BEFORE THE COLORADO MEDICAL BOARD
STATE OF COLORADO
CASE NOS. 2016-1277-B and 2017-4855-B

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF JAMIESON D. KENNEDY, M.D., LICENSE NUMBER DR-14326,

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel B ("Panel") of the Colorado Medical Board ("Board") and Jamieson D. Kennedy, M.D. ("Respondent") (collectively, the "Parties") as follows:

JURISDICTION AND CASE HISTORY

1. Respondent was licensed to practice medicine in the state of Colorado on July 10, 1962, and was issued license number DR-14326, which Respondent has held continuously since that date ("License").

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

3. On December 21, 2017, the Panel reviewed case numbers 2016-1277-B and 2017-4855-B and determined that further proceedings by formal complaint were warranted pursuant to Section 12-36-118(4)(c)(IV), C.R.S.

4. 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 set forth in case numbers 2016-1277-B and 2017-4855-B, without the necessity of conducting a formal disciplinary hearing. This Order constitutes the entire agreement between the Parties, and there are no other agreements or promises, written or oral, which modify, interpret, construe, or affect this Order.

5. Respondent understands that:
   a. Respondent has the right to be represented by an attorney of Respondent’s choice, and Respondent has voluntarily chosen to proceed without representation;
   b. Respondent has the right to a formal complaint and disciplinary hearing pursuant to Sections 12-36-118(4)(c)(IV) and 12-36-118(5), C.R.S.;
   c. By entering into this Order, Respondent is knowingly and voluntarily giving up the right to a formal complaint and disciplinary hearing,
admits the facts contained in this Order, and relieves the Panel of its burden of proving such facts;

d. Respondent is knowingly and voluntarily giving up the right to present a defense by oral and documentary evidence and to cross-examine witnesses who would testify on behalf of the Panel; and

e. Respondent is knowingly and voluntarily waiving the right to seek judicial review of this Order.

FACTUAL BASIS

6. Respondent specifically admits and the Panel finds that:

a. In March 2016, Respondent discharged patient D.P. from his medical practice subsequent to an alleged history of inappropriate conduct, conversations and actions. D.P. complained to the Board that there was an abuse of power, and discrimination and harassment of a disabled American.

b. Respondent denied the allegations and stated that D.P. became enraged when Respondent explained that he was not able to see D.P. as his primary care physician due to insurance issues, and that D.P.’s medical bills would be denied by insurance if he continued to come to Respondent’s facility.

c. On May 2, 2016, the Panel expressed concern to Respondent about his lack of documentation during the course of his treatment of D.P., which began in July 2013. The Panel stated that Respondent’s record keeping was so inadequate that the Panel was unable to determine Respondent’s care of the patient, and that a subsequent treatment provider would be unable to easily resume care based on Respondent’s medical records.

d. Respondent was the supervising physician for the physician assistant who provided treatment to patient G.S. from approximately January 2016 to August 2017.

e. The physician assistant failed to perform physical examinations of G.S.

f. The physician assistant failed to check G.S.’s vital signs.

g. The physician assistant’s descriptions of her assessment and plan were inadequate.

h. The bases of the physician assistant’s medical decisions were unclear in her documentation.

i. The physician assistant’s documentation lacked objective measures for assessing G.S.’s levels of anxiety and depression.
j. The physician assistant repeatedly failed to make essential entries in G.S.’s medical records.

k. Respondent failed to supervise the physician assistant in accordance with Board Rule 400.

l. Respondent’s care and treatment of G.S. through the physician assistant failed to meet the standard of care.

7. Respondent admits and the Panel finds that the acts and/or omissions described in the factual basis above is a violation of Rule 400 and constitutes unprofessional conduct pursuant to Section 12-36-117(1)(p), (cc), and (u), C.R.S., which states:

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

(p) Any act or omission which fails to meet generally accepted standards of medical practice;

(cc) Falsifying or repeatedly making incorrect essential entries or repeatedly failing to make essential entries on patient records;

(u) Violation of any valid board order or any rule or regulation promulgated by the board in conformance with law.

8. Based upon the above, the Parties stipulate that the terms of this Order are authorized by Section 12-36-118(5)(g)(III), C.R.S.

LETTER OF ADMONITION

9. This provision shall constitute a Letter of Admonition as set forth in Sections 12-36-118(4)(c)(III)(A) and 12-36-118(5)(g)(III), C.R.S. Respondent is hereby admonished for the acts and omissions described in the factual basis above.

10. By entering this Order, Respondent agrees to waive the rights provided by Section 12-36-118(4)(c)(III)(B), C.R.S., to contest this Letter of Admonition.

PROBATIONARY TERMS

11. Respondent’s License to practice medicine is hereby placed on probation indefinitely, commencing on the effective date of this Order, until Respondent successfully completes the Center for Personalized Education for Physicians (“CPEP”) Documentation Seminar as set forth in paragraphs 13-16 herein. All terms of probation shall be effective throughout the probationary period and shall constitute terms of this Order.
12. During the probationary period, Respondent agrees to be bound by the terms and conditions set forth below.

**CEPDocumentation Seminar**
**Including Pre-Program and Post-Program**

13. Within thirty (30) days of the effective date of this Order, Respondent shall contact CPEP for the purposes of enrolling in a Patient Care Documentation Seminar, including the pre-program and the six-month post-program ("CPEP Documentation Seminar").

14. Respondent shall successfully complete the CPEP Documentation Seminar.

15. Respondent must successfully complete all portions of the CPEP Documentation Seminar (including pre-program and post-program) within one (1) year of the effective date of this Order.

16. Respondent shall request that CPEP provide the Panel with a final report following completion of the post-program. Respondent shall assure that such a final report is received by the Panel within one (1) year of the effective date of this Order.

**Tolling of the Probationary Period**

17. If at any time, Respondent ceases the active clinical practice of medicine, defined for the purposes of this Order as evaluating or treating a minimum of five (5) patients per month, the probationary period shall be tolled for the time the Order is in effect and Respondent is not engaged in the active clinical practice of medicine.

18. Respondent must comply with all other terms of the Order and all other terms of probation. Unless otherwise specified, all terms of the Order and all terms of probation shall remain in effect, regardless of whether the probationary period has been tolled, from the effective date of this Order until probation is terminated. The probationary period shall be tolled for any time that Respondent is not in compliance with any term of this Order.

**Out of State Practice**

19. Respondent may wish to leave Colorado and practice in another state. At any time other than during a period of suspension imposed by this Order, and whether to practice out of state or for any other reason, Respondent may request, in writing, that the Board place Respondent's License on inactive status as set forth in Section 12-36-137, C.R.S. Respondent's request to place his License on inactive status must include written evidence that Respondent has reported this Order to all other jurisdictions in which Respondent is licensed, as required by the "Other Terms" section of this Order. Upon the approval of such request, Respondent may cease to comply with the terms of this Order. Failure to comply with the terms of this Order while inactive shall not constitute a violation of this Order. While inactive, Respondent shall not perform any act in the state of Colorado that constitutes the practice of medicine, nor shall Respondent perform any act in any other jurisdiction pursuant to the authority of a license to practice medicine granted by the state of Colorado. Unless Respondent's License is inactive, Respondent must comply with all terms of this Order,
irrespective of Respondent’s location. The probationary period will be tolled for any period of time Respondent’s License is inactive.

20. Respondent may resume the active practice of medicine at any time pursuant to written request and as set forth in Section 12-36-137(5), C.R.S.

TERMINATION OF INDEFINITE PROBATION

21. After successful completion of all probationary terms, Respondent may submit a written request for restoration of Respondent’s License to unrestricted status. If Respondent has complied with all requirements set forth in this Order, such release shall be granted by the Panel in the form of a written notice.

OTHER TERMS

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

23. 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.

24. 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.

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

26. During the probationary period or any period in which a physician is subject to prescribing restrictions, no physician shall perform an assessment of a patient’s medical history and current medical condition, including a personal physical examination, for the purpose of concluding that a patient may benefit from the use of medical marijuana, recommending the use of medical marijuana or certifying a debilitating medical condition for an applicant to the Colorado Medical Marijuana Program. Respondent hereby understands and agrees that he shall not certify to the state health agency that a patient has a debilitating medical condition or that the patient may benefit from the use of medical marijuana.

27. Respondent shall obey all state and federal laws while the terms of this Order are in effect.

28. So that the Board may notify hospitals of this Order pursuant to Section 12-36-118(13), C.R.S., Respondent presently holds privileges at or is employed by the following hospitals and facilities:
29. This Order and all its terms shall have the same force and effect as an order entered after a formal disciplinary hearing pursuant to Section 12-36-118(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 Section 12-36-118(5)(g)(IV), C.R.S. This Order and all its terms also constitute a valid board order for purposes of Section 12-36-117(1)(u), C.R.S.

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

31. Invalidation of any portion of this Order by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

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

33. 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 or other authorized person, it is void.

34. This Order shall be effective upon (a) mailing by first-class mail to Respondent at Respondent’s address of record with the Board, or (b) service by electronic means on Respondent at Respondent’s electronic address of record with the Board. Respondent hereby consents to service by electronic means if Respondent has an electronic address on file with the Board.

35. Upon becoming effective, this Order shall be open to public inspection and shall be publicized pursuant to the Board’s standard policies and procedures. This Order constitutes discipline against Respondent’s license. Additionally, this Order shall be reported the Federation of State Medical Boards, the National Practitioner Data Bank, and as otherwise required by law.

\[Signature\]

JAMIESON D. KENNEDY, M.D.

Dated: 4-23-18
THE FOREGOING Stipulation and Final Agency Order is approved this 18th day of May, 2018.

FOR THE COLORADO MEDICAL BOARD INQUIRY PANEL B

For Dr. Higuchi

TY T. HIGUCHI, M.D., PH.D.
Chair, Inquiry Panel B

ACTING CHAIRMAN

THE FOREGOING Stipulation and Final Agency Order is effective upon service to Respondent, on May 18, 2018.