

BEFORE THE STATE BOARD OF MEDICAL EXAMINERS

STATE OF COLORADO

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING
THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF
CHRISTIAN HAGESETH, III, M.D., LICENSE NO. 21721.

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Hearing Panel B ("Panel") of the Colorado State Board of Medical Examiners ("Board") and Christian Hageseth, III, M.D. ("Respondent") as follows:

JURISDICTION AND CASE HISTORY

1. Respondent was licensed to practice medicine in the State of Colorado in 1978 and was issued license no. 21721.

2. The Panel and the Board have jurisdiction over Respondent and over the subject matter of this proceeding.

3. On or about June 12, 1997, Inquiry Panel A of the Board reviewed investigatory materials in case no. 5197011130. The Panel found that the investigation disclosed facts which warranted proceeding by formal complaint, as provided in § 12-36-118(5), C.R.S. Inquiry Panel A thereupon referred the complaint in case no. 5197011130 to the Office of the Attorney General.

4. Inquiry Panel A filed a Formal Complaint against Respondent and this matter proceeded to an administrative hearing formal disciplinary hearing pursuant to § 12-36-118(5), C.R.S.

5. At the conclusion of the administrative hearing, the Administrative Law Judge issued an Initial Decision (incorporated and attached as Exhibit 1) and concluded that Respondent violated: (1) C.R.S. §12-36-117(1)(p) in that Respondent failed to meet generally accepted standards of practice in his care and treatment of Patient L.B.; (2) C.R.S. §12-36-117(1)(r) in that Respondent engaged in a sexual act with Patient L.B. within six months immediately following the termination of his professional relationship with Patient L.B.; (3) and C.R.S. §12-36-117(1)(o) in that he has a mental disability that would render him unable to perform medical services with reasonable skill and safety to his patients in the absence of treatment, monitoring and the ability to place limitations upon Respondent's practice.

6. As proposed sanctions, the Administrative Law Judge recommended that Respondent's license to practice medicine in the State of Colorado be placed on probation under the following terms: (1) Respondent must engage in ongoing psychotherapy and medication with his treating physician, James Marquardt, M.D. and any physicians to whom Dr. Marquardt refers Respondent; (2) Respondent's practice must be reviewed by a practice monitor approved by the Panel; (3) Respondent's office practice must be evaluated by a psychiatrist approved by the Panel to determine any limitations upon the scope and nature of Respondent's practice, which may then be adopted by the Panel; and (4) Respondent shall complete continuing education courses in professional ethics and the management of transference and counter-transference as the Panel approves and directs.

7. On November 19, 1999, Hearings Panel B ("Hearings Panel") issued a Final Board Order adopting the Initial Decision's Findings of Fact and Conclusions of Law, but not the proposed sanction. Instead, Hearings Panel B revoked Respondent's license to practice medicine in the State of Colorado.

8. Respondent appealed the Final Board Order to the Colorado Court of Appeals, which reversed the sanction contained in the Final Board Order and remanded Respondent's case to the Panel for reconsideration of the sanction to be imposed.

9. The Board sought certiorari from the Colorado Supreme Court, which was denied in December of 2001 and the matter is now before the Hearings Panel for the determination of sanctions to be imposed.

10. Respondent is represented by an attorney of his choice.

11. The Hearings Panel and Respondent agree to enter into this Stipulation and Final Agency Order ("Order") as a way to resolve the imposition of sanctions.

12. It is the intent of the parties and the purpose of this Order to provide for sanctions in relation to all facts disclosed by the investigation in case no. 5197011130 and all other matters known to the Board and all matters set forth in the Initial Decision. This Order constitutes the entire agreement between the parties as it relates to sanctions. Except for the Initial Decision, there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Order. This does not bar the Board from pursuing additional disciplinary action in the event that facts currently unknown to the Board give rise to further violations of the Colorado Medical Practice Act, § 12-36-101 C.R.S. et seq.

13. Respondent admits and agrees that he violated the Medical Practice Act as described in the Initial Decision and in paragraph 5 of this Order. Respondent specifically admits that:

- (A) Respondent violated C.R.S. §12-36-117(1)(p) in that Respondent failed to meet generally accepted standards of practice in his care and treatment of Patient L.B.;
- (B) Respondent violated C.R.S. §12-36-117(1)(r) in that Respondent engaged in a sexual act with Patient L.B. within six months immediately following the termination of his professional relationship with Patient L.B.; and
- (C) Respondent violated C.R.S. §12-36-117(1)(e) in that he has a mental disability that would render him unable to perform medical services with reasonable skill and safety to his patients in the absence of treatment, monitoring and the ability to place limitation upon Respondent's practice.

14. Based upon the above, the Panel is authorized by § 12-36-118(5), C.R.S. to order probation and such conditions upon Respondent's practice which it deems appropriate.

PROBATION

15. Respondent's license to practice medicine in the State of Colorado is hereby reinstated, but shall be subject to the following probationary terms for as long as Respondent holds a license to practice medicine in the State of Colorado. During the probationary period, Respondent agrees to be bound by the terms and restrictions set forth in the paragraphs below.

PRACTICE LIMITATION

16. Respondent's practice of medicine shall be limited to research activities related to clinical trials of medications conducted according to research protocols. In the course of these clinical trials, Respondent may meet with patients to evaluate the efficacy of medications, determine whether the patient has experienced any side effects, and adjust medications levels as needed. On any occasion where Respondent shall meet with a patient relating to these research activities, Respondent shall be accompanied at all times by a nurse practitioner and shall not interview any patient without a nurse practitioner being personally present. Respondent shall not engage in any psychotherapy with any patient.

17. Before engaging in any activities permitted under this section entitled "Practice Limitation", Respondent shall submit an Affidavit signed by his potential employer, Alan Feiger, M.D, attesting to the fact that Dr. Feiger has reviewed the provisions of this Stipulation and Final Agency Order, agrees to monitor Respondent's compliance with the requirements of this paragraph, and agrees to immediately notify the Panel if Respondent has not strictly adhered to the requirements of this section entitled "Practice Limitation". If, for any reason, Respondent ceases employment with Dr. Feiger, he agrees not to engage in any activity that would otherwise be permitted under paragraph 16.

18. Respondent may also engage in the performance of an administrative medicine practice and may engage in teaching or lecturing activities related to psychiatry. Respondent's practice of administrative medicine shall not involve patient contact.

19. Commencing on the effective date of this Order, Respondent shall not engage in hospital practice of psychiatry, except as otherwise permitted in this section, or the clinical practice of psychiatry.

20. At any time, Respondent may petition the Panel for permission to resume a clinical or hospital practice of psychiatry. Respondent agrees not to engage in any such activities until such time as the Panel has entered an Order allowing him to do so and has specifically defined the conditions of probation and Respondent's practice as set forth below.

21. At the time that Respondent petitions the Panel for permission to resume a clinical or hospital practice of psychiatry, Respondent shall:

- (a) Identify a "practice evaluator." The practice evaluator shall be a psychiatrist licensed and currently practicing medicine in Colorado. The practice evaluator must be knowledgeable in Respondent's area of practice. The practice evaluator shall have no financial interest in Respondent's practice of medicine. The practice evaluator may be selected by Respondent but must be approved by the Panel. Prior to the Panel's approval, the practice evaluator shall submit to the Panel a current curriculum vitae and letter to the Panel. In the letter, the practice evaluator shall state that the practice evaluator has read this Order, and understands and agrees to perform the obligations as set forth herein.

The practice evaluator shall meet with Respondent to evaluate the scope of the Respondent's potential practice, including the practice setting, the number and type of patients for whom Respondent shall provide psychiatric treatment, and the scope of the psychiatric conditions that Respondent shall treat in the course of his practice. The practice evaluator may make any recommendations that the practice evaluator deems appropriate to allow Respondent to practice psychiatry with skill and safety to his patients, including recommendations concerning Respondent's practice setting, the

number and type of patients for whom Respondent shall provide psychiatric treatment, and the scope of the psychiatric conditions that Respondent shall treat in the course of his practice.

- (b) Certify that he has completed Colorado Physician Health Program ("CPHP") recommended courses on psychiatric boundary issues, including transference and countertransference.
- (c) Undergo an evaluation by the CPHP and submit a report from the CPHP indicating that Respondent has received appropriate psychological care and treatment and is able to safely resume the practice of psychiatry.
- (d) In the event that Respondent has not actively engaged in the clinical or hospital practice of medicine for the two-year period immediately preceding the filing of his request, Respondent shall submit an assessment performed by Colorado Personalized Education for Physicians. For purposes of this paragraph, the activities that Respondent is authorized to do as set forth in 16, 17 and 18 do not constitute being actively engaged in the clinical or hospital practice of medicine.

22. Upon review of Respondent's petition to resume a clinical or hospital practice of psychiatry, the Hearings Panel may require Respondent to submit other evidence that it deems necessary to demonstrate Respondent can practice psychiatry with skill and safety to his patients.

23. Nothing in this Order shall prevent the Hearings Panel from imposing conditions upon the scope of Respondent's potential clinical or hospital practice of psychiatry or other conditions of probation. Instead, the parties fully anticipate that the Hearings Panel will impose conditions that it deems reasonably necessary to allow Respondent to practice psychiatry with skill and safety to his patients, including but not limited to, treatment monitoring through the Colorado Physician Health Program and practice monitoring. Any such conditions shall be defined in an Order approved and signed by the Panel before Respondent resumes the clinical or hospital practice of psychiatry.

OTHER TERMS

24. All costs and expenses incurred by Respondent to comply with this Order, other than as set forth herein, shall be the sole responsibility of Respondent, and shall in no way be the obligation of the Board or Panel.

25. Both parties acknowledge that they understand the legal consequences of this Order and enter into this Order voluntarily.

26. 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.


27. 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.

28. 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. 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.

29. This Order shall be admissible as evidence at any future hearing before the Board.

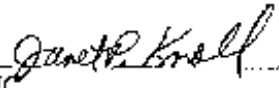
30. This Order shall be effective upon approval by the Hearings Panel and signature by a Hearings Panel member. Respondent acknowledges that the Hearings Panel may choose not to accept the terms of this Order and that if the Order is not approved by the Hearings Panel and signed by a Hearings Panel member, it is void.

31. Upon becoming effective, this Order shall be open to public inspection and shall be reported as required by law.


Christian Hageseth, III, M.D.

The foregoing was acknowledged before me this 13 day of May 2002 by Christian Hageseth, III, M.D.

WITNESS MY HAND AND OFFICIAL SEAL


NOTARY PUBLIC

My Commission expires: **My Commission Expires June 27, 2003**
378 Canyon Ave., Suite 200
Fort Collins, CO 80521

THE FOREGOING Stipulation and Final Agency Order is approved and effective this 20th day of June 2002.

FOR THE COLORADO STATE BOARD OF
MEDICAL EXAMINERS
HEARING PANEL B



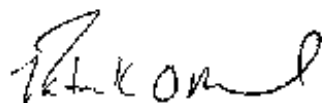
APPROVED AS TO FORM:

FOR THE RESPONDENT

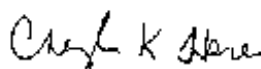
FOR THE COLORADO STATE BOARD
OF MEDICAL EXAMINERS, HEARING PANEL

B

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