

**STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
MEDICAL QUALITY ASSURANCE COMMISSION**

In the Matter of the License to Practice  
as a Physician and Surgeon of:

**STEPHEN L. SMITH, MD**  
License No. MD00019257

Respondent

**No. M2014-409**

**STIPULATED FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
AGREED ORDER**

The Medical Quality Assurance Commission (Commission), through Michael L. Farrell, Commission Staff Attorney, and Respondent, represented by counsel, Renee Howard, stipulate and agree to the following.

**1. PROCEDURAL STIPULATIONS**

1.1 On June 11, 2014, 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).

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 National Practitioner Data Bank (45 CFR Part 60), the Federation of State Medical Boards' Physician Data Center and elsewhere as required by law.

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 stipulate to the following facts:

2.1 On June 30, 1981, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent is not board-certified. Respondent's license is currently active. Respondent practices integrative medicine through his practice, Northwest Integrative Medicine, in Pasco, Washington.

2.2 Respondent began treating Patient A, a fifteen-year-old boy, on May 5, 2011. Patient A had been diagnosed with autism at the age of four. Patient A had been treated by a physician in Oregon for several years until Patient A's father transferred care to Respondent. During the timeframe relevant to this matter, Respondent was Patient A's sole medical provider.

2.3 Respondent did not document a physical examination on the first visit. Respondent documented that "we will continue to follow the protocol set up by Dr. Green," but does not document the elements of the protocol.

2.4 Respondent noted that a lab report in the file showed very high levels of lead, consistent with the finding of autism; however, there is no corroborating lab report in the patient's record provided by Respondent. Respondent diagnosed Patient A with toxic encephalopathy, delayed milestones, and malabsorption.

2.5 Respondent next saw Patient A on May 11, 2012. Respondent's documentation of a physical exam consisted of stating that he was healthy and happy. Respondent noted that Patient A was "still having bowel issues." Respondent's assessment was still toxic encephalopathy, delayed milestones, and malabsorption.

Respondent reported changes to the protocol to add Deplin, increase vitamin D, add fire homeopathic sprays, and Bio-GGG.

2.6 Respondent next saw Patient A on August 3, 2012. Respondent's documentation of a physical exam consisted of "skin is good. He seems calm, follows instructions. He does not talk much." Respondent's assessment was still toxic encephalopathy, delayed milestones, and malabsorption. Respondent noted that Patient A was having bowel issues, including constipation and gas. Respondent documented that he placed Patient A on Neuroflam, Probiotic HCL, Wood HP, BetaTCP, Proschol, and PCA-RX push. Respondent provided a number of additional supplements that he did not document in the medical record. These included Reconostat 100mg one tablet, phenylalanine 500mg one tablet, Gota kola 475mg six tablets, Calcium one tablet, amino acid complex with starch, L-tryptophan 500mg one tablet, phosphocholine four tablets, methyl B-12 5000mg one tablet, Co-Q enzyme 100mg, psyllium husk 500mg three tablets, L-Carnitine 1000mg one tablet, flax, alive multi vitamin, super B complex one tablet, Vitamin E 200mg one tablet, fish oil two tablespoons, and prune juice.

2.7 A lab test of August 14 and 15, 2012, showed Patient A's lead level at 3.7 µg/dL.

2.8 Respondent next saw Patient A on September 28, 2012. Respondent's assessment was toxic encephalopathy, delayed milestones, malabsorption and MTHFR 677 heterozygous. Respondent noted that Patient A's medications were Bethanechol chloride and Deplin. Respondent documented that his plan is to continue current supplementation plan, add L-carnitine or acetyl carnitine, change probiotic to two HLC mind link, continue NDF. Respondent did not document the complete list of supplements provided to Patient A.

2.9 Respondent failed to meet the standard of care in his treatment of Patient A in the following respects:

2.9.1 Respondent failed to document appropriate physical examinations of Patient A.

2.9.2 Respondent failed to document many of the supplements he provided to Patient A.

2.9.3 Respondent failed to attempt to have Patient A evaluated by a board-certified pediatrician, a child neurologist, or a child psychiatrist to provide the testing and clinical examination to substantiate the diagnosis of autism or one of the autism spectrum disorders.

2.9.4 Respondent failed to document a standard pediatric database from which one could reference in order to understand the nature of Patient A's diagnosis. A standard pediatric database would include a detailed history of the circumstances surrounding the pregnancy at birth, early childhood development, medical history of illness, medication exposure, history of injury, any underlying systemic medical conditions, family history, and etiological basis for autism.

2.9.5. Respondent diagnosed delayed milestones, but failed to document the specific developmental milestones that were delayed. Respondent did not document a workup to find the etiology for the delayed developmental milestones. There are many pediatric diseases, brain and otherwise, that can result in delayed milestones, many of which are treatable.

2.9.6 Respondent diagnosed Patient A with malabsorption, but failed to document a plan to address Patient A's malabsorption. If Patient A had an intestinal malabsorption disorder, the standard of care requires that Patient A be seen by a board-certified pediatrician and a pediatric gastroenterologist.

2.9.7 Respondent treated Patient A with probiotics, medication and a variety of supplements that possibly contributed to Patient A's gastric issues.

2.9.8. Respondent diagnosed Patient A with toxic encephalopathy or lead poisoning despite the fact that there was no evidence to support this diagnosis. Patient A had no signs of lead poisoning and no history of exposure to lead. Patient A's lead levels were in the normal range. The standard of care for acute lead poisoning would require Respondent to refer Patient A to a board-certified toxicologist and a board-certified pediatrician.

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CENTRAL

### 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).

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 **Practice Restricted to Adult Patients.** Respondent may not treat a patient under the age of 18 years. For a period not to exceed ninety (90) days from the date of this Agreement, Respondent may provide consultation services to primary care providers or American Board of Internal Medicine ("ABIM") certified subspecialist treating physicians for purposes of care continuity and transition for those pediatric patients that are currently under his care as of the date of this Agreed Order. In all such consultations, Respondent's role is limited to that of a consultant only; Respondent shall provide no treatment and the treating provider shall have final say whether to accept Respondent's treatment recommendations. Respondent shall send a copy of his record of the consultation to the treating provider within seven days of seeing the patient. Respondent will place a copy of the cover letter in the patient's medical record. Prior to the Commission approving this Agreed Order, Respondent will provide the Commission a list of his pediatric patients and the date the patient first came under his care.

4.2 **Restriction on Provocative Testing.** Respondent is restricted from using provocative agents prior to testing patients for heavy metal toxicity (also known as post-chelator challenge urinary metal testing) in his practice. In addition, Respondent cannot rely on such a test done by someone else as a basis for diagnosing or treating heavy metal toxicity.

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Commission has sole discretion whether to grant or deny Respondent's petition to modify this Agreed Order. Respondent may not petition to modify paragraph 4.1 of this Agreed Order.

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

4.9 **Compliance Costs.** Respondent is responsible for all costs of complying with this Agreed Order.

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

4.11 **Change of Address.** Respondent shall inform the Commission 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 of Order.** 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.

## 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 moderate harm or risk of moderate patient harm. Respondent's failure to adequately document his treatment of Patient A, and his failure to refer the patient to specialists, presented a risk of moderate harm to Patient A.

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 Under WAC 246-16-800(2)(c), the Commission may deviate from the sanction schedules if the schedules do not adequately address the facts of the case. The sanctions in this case include a permanent restriction against treating patients under 18 years of age. This order, therefore, deviates from the applicable sanction schedule.

5.4 This deviation is appropriate given the facts of the case and the following aggravating and mitigating factors:

A. As an aggravating factor, Respondent was disciplined in 2006 for providing substandard care to a patient.

B. As a mitigating factor, Respondent cooperated with the investigation.

The aggravating factor outweighs the mitigating factor.

## 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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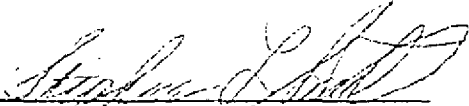
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7. RESPONDENT'S ACCEPTANCE

I, Stephen L. Smith, 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.

  
STEVEN L. SMITH, MD  
RESPONDENT

11/13/2014  
DATE

 WSBA # 38644  
RENEE HOWARD, WSBA#  
ATTORNEY FOR RESPONDENT

11/13/2014  
DATE

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8. COMMISSION'S ACCEPTANCE AND ORDER

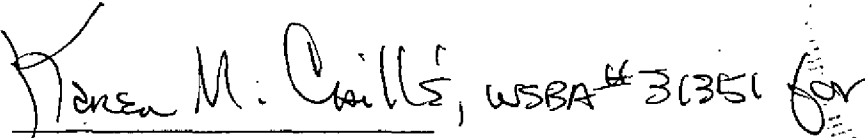
The Commission accepts and enters this Stipulated Findings of Fact, Conclusions of Law and Agreed Order.

DATED: November 20, 2014.

STATE OF WASHINGTON  
MEDICAL QUALITY ASSURANCE COMMISSION

  
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PANEL CHAIR

PRESENTED BY:

  
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MICHAEL FARRELL, WSBA #16022  
COMMISSION STAFF ATTORNEY