WAC 246-16-810, applies to cases where substandard practices result in moderate patient harm or risk of moderate or severe patient harm. The use of human growth hormone therapy is strictly limited to specified conditions because of significant attendant risk. Respondent's use of growth hormone supplementation to treat Patients risked potentially moderate harm to those patients without justification, because these patients had had none of the specified conditions to suggest a potential treatment benefit from growth hormone supplementation. Tier B therefore applies.

5.2 Tier B requires the imposition of sanctions ranging from two years of oversight to five years of oversight, unless revocation. Under WAC 246-16-800(3)(d), the starting point for the duration of the sanctions is the middle of the range. The Commission uses aggravating and mitigating factors to move towards the maximum or minimum ends of the range.

5.3 The aggravating and mitigating factors in this case, listed below, justify moving to upper mid-range. The sanctions in this case include a prohibition on Respondent's advertising or prescribing of growth hormone supplementation in Washington State, successful completion of an ethics training program, a fine and other sanctions designed to protect the public. Respondent advised the Commission he is not currently practicing medicine within Washington State. In the event Respondent returns to practice in Washington during the term of probation he will be also subject to practice reviews, and personal compliance appearances before the Commission. The order also allows discretion in the Commission after two years to determine if Respondent's successful compliance with all aspects of this Agreed Order at that point is sufficiently mitigating to allow termination of probation at the low end of Tier B sanction guidelines.

5.4 These sanctions are appropriate within the Tier B range given the facts of the case and the following aggravating and mitigating factors:

5.4.1 As an aggravating factor: Respondent detracted from his patients' ability to make informed decisions with internet advertising of hormone replacement therapy as an anti-aging therapy.

5.4.2 As an aggravating factor: Respondent's substandard care involved multiple patients.

5.4.3 As an aggravating factor: Respondent committed unprofessional conduct by means of failure to cooperate with the Commission's request for un-redacted records. This was in addition to his unprofessional conduct of substandard care. The nature and extent of Respondent's redactions of the requested patient records evidence willful disregard for the responsibilities attendant to his medical license.

5.4.4 As a mitigating factor: Respondent has no prior history of discipline.

5.4.5 As a mitigating factor: The medical charts for Respondent's patients reviewed for this matter did not reflect actual patient harm.

5.4.6 As a mitigating factor: There is no evidence Respondent continued to prescribe human growth hormone after closing his Washington practice in 2009.

6. FAILURE TO COMPLY

Protection of the public requires practice under the terms and conditions imposed in this order. Failure to comply with the terms and conditions of this order may result in suspension of the license after a show cause hearing. If Respondent fails to comply with the terms and conditions of this order, the Commission may hold a hearing to require Respondent to show cause why the license should not be suspended. Alternatively, the Commission may bring additional charges of unprofessional conduct under RCW 18.130.180(9). In either case, Respondent will be afforded notice and an opportunity for a hearing on the issue of non-compliance.

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7. RESPONDENT'S ACCEPTANCE

I, ANDREW D. PAULI, MD, Respondent, have read, understand and agree to this Agreed Order. This Agreed Order may be presented to the Commission without my appearance. I understand that I will receive a signed copy if the Commission accepts this Agreed Order.

Andrew D. Pauli MD — 3/29/2013

ANDREW D. PAULI, MD
RESPONDENT

DATE

Kenneth D. Kagan — 3/29/13

KENNETH KAGAN, WSBA# 12983
ATTORNEY FOR RESPONDENT

DATE

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8. COMMISSION'S ACCEPTANCE AND ORDER

The Commission accepts and enters this Stipulated Findings of Fact, Conclusions of Law and Agreed Order.

DATED: April 4, 2013.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

Linda A Berg
PANEL CHAIR

PRESENTED BY:

for TERESA LANDREAU, WSBA # 9591
DEPARTMENT OF HEALTH STAFF ATTORNEY

April 4, 2013
DATE

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