



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
Olympia, Washington 98504

RE: Robin R. Capwell, MD  
Master Case No.: M2012-582  
Document: Statement of Allegations

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:

The identity of the complainant if the person is a consumer, health care provider, or employee, pursuant to RCW 43.70.075 (Identity of Whistleblower Protected) and/or the identity of a patient, pursuant to RCW 70.02.020 (Medical Records - Health Care Information Access and Disclosure)

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:

**ROBIN R. CAPWELL, MD**  
License No. MD00024463

Respondent

**No. M2012-582**

**STATEMENT OF ALLEGATIONS  
AND SUMMARY OF EVIDENCE**

The Disciplinary Manager of the Medical Quality Assurance Commission (Commission), on designation by the Commission, makes the allegations below, which are supported by evidence contained in program file number 2011-159432. The patient referred to in this Statement of Allegations and Summary of Evidence is identified in the attached Confidential Schedule.

**1. ALLEGATIONS**

1.1 On January 28, 1987, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent is board-certified in psychiatry. Respondent's license is currently active.

1.2 Respondent was a shareholder practitioner at Group Health Cooperative/Group Health Permanente during a time frame that included 1997 through July 29, 2011. Review of records for approximately nine (9) patients revealed the following pattern of deficiencies in Respondent's medical practice at the Bellevue Behavioral Health Clinic since 2009.

1.3 Respondent prescribed stimulants, benzodiazepines and hypnotics, which are potentially addictive medications subject to abuse, for patients with known histories of active substance abuse. Respondent provided inadequate documentation of the rationale for this approach. Respondent failed to provide risk-benefit assessments for these patients, with the exception of one case for which the only documented rationale was to prevent the patient from dropping out of treatment.

1.4 Respondent prescribed doses of stimulants two to three times higher than the usual maximum levels for patients who had active, or a known history of substance abuse.

**ORIGINAL**



1.5 Respondent allowed patients to self-adjust medication doses, including increasing doses of stimulants, without first checking with Respondent. Respondent failed to document a rationale for this approach.

1.6 Respondent failed to document records or consultation with other physicians outside of Respondent's Health Maintenance Organization who were known to be, or reported to be, prescribing psychotropic or potentially addictive medications for patients for whom the Respondent simultaneously prescribed psychotropic or potentially addictive medications.

1.7 Respondent repeatedly failed to document any informed consent discussions with patients prior to starting them on medications.

1.8 Respondent repeatedly used the same phrase "alert, responsive, well-oriented, and euthymic" to describe multiple patients' mental status in multiple office visits. This phrase replaced individualized assessment of patients during office visits.

1.9 Respondent prescribed Ritalin to treat depression in Patient A, who had Bipolar Disorder, without documenting a rationale for doing so, and without a risk-benefit assessment. Respondent failed to consider the risk of stimulant medication precipitating hypomania or mania.

1.10 Respondent allowed Patient A to decide when to start a monoamine oxidase inhibitor (MAOI) without first checking with Respondent, and without documenting the necessary guidance to the patient regarding foods and medications to avoid when taking an MAOI.

1.11 Respondent continued to prescribe a combination of three potentially sedating medications, Klonopin, Ambien, and Seroquel, at significant sedative doses for Patient B, who subsequently fractured her ankle in a fall.

1.12 Respondent prescribed Lithium for Patient B, who was known to have Grave's Disease, without documenting baseline thyroid function laboratory tests beforehand. Respondent directed Patient B to decide on the patient's own when to start Lithium, without adequate consultation with Respondent.

1.13 Respondent continued to prescribe benzodiazepines for Patient C despite multiple falls experienced by the patient. Respondent inappropriately discounted the potential contribution of benzodiazepines and failed to consult with the physician prescribing OxyContin to Patient C.

ORIGINAL

1.14 Respondent failed to document an assessment for psychosis in Patient D, who had Bipolar Disorder and specifically complained of hallucinations.

1.15 Respondent failed to respond in a timely manner to an e-mail from Patient D complaining of suicidal thoughts.

1.16 Respondent continued to prescribe benzodiazepines and potentially abusable, addictive non-benzodiazepine hypnotics for Patient E, who was in need of chemical dependency treatment for an established benzodiazepine and narcotic addiction. This patient was refusing to enter into chemical dependency treatment.

1.17 Respondent failed to document any assessment of cognitive functioning in Patient E, who complained of adverse cognitive effects from prescribed medication.

1.18 Respondent provided long term management of Patient E, for whom he prescribed Depakote. Respondent obtained only six serum levels throughout a seven-year period of prescribing that medication. These lab results all showed levels below therapeutic standards, but Respondent failed to address those results or to provide dose adjustments.

1.19 Respondent prescribed Concerta for Patient F, who had a known aortic stenosis that was significantly symptomatic, without documenting a risk-benefit assessment.

1.20 Respondent prescribed Aricept for Patient F, who presented memory and confusion problems, without documenting a sufficient cognitive mental status exam, any neuropsychological testing, or of any imaging studies. Respondent provided no documentation of an adequate evaluation for dementia or other appropriate diagnosis before starting Patient F on Aricept.

1.21 Respondent continued to prescribe stimulants and benzodiazepines, and to renew stimulant prescriptions for Patient G, who (a) reported multiple incidents of lost, misplaced, or stolen stimulant medications, (b) was using marijuana while in treatment, (c) admitted to using some of his brother's stimulant medication, and (d) doubled the dosage of benzodiazepine on his own. Respondent failed to document appropriate limit setting or interventions for Patient G.

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## 2. SUMMARY OF EVIDENCE

2.1 The medical records of Patients A through G obtained by the Commission in this matter.

## 3. ALLEGED VIOLATIONS

3.1 The facts alleged in Section 1, if proven, would constitute unprofessional conduct in violation of RCW 18.130.180(4) which provides in part:

**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:

...

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;

...

## 4. NOTICE TO RESPONDENT

4.1 The Commission has determined that this case may be appropriate for resolution through a Stipulation to Informal Disposition pursuant to RCW 18.130.172(2). A proposed Stipulation to Informal Disposition is attached, which contains the disposition the Commission believes is necessary to address the conduct alleged in this Statement of Allegations and Summary of Evidence.

4.2 If Respondent agrees that the disposition imposed by the Stipulation to Informal Disposition is appropriate, Respondent should sign and date the Stipulation to Informal Disposition and return it within fourteen (14) days to the Medical Quality Assurance Commission at PO Box 47866, Olympia, WA 98504-7866.

4.3 If Respondent does not agree that the terms and conditions contained in the Stipulation to Informal Disposition are appropriate, Respondent should contact Teresa Landreau, Staff Attorney for the Medical Quality Assurance Commission, PO Box 47866, Olympia, WA 98504-7866, (360) 236-2769 within fourteen (14) days.

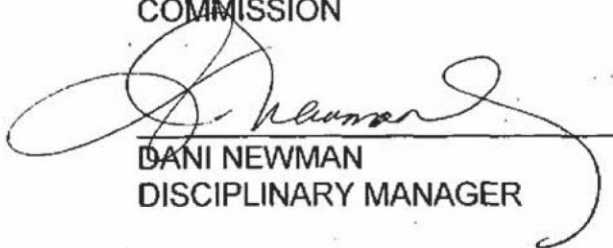
4.4 If Respondent does not respond within fourteen (14) days, the Commission will assume Respondent has declined to resolve the allegations by means of a Stipulation to Informal Disposition.

4.5 If Respondent declines to resolve the allegations by means of a Stipulation to Informal Disposition pursuant to RCW 18.130.172(2), the Commission may proceed to formal disciplinary action against Respondent by filing a Statement of Charges, pursuant to RCW 18.130.172(3).

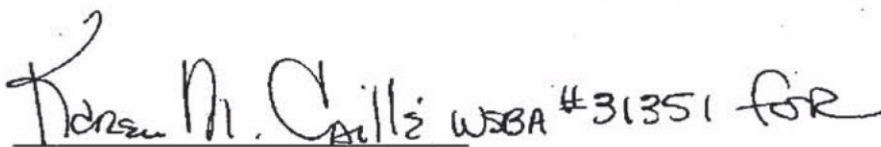
4.6 The cover letter enclosed with this Statement of Allegations and Summary of Evidence was mailed to the name and address currently on file for Respondent's license. Respondent must notify, in writing, the Commission if Respondent's name and/or address changes.

DATED: July 9, 2012.

STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
MEDICAL QUALITY ASSURANCE  
COMMISSION



DANI NEWMAN  
DISCIPLINARY MANAGER

  
TERESA LANDREAU, WSBA #9591  
DEPARTMENT OF HEALTH STAFF ATTORNEY



## CONFIDENTIAL SCHEDULE

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

Patient A

Patient B

Patient C

Patient D

Patient E

Patient F

Patient G





STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
Olympia, Washington 98504

RE: Robin R. Capwell, MD  
Master Case No.: M2012-582  
Document: Stipulation to Informal Disposition

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:

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P.O. Box 47865  
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**STATE OF WASHINGTON  
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In the Matter of the License to Practice  
as a Physician and Surgeon of:

**ROBIN R. CAPWELL, MD**  
License No. MD00024463

Respondent

**No. M2012-582**

**STIPULATION TO INFORMAL  
DISPOSITION**

Pursuant to the Uniform Disciplinary Act, Chapter 18.130 RCW, the Medical Quality Assurance Commission (Commission) issued a Statement of Allegations and Summary of Evidence (Statement of Allegations) alleging the conduct described below. Respondent does not admit any of the allegations. This Stipulation to Informal Disposition (Stipulation) is not formal disciplinary action and shall not be construed as a finding of unprofessional conduct or inability to practice.

**1. ALLEGATIONS**

1.1 On January 28, 1987, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent is board-certified in psychiatry. Respondent's license is currently active.

1.2 Respondent was a shareholder practitioner at Group Health Cooperative/Group Health Permanente during a time frame that included 1997 through July 29, 2011. Review of records for approximately nine (9) patients revealed the following pattern of deficiencies in Respondent's medical practice at the Bellevue Behavioral Health Clinic since 2009.

1.3 Respondent prescribed stimulants, benzodiazepines and hypnotics, which are potentially addictive medications subject to abuse, for patients with known histories of active substance abuse. Respondent provided inadequate documentation of the rationale for this approach. Respondent failed to provide risk-benefit assessments for these patients, with the exception of one case for which the only documented rationale was to prevent the patient from dropping out of treatment.

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1.4 Respondent prescribed doses of stimulants two to three times higher than the usual maximum levels for patients who had active, or a known history of substance abuse.

1.5 Respondent allowed patients to self-adjust medication doses, including increasing doses of stimulants, without first checking with Respondent. Respondent failed to document a rationale for this approach.

1.6 Respondent failed to document records or consultation with other physicians outside of Respondent's Health Maintenance Organization who were known to be, or reported to be, prescribing psychotropic or potentially addictive medications for patients for whom the Respondent simultaneously prescribed psychotropic or potentially addictive medications.

1.7 Respondent repeatedly failed to document any informed consent discussions with patients prior to starting them on medications.

1.8 Respondent repeatedly used the same phrase "alert, responsive, well-oriented, and euthymic" to describe multiple patients' mental status in multiple office visits. This phrase replaced individualized assessment of patients during office visits.

1.9 Respondent prescribed Ritalin to treat depression in Patient A, who had Bipolar Disorder, without documenting a rationale for doing so, and without a risk-benefit assessment. Respondent failed to consider the risk of stimulant medication precipitating hypomania or mania.

1.10 Respondent allowed Patient A to decide when to start a monoamine oxidase inhibitor (MAOI) without first checking with Respondent, and without documenting the necessary guidance to the patient regarding foods and medications to avoid when taking an MAOI.

1.11 Respondent continued to prescribe a combination of three potentially sedating medications, Klonopin, Ambien, and Seroquel, at significant sedative doses for Patient B, who subsequently fractured her ankle in a fall.

1.12 Respondent prescribed Lithium for Patient B, who was known to have Grave's Disease, without documenting baseline thyroid function laboratory tests beforehand. Respondent directed Patient B to decide on the patient's own when to start Lithium, without adequate consultation with Respondent.

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1.13 Respondent continued to prescribe benzodiazepines for Patient C despite multiple falls experienced by the patient. Respondent inappropriately discounted the potential contribution of benzodiazepines and failed to consult with the physician prescribing OxyContin to Patient C.

1.14 Respondent failed to document an assessment for psychosis in Patient D, who had Bipolar Disorder and specifically complained of hallucinations.

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1.19 Respondent prescribed Concerta for Patient F, who had a known aortic stenosis that was significantly symptomatic, without documenting a risk-benefit assessment.

1.20 Respondent prescribed Aricept for Patient F, who presented memory and confusion problems, without documenting a sufficient cognitive mental status exam, any neuropsychological testing, or of any imaging studies. Respondent provided no documentation of an adequate evaluation for dementia or other appropriate diagnosis before starting Patient F on Aricept.

1.21 Respondent continued to prescribe stimulants and benzodiazepines, and to renew stimulant prescriptions for Patient G, who (a) reported multiple incidents of lost, misplaced, or stolen stimulant medications, (b) was using marijuana while in treatment, (c) admitted to using some of his brother's stimulant medication, and (d)

doubled the dosage of benzodiazepine on his own. Respondent failed to document appropriate limit setting or interventions for Patient G.

## 2. STIPULATION

2.1 The Commission alleges that the conduct described above, if proven, would constitute a violation of RCW 18.130.180(4).

2.2 The parties wish to resolve this matter by means of a Stipulation to Informal Disposition (Stipulation) pursuant to RCW 18.130.172(1).

2.3 Respondent agrees to be bound by the terms and conditions of this Stipulation.

2.4 This Stipulation is of no force and effect and is not binding on the parties unless and until it is accepted by the Commission.

2.5 If the Commission accepts the Stipulation it will be reported to the Health Integrity and Protection Databank (HIPDB)(45 CFR Part 61), the Federation of State Medical Board's Physician Data Center, and elsewhere as required by law. HIPDB will report this Stipulation to the National Practitioner Data Bank (45 CFR Part 60).

2.6 The Statement of Allegations and this Stipulation are public documents. They will be placed on the Department of Health web site, disseminated via the Commission's electronic mailing list, and disseminated according to the Uniform Disciplinary Act (Chapter 18.130 RCW). They are subject to disclosure under the Public Records Act, Chapter 42.56 RCW, and shall remain part of Respondent's file according to the state's records retention law and cannot be expunged.

2.7 The Commission agrees to forego further disciplinary proceedings concerning the allegations.

2.8 Respondent agrees to successfully complete the terms and conditions of this informal disposition.

2.9 A violation Section 3 of this Stipulation, if proved, would constitute grounds for discipline under RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

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### 3. INFORMAL DISPOSITION

The Commission and Respondent stipulate to the following terms.

3.1 **Probation.** Respondent is placed on probation for a minimum of five (5) years from the effective date of this order.

3.2 **CPEP.** Respondent shall enroll in the Center for Personalized Education for Physicians in Denver, Colorado (CPEP), within three (3) months of the effective date of this Stipulation to Informal Disposition. Respondent shall fully cooperate with a CPEP clinical skills assessment, which shall include at a minimum (1) prescription and management of psychiatric medications, (2) prescription and management of controlled substances for patients with a history of or active substance abuse or chemical dependency, (3) awareness of and recognition of and management of side effects of psychiatric and controlled medications, (4) informed consent for medications, (5) who decides to start medications and to change dosage, (6) indications and assessment for medications for dementia, and (7) consultation with other physicians or clinicians prescribing psychiatric and controlled medications for the same patients. Respondent will provide CPEP with any charts, documents, and releases that are requested. The Commission may provide to CPEP investigation materials, pleadings, or orders entered in this case. Respondent releases CPEP to discuss any matters relating to Respondent's evaluation with the Commission. Respondent waives any privileges or privacy rights he might have under federal and state law. CPEP shall provide a copy of its evaluation to the Commission and shall communicate with the Commission regarding Respondent's progress. Respondent shall promptly and fully comply with any and all recommendations that flow from the CPEP assessment, including but not limited to continuing education and a training and/or preceptor program.

3.3 **Practice Reviews.** Respondent shall permit a representative of the Commission to audit Respondent's records and review Respondent's practice. The practice review will occur approximately six months from the completion of the CPEP assessment. Thereafter the Commission will conduct annual audits of Respondent records and practice.

3.4 **Compliance appearances.** Respondent shall appear before the Commission twelve (12) months from the effective date of this Stipulation to Informal Disposition, or as soon thereafter as the Commission's schedule permits, and present



proof that he is complying with this Stipulation. After the first appearance, Respondent shall continue to make compliance appearances every twelve (12) months unless otherwise instructed in writing by the Commission or its representative, until the Commission releases Respondent from the terms and conditions of this Stipulation.

3.5 **Cost Reimbursement.** Respondent shall reimburse costs to the Commission in the amount of one thousand dollars (\$1,000) which must be received by the Commission within ninety (90) days of the date of entry of this Stipulation to Informal Disposition. The reimbursement shall 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 PO Box 1099, Olympia, Washington 98507-1099.

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

3.7 **Costs.** Respondent must assume responsibility for all costs he incurs in complying with this Stipulation.

3.8 **Violations.** If Respondent violates any provision of this Stipulation in any respect, the Commission may initiate further action against Respondent's license.

3.9 **Change of Address.** Respondent must inform the Commission and the Adjudicative Clerk Office in writing, of changes in his residential and/or business address within thirty (30) days of such change.

3.10 **Petition for Termination.** After Respondent successfully completes all of the conditions of this Stipulation, Respondent may file a petition for its termination. Respondent may petition for termination of this Stipulation no earlier than five (5) years from its effective date. Respondent shall appear in person at a hearing on the petition. At the hearing, the Department and Respondent may present evidence 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.

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



#### 4. COMPLIANCE WITH SANCTION RULES

4.1 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 cause moderate patient harm or risk of moderate to severe patient harm. Respondent's care for Patients A through G is not documented to have caused severe harm or death, but caused a range of at least moderate harm and risk of severe harm. Respondent's failure to conduct necessary evaluations, monitoring, and consultations clearly jeopardized patient safety. Respondent's lax approach to prescribing contributed to patients' substance abuse and hindered patients from recovery from substance abuse. While there may not be clear and convincing evidence that Respondent's substandard care caused any particular harmful outcome, it appears that it likely contributed to harmful outcomes in some patients. Schedule B therefore applies.

4.2 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.

4.3 The aggravating factors in this case, listed below, justify moving toward the maximum end of the range. The Commission has not identified mitigating factors. The sanctions in this case include five years of probation, immediate improvement in standard of care, a comprehensive competency assessment process at The Center for Personalized Education for Physicians or an equivalent program, a requirement of successful remediation of deficiencies in medical knowledge, clinical decision making, documentation, communication skills and any health or behavioral conditions identified that detrimentally impact Respondent's ability to practice with reasonable skill and safety. Respondent will be subject to practice reviews, compliance appearances, and other requirements designed to protect the public.

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

- A. Respondent terminated his working relationship with the Health Maintenance Organization after concerns were raised about his standard of practice there.
- B. Repeated patterns of Respondent's substandard care consistently appeared in the limited number of charts chosen for review.
- C. Respondent's failure to acknowledge to the Commission the serious inadequacies in his patient care as revealed in the chart review.
- D. Respondent's lack of remedial action to date, based upon his formal response to inquiries from the Commission.

#### 5. RESPONDENT'S ACCEPTANCE

I, ROBIN R. CAPWELL, MD, Respondent, certify that I have read this Stipulation to Informal Disposition in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Commission without my appearance. If the Commission accepts the Stipulation to Informal Disposition, I understand that I will receive a signed copy.

Robin R. Capwell MD  
ROBIN R. CAPWELL, MD  
RESPONDENT

1/23/13  
DATE

Joyce L. Thomas  
Joyce L. Thomas WSBA # 21727  
ATTORNEY FOR RESPONDENT

January 24, 2013  
DATE



## 6. COMMISSION'S ACCEPTANCE

The Commission accepts this Stipulation to Informal Disposition. All parties shall be bound by its terms and conditions.

DATED: February 21, 201<sup>3</sup>7.

STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
MEDICAL QUALITY ASSURANCE COMMISSION

Mabel T. Conner  
PANEL CHAIR

PRESENTED BY:

Teresa Landreau  
TERESA LANDREAU, WSBA #9591  
DEPARTMENT OF HEALTH STAFF ATTORNEY



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
Olympia, Washington 98504

RE: Robin R. Capwell, MD  
Master Case No.: M2012-582  
Document: Modification Order

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**

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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:

**ROBIN R. CAPWELL, MD**  
License No. MD00024463

Respondent

**No. M2012-582**

**MODIFIED STIPULATION TO  
INFORMAL DISPOSITION**

Pursuant to the Uniform Disciplinary Act, Chapter 18.130 RCW, the Medical Quality Assurance Commission (Commission) issued a Statement of Allegations and Summary of Evidence (Statement of Allegations) alleging the conduct described below. Respondent does not admit any of the allegations. A Stipulation to Informal Disposition (Original Stipulation) was accepted by the Commission in this matter on February 21, 2013. This Modified Stipulation to Informal Disposition (Modified Stipulation) has been accepted by the Commission as a result of changed circumstances of Respondent. This Modified Stipulation is not formal disciplinary action and shall not be construed as a finding of unprofessional conduct or inability to practice.

**1. ALLEGATIONS**

1.1 On January 28, 1987, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent is board-certified in psychiatry. Respondent's license is currently active.

1.2 The provisions of paragraphs 1.2 through 1.21 of the Original Stipulation are adopted by reference unchanged and in their entirety.

**2. STIPULATION**

2.1 The Commission alleges that the conduct described above, if proven, would constitute a violation of RCW 18.130.180(4).

2.2 The parties wish to resolve this matter by means of a Modified Stipulation to Informal Disposition (Stipulation) pursuant to RCW 18.130.172(1).

2.3 Respondent agrees to be bound by the terms and conditions of this Modified Stipulation.

**ORIGINAL**

2.4 This Modified Stipulation is of no force and effect and is not binding on the parties unless and until it is accepted by the Commission.

2.5 If the Commission accepts the Modified Stipulation it will be reported to the Health Integrity and Protection Databank (HIPDB)(45 CFR Part 61), the Federation of State Medical Board's Physician Data Center, and elsewhere as required by law. HIPDB will report this Modified Stipulation to the National Practitioner Data Bank (45 CFR Part 60).

2.6 The Statement of Allegations and this Modified Stipulation are public documents. They will be placed on the Department of Health web site, disseminated via the Commission's electronic mailing list, and disseminated according to the Uniform Disciplinary Act (Chapter 18.130 RCW). They are subject to disclosure under the Public Records Act, Chapter 42.56 RCW, and shall remain part of Respondent's file according to the state's records retention law and cannot be expunged.

2.7 The Commission agrees to forego further disciplinary proceedings concerning the allegations.

2.8 Respondent agrees to successfully complete the terms and conditions of this modified informal disposition.

2.9 A violation of Section 3 of this Modified Stipulation, if proved, would constitute grounds for discipline under RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

### **3. MODIFIED INFORMAL DISPOSITION**

The Commission and Respondent stipulate to the following terms.

3.1 **Probation.** Respondent remains on probation for a minimum of five (5) years from the effective date of the Original Stipulation, which was February 26, 2013.

3.2 **CPEP.** Respondent's participation with the Center for Personalized Education for Physicians in Denver, Colorado (CPEP), as set forth in detail in paragraph 3.2 of the Original Stipulation, remains a requirement in this matter, but is stayed while the practice restrictions of paragraph 3.2.1 of this Modified Stipulation are in effect.

**3.2.1 Practice Restrictions.** Respondent notified the Commission by electronic mail on August 26, 2013 that he is experiencing health problems of a level to make funding educational recommendations of the CPEP plan on file with the Commission impractical at this time. It is unknown when Respondent's circumstances



may change, but he is not currently practicing or looking for employment as a physician in the immediate future. As a condition of staying the remedial education requirements of paragraph 3.2 of the Original Stipulation, Respondent is immediately restricted from providing medical care to patients or writing prescriptions for legend drugs or controlled substances. Respondent will notify the Commission by petition when he is ready to resume compliance with CPEP's recommendations. The Commission will then set a hearing on such petition to determine the appropriateness of lifting these restrictions. Depending upon the future timing, Respondent may be required to obtain an updated evaluation from CPEP or an equivalent program to assist the Commission in evaluating his fitness to practice.

3.3 **Practice Reviews.** The requirement for annual practice reviews, set forth in detail in paragraph 3.3 of the Original Stipulation, remains a requirement in this matter, but is stayed while the practice restrictions of paragraph 3.2.1 of this Modified Stipulation are in effect.

3.4 **Compliance appearances.** Respondent shall appear before the Commission twelve (12) months from the effective date of this Stipulation to Informal Disposition, or as soon thereafter as the Commission's schedule permits, and present proof that he is complying with this Stipulation. After the first appearance, Respondent shall continue to make compliance appearances every twelve (12) months unless otherwise instructed in writing by the Commission or its representative, until the Commission releases Respondent from the terms and conditions of this Stipulation.

3.5 **Cost Reimbursement.** The cost reimbursement provisions of the Original Stipulation were paid in full by Respondent on March 14, 2013. No further cost reimbursement is required.

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

3.7 **Costs.** Respondent must assume responsibility for all costs he incurs in complying with this Stipulation.

3.8 **Violations.** If Respondent violates any provision of this Stipulation in any respect, the Commission may initiate further action against Respondent's license.

3.9 **Change of Address.** Respondent must inform the Commission and the Adjudicative Clerk Office in writing, of changes in his residential and/or business address within thirty (30) days of such change.

3.10 **Petition for Termination.** After Respondent successfully completes all of the conditions of this Modified Stipulation, Respondent may file a petition for its termination. Respondent may petition for termination of this Modified Stipulation no earlier than five (5) years from the effective date of the Original Stipulation, which was February 26, 2013. Respondent shall appear in person at a hearing on the petition to terminate. At the hearing, the Department and Respondent may present evidence 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.

3.11 **Effective Date.** The effective date of this Modified Stipulation to Informal Disposition is the date the Adjudicative Clerk Office places the signed Modified Stipulation into the U.S. mail.

#### **4. COMPLIANCE WITH SANCTION RULES**

4.1 The Commission applies WAC 246-16-800, *et seq.*, to determine appropriate sanctions. The sanctions analysis set forth in section 4 of the Original Stipulation is adopted by reference in its entirety into this Modified Stipulation. The additional restrictions from providing clinical care to patients and from writing prescriptions for legend drugs or controlled substances are imposed in this Modified Stipulation to protect the public during Respondent's requested hiatus from the remedial educational and oversight program recommended by CPEP.


#### **5. RESPONDENT'S ACCEPTANCE**

I, ROBIN R. CAPWELL, MD, Respondent, certify that I have read this Modified Stipulation to Informal Disposition in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Commission without my

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appearance. If the Commission accepts the Modified Stipulation to Informal Disposition, I understand that I will receive a signed copy.

  
\_\_\_\_\_  
ROBIN R. CAPWELL, MD  
RESPONDENT

9/9/13  
\_\_\_\_\_  
DATE

\_\_\_\_\_, WSBA #  
ATTORNEY FOR RESPONDENT

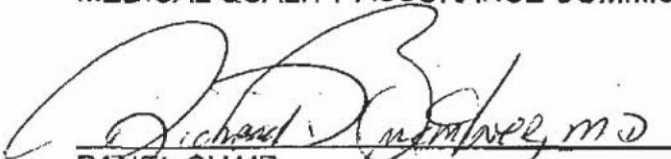
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#### 6. COMMISSION'S ACCEPTANCE


The Commission accepts this Modified Stipulation to Informal Disposition. All parties shall be bound by its terms and conditions.

DATED: September 25, 2013.

STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
MEDICAL QUALITY ASSURANCE COMMISSION

  
\_\_\_\_\_  
RICHARD J. SUMNER, MD  
PANEL CHAIR

PRESENTED BY:

  
\_\_\_\_\_  
TERESA LANDREAU, WSBA #9591  
DEPARTMENT OF HEALTH STAFF ATTORNEY

ORIGINAL