

# Examine

The Newsletter of the Colorado Board of Medical Examiners Volume 12, Number 1, February 2004

State of Colorado Bill Owens, Governor Department of Regulatory Agencies Richard F. O'Donnell, Executive Director Division of Registrations Rosemary McCool, Director

# PRESIDENT'S MESSAGE

By Ned Calonge, M.D., M.P.H., President, Colorado Board of Medical Examiners

regulation requiring physicians to offer pa- very seriously, and we dedicate appropritients the option of having chaperones pre- ate resources to evaluating each case. It sent for sensitive examinations, specifically is clear that the routine use of chaperones those of the patient's breast, pelvic, rectal significantly reduces the likelihood of this or genital areas. The new regulation also type of complaint to the Board. We believe requires physicians to notify patients that if this practice also provides significant prothe patient declines a chaperone, the phy-tection for patients. sician can refuse to perform the exam.

take this step in response to an issue well- how chaperone requirements can further known to all state licensing boards: com- stress a practice. On the other hand, we plaints from patients regarding exams per- believe that quality patient care, provided formed without a chaperone present and with respect for patients and their comfort believed to have been provided in an inap- and protection, includes assuring that papropriate manner, thus constituting a phy-tients desiring the presence of a chapersician/patient boundary violation and un- one during specific exams be accommoprofessional conduct. These common ac- dated. cusations take physicians across the natablished patients alike, often for exams Board action provides an opportunity to formed in the same way without concern ommendation that all physicians implement over many years of practice.

tion on the part of the physician. How patient care.

ever, some of the complaints are substantin late 2003, the New Jersey State ated and require Board action. Conse-■Board of Medical Examiners finalized a quently, the Board takes these complaints

The Board understands the issues of New Jersey is one of the first states to limited staffing in physician offices, and

The Colorado Board has not chosen to tion by surprise. Doctors are required to pursue a regulatory approach to this probreply to complaints made by new and es- lem. However, we believe the New Jersey the physician feels he or she has per- once again repeat the Board's strong reca practice policy of routinely having chap-As in other states, the Colorado Board erones present for specific examinations, of Medical Examiners evaluates a signifi- or at least have a process for assessing cant number of such complaints every and accommodating patient preferences year. Our experience suggests that many regarding the use chaperones for these of these complaints arise due to patient exams. We believe that such processes perceptions or misconceptions, often cre- provide protection for both patients and ated or supported by lapses in communica-physicians, and should be a basic part of

# AMENDING PATIENT RECORDS IN THE AGE OF HIPAA

by Claudia Brett Goldin, Assistant Attorney General

patient who disputes the accuracy of her "accurate" and complete" medical records.

The October 2002 HIPAA Privacy Regulations allow a patient to request an

amendment to her medical records. It is hysicians are scrambling to comply important to remember that the individual with new federal requirements un- has the right to request the change (and to der the Health Insurance Portability and appeal a denial of the request), but the Accountability Act ("HIPAA"). Some are provider always retains the right to deny probably wondering how to respond to a the request if the original record is (45 C.F.R. §14.526(a) and (d)). HIPAA generally re-

(Continued on page 2)

# You Should Know...

...there is a new Regulatory Notice e-mail system that provides people with the ability to effortlessly track and comment on proposed state regulations before they take effect. See article on page 4.

... it's time to renew physician assistant licenses. It is a violation of Colorado law to practice medicine or as a physician assistant in Colorado without a current, active license. See article on page 6.

...your rights and protection under the Medical Marijuana Registry. See article on page 3.

...what to do when you receive a request to Amend Patient Records. See article on this page.

...the physician and physician assistant Peer Assistance Fund was designed to assist colleagues with health problems that could affect the safe and effective practice of medicine. See article on page 3.

...the Board has adopted new policies. See New Board Policies on page 4.

...being on the "LIST" does not always indicate "discipline" or "at fault." See Discipline, Board Actions and the Issue of Fault and corresponding Board Action List on page 7.

...all addresses currently on record for a licensee are public record and available to the public. See Changing Your Address of Record on how to protect a home address from becoming public on page 15.

# SYSTEM ERRORS/CASE STUDIES

Frequently, complaints against physicians reveal systems errors or communication breakdowns rather than physician incompetence or negligence. The Board of Medical Examiners is sharing some of these stories with you. We suggest you review these stories and use this information to eliminate the potential for these problems in your practice.

### CASE 1

ISSUE: FAILURE TO FOLLOW UP ON LAB TESTS THAT WERE ORDERED.

FACTS: A female patient presents to the emergency department (ED) complaining of severe abdominal cramping. She was physically evaluated in the ED and a urinalysis and urine pregnancy test was performed and were both negative. However, a serum pregnancy test was also ordered but the patient was discharged from the ED before the results of that test returned and were reviewed. This BOARD COMMENTS: In those instances when a physitest was positive. The patient subsequently presented to a cian makes a diagnosis, such as cancer, that will be of madifferent ED 20 days later and was diagnosed with an ec- jor significance to the effective and timely treatment of the topic pregnancy.

BOARD COMMENTS: If tests are ordered, it is imperative that timely follow-up of the results occur. In the situation above, it may have been reasonable to discharge the patient prior to the availability of the serum pregnancy test results, but it is incumbent upon the treating physician to assure there is a reliable system in place to obtain the test results and bring any abnormal or concerning results to the physician's attention.

### CASE 2

ISSUE: FAILURE TO PERSONALLY COMMUNICATE CRITICAL INFORMATION

SITUATION: The Board has seen a number of cases in the past several months in which critical diagnoses were made but were not personally communicated to the treating physician. This occurs in those specialty areas, such as radiology and pathology, where the diagnosing physician does not have direct patient contact. In the cases that have come to the Board's attention, instead of the radiologist or pathologist calling the treating physician directly, the report was either added to an electronic record, which the treating physician could access, or a hard copy report was faxed to the treating physician's office.

patient, the Board believes it is always the best practice for the diagnosing physician to personally contact the treating physician to assure the test results have been received and understood. If the treating physician is unavailable, at a minimum, the physician should leave an urgent message on voicemail or with the answering service. Finally, it should be clearly documented in the record how the diagnosis was communicated and to whom.

# AMENDING PATIENT RECORDS IN THE AGE OF HIPAA

(Continued from page 1)

days (45 C.F.R. 164.526(b)(2)).

a physician's guide when deciding how to respond to a pa- amendment. In this way, the amendment revises but retient's request to amend a medical record. "falsifying or repeatedly making incorrect essential entries for physician discipline (see § 12-36-117(1)(cc), C.R.S.).

When a health care provider decides to grant a patient's request to amend a medical record, she may wonder what to do with the original records. It has long been the position of the Colorado Board of Medical Examiners that original records should be retained even when they are amended. That is, if an error occurred in the original record, the provider should identify but not obliterate the erroneous original entry and add a new, more accurate entry. The provider should also note the date on which the correction was made. This approach is consistent with the HIPAA regulations, which refer to "appending" a record or "otherwise providing a link to the location of the amendment" (45 C.F.R.

§ 164.526(c)(1)). For example, in a written patient file, the quires a provider to grant or deny the request within 60 practitioner may strike through (and not white-out or retype) the original language so that the original language is still As with all medical record-keeping, accuracy should be legible, and the practitioner would date and initial the In fact, tains the original record.

The bottom line is that common sense practices can or repeatedly failing to make essential entries on patient survive the test of HIPAA, and HIPAA-compliance does not records" constitutes unprofessional conduct and grounds replace the need to follow generally accepted standards of medical practice.



# The Colorado Physicians' and Physician Assistants' Peer Health Assistance Fund

By Sarah R. Early, Psy.D., Executive Director, Colorado Physician Health Program Susan B. Swern, Development Specialist, Colorado Physician Health Program

ated by this surcharge are adminis- consent form. As with any organization

tered by the Colorado Board of Medihe Colorado Physicians' and cal Examiners (BME) through the Phy-Physician Assistants' Peer sician Peer Health Assistance con-Health Assistance Fund (Fund) was tract. As the designated provider of established in 1986 when the state confidential statewide peer assistance legislature passed the Colorado Peer services for the past 15 years, the Assistance Act. The Colorado physi- Colorado Physician Health Program cian community as represented by Io- (CPHP) is funded in part by the Colocal and state medical societies be- rado Peer Assistance Fund and govlieved then, and now, the medical pro- erned by the Colorado Peer Assisfession is responsible for assisting col- tance Act. CPHP was founded in leagues with health problems that March 1986 as a non-profit 501(c)(3) could affect safe and effective medical corporation and is independent of practice. All licensed physicians and other medical organizations, including physician assistants in Colorado sup- the Colorado BME, and state governport the Fund by paying a surcharge ment. CPHP's policies and operating on their Colorado medical license procedures regarding confidentiality fees. This surcharge is currently \$50 are based on state and federal laws. per year per licensee, or \$100 per bi- In order for any information to be reennial license renewal. Monies gener- leased, the participant must sign a

or provider of mental health related services, state and federal law require CPHP to take the necessary steps to ensure safety. That is, if an individual presents a danger to self or others, breaking confidentiality may be necessary and in some cases, considered mandatory by law. A Board of Directors that is comprised predominantly of physicians governs CPHP.

Funding of CPHP through the Colorado Peer Assistance Fund is allocated to provision of "direct" services, including Diagnostic Evaluation/Assessment. Treatment Referral, Treatment Monitoring and Support. CPHP's direct services are available at no cost to all physicians and physician assistants who hold a Colorado medical license (active

(Continued on page 4)

### THE MEDICAL MARIJUANA REGISTRY

By Gail Kelsey, Registry Program Administrator

gram began operating, there have lepsy; or persistent muscle spasms, law. been numerous questions about how including those that are characteristic this law impacts physicians in Colo- of multiple sclerosis). rado, especially since it appears to be substances.

their patient might benefit from the protect this type of communication. presentation. medical use of marijuana, provided Also, the DEA in Colorado has indithat such advice is based upon the cated that as long as doctors are not

physician's contemporaneous assess- prescribing marijuana (which, accordn the November 2000 general elec-ment of the patient's medical history ing to the DEA, means using an actual tion, Coloradans passed Amend- and current medical condition, and a prescription pad), they are not in violament 20, and the Colorado Department bona fide physician-patient relationship tion of federal law. The local DEA ofof Public Health and Environment exists. The physician must also have fice has received and reviewed a copy (CDPHE) was tasked with implement- diagnosed their patient as having a de- of the Physician Certification form and ing and administering the Medical bilitating medical condition that is cov- has assured the Administrator of the Marijuana Registry program. On June ered under the current law (cancer; Medical Marijuana Registry that this 1<sup>st</sup>, 2001, the Registry began accepting glaucoma; HIV/AIDS; cachexia; severe form does *not* constitute a prescription, and processing applications for Regis- pain; severe nausea; seizures, includ- and that it is not something the DEA try Identification cards. Since this pro- ing those that are characteristic of epi- considers to be in violation of federal

It is extremely important for physicians to be aware that all information It is also true that physicians cur- received by the Registry is completely in direct conflict with federal laws sur- rently have protection under federal confidential, and physicians' names rounding the prescription of Schedule I law. In October of 2003, the U.S. Su- are never shared with anyone for any preme Court declined to hear an ap- reason. The Administrator of the Medi-It is clear that under Colorado law, peal by the Bush Administration re- cal Marijuana Registry, Gail Kelsey, is physicians are provided protection if garding a Ninth Circuit Court of Ap- available to answer questions, distriband when they recommend the use of peals decision pertaining to physician ute information, and give presentations medical marijuana for their patients. recommendations of medical mari- about the program and discuss its im-Specifically, Amendment 20 provides juana. That decision enjoined the fed-pact on doctors and patients. She can an exception from the state's criminal eral government from punishing physi- be contacted at 303-692-2184, or via laws for a physician who elects to ad- cians for recommending marijuana to email at gail.kelsey@state.co.us if you vise a patient and provide them written their patients, as First Amendment would like further information about this documentation indicating they believe rights regarding freedom of speech program or would like to schedule a

# **New: DORA Regulatory Notice E-mail System**

The Department of Regulatory Agencies' new Regulatory Notice e-mail system provides business owners with the ability to effortlessly track and comment on proposed state regulations before they take effect. After signing up at the Office of Economic Competitiveness Regulatory Reform website (www.dora.state.co. us/oecrr), participants will receive an e-mail when a proposed regulation has been submitted in their specified industry. The email provides several key items: a link to the proposed rule, details about the hearing (time, location, etc.) and the submitting agency's contact information. The DORA Regulatory Notice e-mail system helps to hold state government more accountable for its actions, and empowers Coloradans to become more involved in the regulatory process. Sign up for DORA Regulatory Notice today! ■

# **NEW BOARD POLICIES**

The Medical Board has adopted one new tion, or abuse. policy and revised two others that may be B. Section 18-3-401(5) defines sexual intrudora.state.co.us/medical.

### Policy Number: 10-12 Sexual Misconduct Statement and **Policy**

**Date Issued: 11/8/93** Date Revised: 11/13/03

POLICY: On November 8, 1993, the Board of Medical Examiners adopted the attached policy statement regarding sexual misconduct.

SEXUAL MISCONDUCT. Sexual contact with a patient is sexual misconduct and is a violation of C.R.S. 12-36-117(1) (r).

II. DEFINITIONS. C.R.S. 12-36-117(1)(r) defines unprofessional conduct "engaging in a sexual act with a patient during the course of patient care." A sexual act is defined as "sexual contact, sexual intrusion, or sexual penetration as defined in Section 18-3-401, C.R.S."

Section 18-3-401(4) defines sexual contact as: the knowingly touching of the victim's intimate parts by the actor, or of the actor's intimate parts by the victim, or the knowingly touching of the clothing covering the immediate area of the victim's or actor's intimate parts if that sexual contact can reasonably be construed as being for the purposes of sexual arousal, gratifica-

of interest. Please note that ALL Board sion as: "any intrusion, however slight, by any policies may be accessed on-line at www. object or any part of a person's body, except the mouth, tongue, or penis, into the genital or anal opening of another person's body if that sexual intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification, or abuse."

> C. Section 18-3-401(6) defines sexual penetration as: "sexual intercourse, cunnilingus, fellatio, analingus, or anal intercourse. Emission need not be proved as an element of any sexual penetration. Any penetration, however slight, is sufficient to complete the crime."

> D. Section 18-3-401(2) defines intimate parts as: "the external genitalia or the perineum or the anus or the pubes or the breasts of any person."

> "During the course of patient care" encompasses all sexual acts between the physician and patient during the period of time a physician-patient relationship exists and not just during times of actual examination or treatment.

> III. DIAGNOSIS AND TREATMENT. Sexual behavior or involvement with a patient excludes verbal or physical behavior that is required for medically recognized diagnostic or treatment purposes when such behavior is accomplished in a manner that meets the standard of care appropriate to the diagnostic or treatment situation.

> IV. PATIENT. The determination of when a person is a patient for purposes of C.R..S.

> > (Continued on page 5)

# Colorado Physicians' and Physician Assistants' Peer Health Assistance Fund

(Continued from page 3)

or inactive). Physicians in training and self referrals (33%), followed by the out its mission and function. physician assistants in training (e.g., BME (22%) and hospitals (15%). Sigmedical students and physician assis- to CPHP voluntarily. The three most tant students) may also be eligible for common primary presenting problems CPHP services as identified by con- among new referrals for fiscal year tractual agreements. pants are responsible for the cost of havioral (20%) and substance abuse any additional evaluations such as (12%). The corresponding categories specialized medical examinations or of primary presenting problems among laboratory tests, and treatment, if nec- BME referrals were: psychiatric (24%), essary. CPHP is based in Denver with behavioral (12%) and substance abuse an office in Colorado Springs and pro- (19%). The cases that are known to vides its services statewide.

2003, CPHP has received 2,215 refer- situations in which the BME is involved rals and has served 1,898 participants. and CPHP must send a report to the During Fiscal Year 2002-03, the high- BME, CPHP furnishes only information

CPHP partici- 2002-03 were: psychiatric (23%), bethe BME are primarily referred by the Since its inception through June BME to CPHP for evaluation. Even in

est single source of new referrals was that is necessary for the BME to carry

The demand for peer assistance residents holding a training license, nificantly, 49% of new referrals came services at CPHP has grown significantly over the years and the Colorado Peer Assistance Fund does not support "indirect" services such as most educational presentations, research, administrative overhead and special projects such as the development of their website. Therefore, CPHP also relies on the generosity of individuals, hospitals, organizations and businesses, primarily through the annual Spirit of Medicine Campaign.

> If you would like more information about CPHP, please visit www.cphp. org or call (303) 860-0122 or (800) 927-0122.■

# **NEW BOARD POLICIES**

(Continued from page 4)

case basis with consideration given to tient may be the result of a mental con-standing bill, failure to follow treatment the nature, extent and context of the dition which may render the physician instructions, failure to return, etc. professional relationship between the unable to practice medicine with rea- 2. The statute does make an exception a person is not actively receiving treat- suant to C.R.S. 12-36-117(1)(o) . Any nesses. (See §25-1-801 C.R.S.) ment or professional services from a such condition is also defined as unpro- 3. Disclosure of information concerning physician is not determinative of this fessional conduct. issue. A person is presumed to remain VIII. OTHER STATUTORY PROHIBI- stricted by the Federal confidentiality lationship is terminated.

whether the physician-patient relation- 117(1)(f). to which the patient has confided per- revocation of the physician's license. sonal or private information to the physician; the nature of the patient's medical problem: the degree of emotional dependence that the patient has on a physician; the extent of the physician's general knowledge about the patient.

- A) Some physician-patient relationships may never terminate because of the nature and extent of the relationship. These relationships may always raise concerns of sexual misconduct whenever there is sexual contact.
- B) Sexual contact between a physician and a former patient after termination of the physician-patient relationship may still constitute unprofessional conduct under other sections of the Medical Practice Act if the sexual contact is a result of the exploitation of trust, knowledge, influence or emotions derived from the professional relationship.
- VI. CONSENT. A patient's consent to, initiation of or participation in sexual behavior or involvement with a physician does not change the nature of the conduct nor lift the statutory prohibition.

VII. IMPAIRMENT. In some situations, are no exceptions for things such as 12-36-117(1)(r) is made on a case by a physician's sexual contact with a pa- the patient's failure to pay an out-

a patient until the physician-patient re- TIONS. Sexual contact with patients statute (42 C.F.R. Part 2) in some inmay also constitute the basis for other stances. The statute defines specific TERMINATION OF PHYSICIAN- forms of unprofessional conduct under consent requirements such as purpose PATIENT RELATIONSHIP. Once a the Medical Practice Act. For example, of disclosure, limitation of information physician- patient relationship has been engaging in sexual contact with a pa-released, right to revocation, expiration established, the physician has the bur- tient may also fall below generally ac- date of release, and signature of paden of showing that the relationship no cepted standards of professional practient. longer exists. The mere passage of tice and so constitute a violation of C.R. 4. A valid request for release of retime since the patient's last visit to the S. 12-36-117(1)(p). Furthermore, to the cords must be in writing. It should physician is not solely determinative of extent that the sexual contact results in clearly identify the patient and be the issue. Some of the factors consid- a conviction of a felony, it is also unproered by the Board in determining fessional conduct under C.R.S. 12-36-

R.S. 12-36-117(1)(r) include, but are physician has committed unprofesnot limited to, the following: formal ter- sional conduct by engaging in sexual mination procedures; transfer of the pa- misconduct, the Board will impose such tient's care to another physician; the discipline as the Board deems necesreasons for wanting to terminate the sary to protect the public. The sancprofessional relationship; the length of tions available to the Board are set time that has passed since the patient's forth in C.R.S. 12-36-118(5)(g)(III) and last visit to the physician; the length of include restriction or limitation of the the professional relationship; the extent physician's practice, suspension, or

### Policy Number: 40-7 Guidelines Pertaining to the Release nonetheless considered part of the and Retention of Medical Records

Date Issued: February 10, 2000

(paragraph 6 revised); 11/08/01 ing party the cost of copying these re-(paragraph 10 added); 5/15/03 cords. (paragraph 10 revised)

tient record release and retention.

POLICY: On February 10, 2000, the 9. It is a violation of Colorado statute Colorado Board of Medical Examiners [C.R.S. 12-36-117(1)(p) and C.R.S. 12-(CBME) adopted the attached guide- 36-117(1) (cc)] to alter the medical relines pertaining to the release and re- cord at any time. tention of medical records.

#### MEDICAL RECORDS RELEASE

1. Colorado statute (25-1-802 C.R.S.) federal law. makes clear that records shall be avail- 11. The CBME advises physicians to able to the patient upon submission of consult with their medical liability insura written authorization/request. There

- physician and the person. The fact that sonable skill and safety to patients pur- for psychiatric or psychological ill
  - drug or alcohol problems may be re-
  - signed and dated by the patient or the patient's authorized representative.
- 5. The CBME has concluded that thirty ship has terminated for purposes of C. IX. DISCIPLINE. Upon a finding that a days is "reasonable notice" when records have been requested.
  - 6. Physicians may charge a reasonable fee for copying of records and may ask for payment in advance. It is customary when a patient is transferring care for physicians to provide copies of records to another physician's office free of charge
  - 7. Items such as x-rays, fetal monitor strips, electrocardiograms, etc., which may not at the time of the request be physically in the medical record, are medical record. If these are specifically requested, then they must be copied and provided to the patient. Of course, Date(s) Revised: August 9, 2001 the physician may charge the request-
  - 8. Unless a summary of the case has Purpose: To provide guidelines to already been prepared and is part of physicians and medical offices with re- the medical record (e.g. a hospital spect to the Colorado Board of Medical summary at the time of discharge), a Examiners' expectations regarding pa- physician is not obligated to provide one.

    - 10. A physician must provide patient records in compliance with state and

(Continued on page 6)

# TIME TO RENEW YOUR PA LICENSE

All Colorado ACTIVE and INACTIVE physician assistant (PA) licenses expired January 31, 2004. Board Policy 20-10 allows for a 60-day grace period in which to renew a PA license and avoid being placed in a lapsed status. A PA license may be renewed from February 1 until March 31, 2004, by including a \$15.00 late fee to the cost of the renewal. PA licenses will be lapsed for non-renewal on April 1, 2004.

mately December 1, 2003 to the address of all patient records for a minimum of 7 action by the Board. record on file with the Board.

Please be advised that before a PA renewal will be considered complete and a new license issued, the Board must receive a correctly completed, mandatory re-practice, patients should be notified of misinformation regarding health newal questionnaire and correct payment. To request duplicate renewal forms or questionnaires by phone, call (303) 894-7800. ■

# **MEET THE STAFF:** Licensing Specialist Jan Seewald

"I felt reassured that as long as Jan Seewald was working on my application it was possible to achieve my objective of obtaining a Colorado medical license."

"This is a quote from a letter I recently received from a newly licensed physician praising Jan's expertise and work ethic," said Susan Miller, Program Director for the Board. Such praise for Jan's work has become routine in the 15 years she has been employed as the Board's Licensing Specialist, most recently as the lead Licensing Specialist.

Jan is responsible for reviewing and processing those applications with issues that require additional screening and Board review. She works with applicants who are internationally trained, or who may have previous board actions or discipline against a license, felony convictions, or malpractice claims. Jan is well-versed in all facets of the application process for physicians and physician assistants.

"I have been enthused and challenged by the opportunity to serve the Board as well as to protect the health, safety, and welfare of Colorado citizens against unqualified physicians and physician assis- Date Issued: 02/13/03 tants," remarked Jan.

or at jan.seewald@dora.state.co.us.

### **NEW BOARD POLICIES**

(Continued from page 5)

ance carrier regarding any guidelines false advertising, which is unprofesthey may have for record release.

### RETENTION OF RECORDS

- impractical in most cases to maintain dia including, but not limited to, print, records forever. Consequently, the radio, television and the Internet. guidelines of other state medical (hh), C.R.S., any physician or physito develop the following guidelines leading, deceptive or false advertisfor records retention.
- years after the last date of treatment, Physicians should take special care whichever occurs later.
- the guidelines above.
- ance of practice;
- \* The physician may want to place a types of advertising: notice in the newspaper announcing a.) Claims that the services perdiscontinuance of practice;
- be notified as above.
- 4. In the event of a physician's death, ployed, and/or used, or that convey the estate should retain the records the message that one licensee is utilizing the guidelines above.
- 5. In case of litigation or CBME in- of services, personnel, materials or vestigation, records must be retained equipment cannot be substantiated; until resolution of the matter.
- maintains patient confidentiality.
- consult with their medical liability in- sure of a health care professional; surance carrier regarding any guide- c.) Advertising that has the effect of tion.

Policy Number: 40-14 Misleading, Deceptive or False Advertising: Clarification of 12-36-

117(1)(hh), C.R.S.

Purpose: To provide guidance to Jan can be reached at (303) 894-7716 physicians and physician assistants regarding the Board's position with

respect to misleading, deceptive or sional conduct pursuant to § 12-36-117 (1)(hh), C.R.S. This policy ap-1. The CBME recognizes that it is plies to advertising in all types of me-

Board has surveyed the rules and POLICY: Pursuant to § 12-36-117(1) boards and insurance liability carriers cian assistant who engages in mising has engaged in unprofessional Renewal notices were mailed approxi- 2. The CBME recommends retaining conduct and is subject to disciplinary

> or after the patient reaches age 18 - to advertise truthfully and avoid exploitation of their position of trust. Be-3. At the time of discontinuation of cause of the potential consequences and instructed to submit a written au- care and the importance of the interthorization/release if they wish their ests affected by the choice of a phyrecords transferred to another physi- sician, physicians must avoid miscian. Records should be retained af- leading the public. Physicians are ter discontinuation of practice using responsible for the contents of their own advertisements and should re-\* The CBME recommends sending view such advertisements to assure letters to patients seen in the last 3 adherence to ethical standards. years notifying them of discontinu- Therefore, the Board recommends that physicians avoid the following

- formed, personnel employed, and/or \* If all records are being transferred materials or office equipment used to another physician, patients should are professionally superior to that which is ordinarily performed, embetter than another when superiority
- b.) The misleading use of an un-6. When records are destroyed, it earned or non-health degree in any should be done in a manner that advertisement that is likely to cause confusion or misunderstanding as to 7. The CBME advises physicians to the credentials, education, or licen-
- lines they may have for record reten- intimidating or exerting undue pressure:
  - d.) Advertising that uses unsubstantiated testimonials:
  - e.) Advertising that creates an unjustified expectation or guarantees satisfaction or a cure;
  - f.) Advertising that offers gratuitous services or discounts, the purpose of which is to deceive the public, or
  - g.) Advertising that is otherwise misleading, deceptive or false.

# DISCIPLINE, BOARD ACTIONS, AND THE ISSUE OF FAULT

By Claudia Brett Goldin, Assistant Attorney General

these actions are not "disciplinary" in nature.

tional.

may not be at "fault," although some physicians respond to part of the physician. their disabilities more responsibly than others. The Board tient safety is not compromised.

tute disciplinary actions but are public Board orders.

active license, or reinstatement of a lapsed license. Appli- Agency Orders are available to the public. ■

cants for initial licensure or for reactivation of an inactive he summary of the Board's disciplinary actions is license who have not established that they have actively rumored to be the best-read section of the Ex- practiced medicine for the 2-year period immediately preaminer, and Board actions have recently been summarized ceding the filing of the application must demonstrate contin-(in some cases inaccurately) in one of the local newspa- ued competence as outlined by Board Rule 120. (The pers. No physician wants to see his or her name on these Board's rules are posted on its website at www.dora.state. lists. What many people do not realize, however, is that co.us/medical.) This requirement also applies to those phy-Board actions are often necessary even when the physician sician applicants for reinstatement whose license has whose license is affected is not at "fault," and some of lapsed for more than two years and who have not established that they have actively practiced medicine for the 2-For example, in substandard practice cases, the Board year period immediately preceding the filing of the applicalooks at whether a physician's care met generally accepted tion (see § § 12-36-116(1)(d), 12-36-123(2)(b) and 12-36standards of practice and may impose discipline even 137(5), C.R.S.). The Board often requires such applicants where the physician's substandard practice was not inten- to complete an assessment and, if recommended, an education plan, with the Center for Personalized Education for Other Board actions result when physicians suffer from Physicians ("CPEP"). These types of Board orders are not a mental or physical disability. Physicians with disabilities disciplinary in nature and, again, do not reflect "fault" on the

Professional regulatory bodies like the Colorado State often has to impose restrictions on a disabled physician's Board of Medical Examiners have a duty to inform the pubpractice without regard to fault in order to assure that pa- lic about their actions. Board actions imposing disciplinary action are reported to the National Practitioner Data Bank. In certain types of cases, the Board enters an interim Both disciplinary and non-disciplinary Board orders deagreement while it investigates a case or while a physician scribed above are included in the annual summary in the is evaluated or treated. These agreements do not consti- Examiner. Board orders are a matter of public record and must be produced if requested by a newspaper or anyone The Board also takes non-disciplinary actions when else. It is important to remember that a mere summary of physicians who have been out of clinical practice for a pe- the Board's actions by nature cannot tell the full story and riod of time apply for initial licensure, reactivation of an in- complete copies of the Board's Stipulations and Final

# **Actions Taken by the Board of Medical Examiners**

31, 2003. Board actions listed below lation, both parties agree to facts, sanc- 104(4), CRS: is an immediate, tempoof Board actions may be obtained by vis- disciplinary in nature. iting this website http://www.dora.state. donna.eccleston@dora.state.co.us

### **Board Action Definitions**

Letter of Admonition: (LOA) A public reprimand issued to the physician or physician assistant in the form of an actual Prima Facia: literally means "at first 36-118(9), CRS: is a suspension of a letter or as part of a Stipulation. The letter or Stipulation is a public record and context, it means that the Board believes ply with a Board order for a medical may be obtained from the Board Office.

The cases described below represent (ORDER) An order of the Board and an ted or outweighed had the case gone to Board actions taken or finalized by the agreement between the Board and the hearing. Colorado State Board of Medical Exam- practitioner prior to a formal hearing. A iners from January 1, 2003 to December stipulation resolves the case. In a stipu- Summary Suspension pursuant to 24-4may not be the only action. Contact the tions and the terms and conditions for rary withdrawal of the practitioner's li-Medical Board office for actions entered continued practice, if applicable. Such cense to practice medicine pending outside of these dates. Documentation orders may be disciplinary or non- prompt commencement of formal discipli-

co.us/doraimages/ or by sending a writ- Final Board Order: Final order issued by finds the public health, safety or welfare ten request to Donna Eccleston at the the Board after a formal hearing before requires emergency action or that the Medical Board address or via e-mail at an Administrative Law Judge (ALJ) practitioner has willfully violated the law. where evidence and testimony were presented. The ALJ prepares a written re- Summary Suspension pursuant to 12-36makes the final ruling regarding the ap- with a lawful order of the Board. propriate sanction.

view" or "on its face". As used in this practitioner's license for failure to comit has evidence to prove a violation of the examination. Medical Practice Act has occurred. How-Stipulation and Final Agency Order: ever, this evidence may have been rebut-

nary proceedings. This type of suspension can only be ordered when the Board

port of the findings, which a Hearings 118(5)(g)(IV), CRS: is a suspension of a Panel of the Board reviews and then practitioner's license for failure to comply

Summary Suspension pursuant to 12-

(Continued on page 8)

(Continued from page 7)

The following list does not represent all as required by law. litigation involving the Board during the above period. Absent from this list are Janet M. Basinger, M.D. applicants denied initial licensure, reacti- Alamosa, CO vation or reinstatement either before or License #40128 after a hearing.

ignated mailing address. This may not she was again in compliance with the license was issued by Hearings Panel B necessarily reflect the current city of Stipulation dated January 9, 2003. There- on July 17, 2003. The Order was based practice.

#### Gary N. Axelrad, M.D.

Manalapan, NJ License #42093

On October 16, 2003, Licensing Panel B approved the restricted license that Respondent not perform any surgical procedures due to a physical disability. This Stipulation is not a disciplinary action and Dr. Axelrad has never been disciplined by the Board. The Order is open for public inspection and is reported as required by law.

#### Kimberlee I. Barnes, M.D.

Westminster, CO License #28418

Stipulation and Final Agency Order ("Order") approved by Inquiry Panel A on February 12, 2003, whereby Respondent issued applicant a limited license solely On October 9, 2003, Inquiry Panel A apagrees to accept a Stipulated Letter of for the interpretation of non-invasive diag- proved the termination of Respondent's Admonition. The LOA is open for public nostic tests. This is not a disciplinary ac- Stipulation and Final Agency Order. Reinspection and reported as required by law.

### Janet M. Basinger, M.D.

Alamosa, CO License #40128

Second Stipulation and Final Agency Order ("Order") approved by Inquiry Panel A on January 9, 2003, whereby Respondent agrees to be bound by the probationary terms of her First Order of December 6. Second Order that limit her practice of obstetrics to the acute care setting of the emergency room and limit her practice of medicine to a maximum of forty hours per week. The Order is open for public in-

spection and reported as required by law.

### Janet M. Basinger, M.D.

Alamosa, CO License #40128

On June 12, 2003, Inquiry Panel A reviewed information stating that Respondent had been terminated from the CPEP program and failed to participate in practice monitoring as required by the Stipulation dated January 9, 2003. The Order is a matter of public record and is open for

public inspection. The Order is reported not constitute disciplinary action. The

On July 10, 2003, Inquiry Panel A re- License #13215 The city listed is considered the des- viewed information which documented A Final Board Order revoking Dr. Berg's fore, the Suspension issued to her on on the November 12, 2002 Initial Decision Order is a matter of public record and is Judge, Judith F. Schulman. The Order, open for public inspection and reported as the Initial Decision and other pleadings required by law.

### Janet M. Basinger, M.D.

Alamosa, CO

License #40128

On October 9, 2003, Inquiry Panel A is- Vail, CO sued Respondent a Letter of Admonition License #36196 (LOA) for failure to comply with the On October 9, 2003, Inquiry Panel A isand reported as required by law.

#### Thomas B. Beach, M.D.

Grand Junction, CO License #33370

On September 18, 2003, Inquiry Panel B License #27381 tion and Dr. Beach has never been disciplined by the Board. This Order is open active status with no conditions. for public inspection and is reported as required by law.

#### James L. Benoist, M.D.

Englewood, CO

License #30484

(Order) approved by Inquiry Panel A on regarding his substandard care, which February 12, 2003, based upon unprofes- constitutes unprofessional conduct pursu-2001, and further agrees the terms of the sional conduct as defined in section 12- ant to section 12-36-117, C.R.S. Respon-36-117 (1)(r), C.R.S. Respondent's medi- dent waived the right to contest the LOA cal license is placed on probation for five as provided in section 12-36-118 (4)(c) years with terms and conditions. The Or- (III), C.R.S. The LOA is open for public der is open for public inspection and is inspection and reported as required by reported as required by law.

#### Dalrie H.A. Berg, D.O.

Thornton, CO License #13215

tice approved by Inquiry Panel A on May to a Stipulated Letter of Admonition (LOA) 15, 2003, whereby Respondent agrees to in lieu of a hearing. The Respondent adcease the practice of medicine in Colo- mits to a violation of 12-36-117(1)(cc), C. rado effective May 15, 2003 to August 15, R.S. The Order is open for public inspec-2003. This Stipulation is not a final action tion and is reportable as required by law. as defined in section 24-4-102 (1), C.R.S., and is not reportable to the National Practitioners Databank. The Stipulation does

Stipulation is a matter of public record and is open for public inspection.

#### Dalrie H.A. Berg, D.O.

Thornton, CO

June 12, 2003, has been vacated. The rendered by the Administrative Law are a matter of public record and are open for public inspection and reported as required by law.

#### David M. Bradley, M.D.

Board's Order. The LOA is a matter of sued Respondent a Letter of Admonition public record, open for public inspection (LOA). The LOA is a matter of public record, open for public inspection and reported as required by law.

#### Herbert N. Chado, M.D.

Evergreen, CO

spondent's medical license is restored to

#### Kak-Chen Chan, M.D.

Denver, CO

License #39193

On June 19, 2003, Inquiry Panel B issued Respondent a Letter of Admonition (LOA) Stipulation and Final Agency Order whereby Respondent accepted the LOA

#### Steven T. Chetham, M.D.

Louisville, CO License #35718

Stipulation for Interim Cessation of Prac- On October 2, 2003, Respondent agreed

(Continued on page 9)

(Continued from page 8)

#### Franklin S. Chow, M.D.

Vail, CO

License #25189

On November 14, 2003, Inquiry Panel B approved the termination of Respondent's Jason Ditto, M.D. 1998 Stipulation and Final Agency Order. Los Angeles, CA Respondent has completed all of the re- License #31355 quirements of the Stipulation. His license Order of Suspension from the Practice of On November 12, 2003, Inquiry Panel A status.

#### John H. Clifford, M.D.

Greenwood Village, CO License #14015

Stipulation and Final Agency Order approved by Licensing Panel B on May 16, 2003 granting reactivation of a limited license whereby Respondent agreed to License #18110 limit his license to only practice adminis- On June 12, 2003, Inquiry Panel A ap-Clifford has never been disciplined by the reported as required by law. Board. The Order is open for public inspection and reported as required by law.

### Craig S. Colberg, M.D.

Greeley, CO

License #21635

reported as required by law.

### Anne M. Coury, M.D.,

Littleton, CO License #30702

On May 16, 2003, Inquiry Panel B of the License #30269 Colorado Board of Medical Examiners Interim Cessation Agreement approved by sued Respondent a one-year license with granted Dr. Coury's request to terminate Inquiry Panel B effective February 24, the surgical monitoring requirement from 2003, whereby Respondent agrees to Stipulation became effective August 4, the Stipulation and Final Agency Order cease the practice of medicine effective 2003 to expire on August 4, 2004, unless dated January 12, 2002. All other proba- February 24, 2003 through February 18, the Panel issues another Order. This Ortionary terms of the January 2002 Stipula- 2004. The Interim Cessation Agreement is der is open for public inspection and is tion still remain in effect. The Stipulation is not a final action as defined in section 24- reportable as required by law; however, it a matter of public record and is open for 4-102(1), C.R.S., and is not reportable to is not a disciplinary action and Dr. public inspection.

### James E. Damon, M.D.

C'oeur D'Alene, ID License #41905

On August 13, 2003, Inquiry Panel A issued applicant a limited license solely to John H. Emerson, Jr., M.D. perform independent medical exams. Said Stipulation and Final Agency Order in- License #30269 cludes probation, CPEP education plan Second Stipulation and Final Agency Orand treatment monitoring. This Order is der approved by Inquiry Panel B approved open for public inspection and is report- February 24, 2003, but is held in abey- Ousama Ghaibeh, M.D. able as required by law.

#### Ken D. Danylchuk, D.O.

Pueblo, CO License #29760 proved a Letter of Admonition (LOA). The riod. The Second Stipulation is open for LOA is open for public inspection and re- public inspection and is reported as reported as required by law.

is restored to an active, unrestricted Medicine issued by Inquiry Panel A on approved the termination of Respondent's January 9, 2003 suspending Respon- 2001 Stipulation and Final Agency Order. dent's medical license for failure to com- Respondent has completed all of the reply with a Board Order. The Order is open guirements of the Stipulation. His license for public inspection and is reported as has been restored to an active, unrerequired by law.

#### Terry A. Downing, M.D.

Denver, CO

#### Larry Eckstein, M.D.

Boulder, CO

License #33042

On January 9, 2003, Inquiry Panel A terminated Respondent's Stipulation and On June 19, 2003, Inquiry Panel B ap- Final Agency Order finding that Respon- Finger has never been disciplined by the proved a Letter of Admonition (LOA). The dent successfully completed and complied Board. The Order is a matter of public re-LOA is open for public inspection and is with all terms and conditions of the Order. cord, open for public inspection and re-Respondent's medical license was re-ported as required by law. stored to an active, unrestricted status.

#### John H. Emerson, Jr., M.D.

Englewood, CO

Interim Cessation Agreement does not the Board. constitute disciplinary action. However, it is a public record and open for public in- Paul E. Garland, M.D. spection.

Englewood, CO

ance pending the final resolution of all Damascus, Syria matters pertaining to the Interim Cessa- License #19533 tion Agreement. Respondent agrees to to Stipulation and Final Agency Order complete a boundaries course, CPEP as- ("Order") approved by Inquiry Panel B on sessment and any required educational

On June 12, 2003, Inquiry Panel A ap- activities and a five-year probationary peguired by law.

### Robert H. Fenster, D.O.

Denver, CO License #18125

stricted status.

### Reginald F. Finger, M.D.

Colorado Springs, CO License #38340

On November 12, 2003, Inquiry Panel B trative medicine in the state of Colorado. proved a Letter of Admonition (LOA). The approved a Second Stipulation and Final This is not a disciplinary action and Dr. LOA is open for public inspection and is Agency Order to modify the terms of the 1999 Stipulation. The Second Stipulation includes a permanent practice restriction to practice medicine only as directly related to work in Public Health Administration excluding direct patient care and/or dispensing medical advice to the public. This is not a disciplinary action and Dr.

#### Mariovista Frogozo, M.D.

San Diego, CA License #41866

On July 17, 2003, Licensing Panel B ispractice monitoring requirements. The the National Practitioner's Databank. The Frogozo has never been disciplined by

Panama City, FL License #32406

On July 17, 2003, Inquiry Panel B issued Dr. Garland a Letter of Admonition (LOA). The LOA is open for public inspection and is reported as required by law.

(Continued on page 10)

(Continued from page 9)

January 16, 2003, whereby Respondent Christian Hageseth, III, M.D. has retired from the active practice of Fort Collins, CO medicine in Colorado and agreed to place License #21721 his license in an inactive status. Respon- On November 14, 2003, Inquiry Panel B Westminster, CO as required by law.

### Gary V. Gieringer, M.D.

Colorado Springs, CO License #15247

Order of Suspension Pursuant 12-36-118 (5)(g)(IV), C.R.S., issued by Inquiry Panel Terry L. Hamburg, D.O. B on February 18, 2003 suspending Re- Aurora, CO spondent's medical license for failure to License #31890 comply with a Board Order. The Order is On June 19, 2003, Inquiry Panel B apopen for public inspection and is reported proved a Stipulation and Final Agency tice restrictions against unsupervised conas required by law.

#### Gary V. Gieringer, M.D.

Colorado Springs, CO License #15247

the summary suspension for failure to reported as required by law. comply. The remaining terms and conditions of the Second Stipulation are still in Robert M. Hamm, M.D. effect. The Order is open for public inspection and reported as required by law.

#### Gary V. Gieringer, M.D.

Colorado Springs, CO License #15247

On May 16, 2003, Inquiry Panel B issued Respondent a Letter of Admonition (LOA) whereby Respondent accepted the LOA regarding the violation of his Second Stipulation and Final Agency Order. The as required by law. LOA is for public inspection and reported as required by law.

#### Richard C. Gingery, M.D.

Montrose, CO

License #17662

On June 12, 2003, Inquiry Panel approved the Stipulation and Final Agency Order to accept his relinquished license. Respondent is retiring from the practice of medicine and will no longer practice medicine in the state of Colorado. The Order is as required by law. open for public inspection and is reported as required by law.

### Donald P. Gutstadt, P.A.

Englewood, CO

License #206

Letter of Admonition (LOA) issued by Inquiry Panel B on March 27, 2003. The LOA is open for public inspection and reported as required by law.

dent's license to practice medicine in the approved a Third Stipulation and Final License #20876 State of Colorado will permanently re- Agency Order allowing Respondent to On June 19, 2003, Inquiry Panel B apmain on an inactive status. The Order is perform Independent Medical Examina- proved an Interim Cessation Stipulation, open for public inspection and reported tions (IMEs) in addition to his research whereby the Respondent agreed not to activities. The terms of the First Order re- practice medicine. The Order is a matter main in effect. This Third Order replaces of public record and is open for public inthe Second Order. The Order is a matter spection. The Order is not a disciplinary of public record, open for public inspection action. and reported as required by law.

(LOA) and requires him to notify the Panel mandatory disclosure statement signed by if he wishes to practice clinical medicine the parent or guardian, probationary pracoutside the military setting. There is no tice, compliance monitoring and a CPEP probation involved with this Order. The documentation seminar. This Order is Inquiry Panel B on April 17, 2003, vacated Order is open for public inspection and open for public inspection and is reported

Rancho Viejo, TX License #17099

(Order) approved by Inquiry Panel B on approved the termination of Respondent's March 27, 2003, whereby Respondent 1998 Stipulation and Final Agency Order. agrees to relinquish his license and Re- Respondent has completed all requirespondent is retiring from the practice of ments of the Stipulation. His license has medicine and will no longer practice medi- been restored to an active, unrestricted cine in the state of Colorado. The Order is status. open for public inspection and is reported

### Perry L. Haney, M.D.

Denver, CO

License #32744

Stipulation and Final Agency Order approved by Inquiry Panel B on April 17, 2003 requiring the Greeley Company to placing applicant's license on probation review 25 patient charts within six months for five years with monitoring. The Order of the effective date of the Stipulation. The is open for public inspection and reported Stipulation and Final Agency Order is as required by law. open for public inspection and is reported

#### Diane Hartman, M.D.

Wheat Ridge, CO License #30949

viewed the information submitted by Re- Stipulation agreement based on the acspondent stating that she had completed tions taken against his Florida medical the requirements of the June 11, 1998 license. The Stipulation consists of proba-Stipulation and Final Agency Order. The tionary terms for three years, practice re-Panel approved Respondent's request to strictions, practice monitoring. His orthorestore her license to active, unrestricted

status. The decision of the Panel is public and is reported as required by law.

#### Charles W. Hastings, M.D.

#### James T. Heiberger, M.D.

Colorado Springs, CO

License #24223

On September 11, 2003, Inquiry Panel A issued a Stipulation with permanent prac-Order that includes a Letter of Admonition tact with patients under 18 years old, a as required by law.

### Terry J. Heindel, M.D.

Denver, CO License #34601

Stipulation and Final Agency Order On November 14, 2003, Inquiry Panel B

### Daniel P. Hepburn, M.D.

Durango, CO

License #41288

Stipulation and Final Agency Order (Order) approved by Licensing Panel B on February 14, 2003, granting applicant a license to practice medicine in Colorado

#### Thomas A. Hoffeld, M.D.

Fort Lauderdale, FL

License #41170

On December 19, 2002, Inquiry Panel B approved a Stipulation and Final Agency On July 10, 2003, Inquiry Panel A re- Order whereby Respondent agreed to the

(Continued on page 11)

(Continued from page 10)

pedic practice is limited to an office prac- is not a disciplinary action and Dr. Jones Denver, CO tice, straightforward fracture cases and has never been disciplined by the Board. License #39103 routine non-complex orthopedic surgery. The Order is open for public inspection Third (actually Fourth) Stipulation for In-Respondent shall refer complex orthope- and reported as required by law. dic surgery cases to appropriate surgical centers in Pueblo, Colorado Springs, Den- Rick E. Kiser, M.D. ver metropolitan area or elsewhere. Com- Greeley, CO plex orthopedic surgery means surgery on License #22709 the spine, head and neck and complex On June 19, 2003, Inquiry Panel B apjoint replacements. This Order is open for proved a Letter of Admonition. The LOA is 24-4-102 (1), C.R.S., and is not reportable public inspection and is reported as re- open for public inspection and is reported to the National Practitioners Databank. quired by law.

#### Thomas A. Hoffeld, M.D.

Ft. Lauderdale, FL License #41170

Amended Stipulation and Final Agency Order approved by Inquiry Panel B on tice approved by Inquiry Panel A on Janu- License #39103 March 27, 2003, whereby the scope of Dr. ary 16, 2003 whereby Respondent agrees On July 12, 2003, Inquiry Panel A ap-Hoffeld's practice is clarified. The Order is to cease the practice of medicine effective proved a Fifth Interim Cessation of Pracopen for public inspection and is reported January 13, 2003. The Interim Cessation tice, whereby Respondent agrees to as required by law.

#### James S. Jacobs, M.D.

Denver, CO License #25084

a Letter of Admonition (LOA) for Respondent's failure to respond to the Board. The public inspection. LOA is open for public inspection and is reported as required by law.

#### Robert A. Jensen, D.O.

Denver, CO

License #24713

15, 2002. The LOA is open for public inspection and reported as required by law.

### Michael W. Johnson, M.D.

Durango, CO

License #36335

approved a Second Stipulation and Final record and is open for public inspection. Agency Order whereby Respondent agrees to a five-year probation, absti- Adrienne E. Knight, M.D. nence from addictive substances, practice Denver, CO restrictions, treatment monitoring with License #39103 CPHP and practice monitoring. The Order Third Stipulation for Interim Cessation of License #25908 ported as required by law.

### Charles S. Jones, M.D.

Denver, CO

License #41289

to limit his practice of medicine solely to record and is open for public inspection.

administrative medicine. This Stipulation Adrienne E. Knight, M.D.

as required by law.

#### Adrienne Knight, M.D.

Denver, CO

License #39103

Stipulation for Interim Cessation of Prac- Denver, CO of Practice remains in effect until April 11, cease the practice of medicine until Sep-2003. The Stipulation is not a final action tember 2, 2003, unless modified by the as defined in section 24-4-102(1), C.R.S., Panel. The Order is not a final action as and is not reportable to the National Prac- defined in section 24-4-102(1), C.R.S., titioner's Databank. The Stipulation does and is not reportable to the National Prac-On July 10, 2003, Inquiry Panel A issued not constitute disciplinary action. The titioner Databank. The Order does not Stipulation is a public record and open for constitute disciplinary action. The Order is

#### Adrienne E. Knight, M.D.

Denver, CO

License #39103

Second Stipulation for Interim Cessation License #22375 of Practice approved by Inquiry Panel A On October 16, 2003, Inquiry Panel B ap-Letter of Admonition (LOA) issued and on February 14, 2003, whereby Respon- proved an Interim Cessation Stipulation accepted by Respondent on November dent agrees to cease the practice of medi- whereby Respondent has agreed not to cine until May 15, 2003, unless modified practice medicine. The Stipulation beby the Panel. The Stipulation is not a final came effective October 21, 2003. The Oraction as defined in section 24-4-102 (1), der is not a final action as defined in sec-C.R.S., and is not reportable to the Na- tion 24-4-102(1), C.R.S., and is not reporttional Practitioner's Databank. The Stipu- able to the National Practitioner Datalation does not constitute disciplinary ac- bank. The Order does not constitute disci-On December 12, 2002, Inquiry Panel A tion. The Stipulation is a matter of public plinary action. The Order is a matter of

is open for public inspection and is re- Practice approved by Inquiry Panel A on Stipulation for Interim Cessation of Prac-May 14, 2003, whereby Respondent tice issued by Inquiry Panel B on March agrees to cease the practice of medicine 27, 2003. This is not a disciplinary action until June 16, 2003, unless modified by and is not reportable to the National Practhe Panel. The Stipulation is not a final titioner's Databank. The Order is open for action as defined in section 24-4-102 (1), public inspection. Stipulation and Final Agency Order C.R.S., and is not reportable to the Na-(Order) approved by Licensing Panel B on tional Practitioner's Databank. The Stipu-February 14, 2003, granting applicant a lation does not constitute disciplinary aclimited license, whereby applicant agreed tion. The Stipulation is a matter of public

terim Cessation to Practice approved by Inquiry Panel A on June 12, 2003, whereby Respondent agrees to cease the practice of medicine until August 1, 2003, unless modified by the Panel. The Order is not a final action as defined in section The Order does not constitute disciplinary action. The Order is a matter of public record and is open for public inspection.

### Adrienne E. Knight, M.D.

a matter of public record and is open for public inspection.

#### Erik W. Kreutzer, M.D.

Lakewood, CO

public record and is open for public inspection.

### Jean E. Kunin, M.D.

Denver, CO

(Continued from page 11)

#### Jean E. Kunin, M.D.

Denver, CO License #25908

inspection and is reported as required by ported as required by law. law.

#### Jerome C. Landblom, M.D.

Thornton, CO License #30664

proved a Stipulated Letter of Admonition The LOA is open for public inspection and (LOA), along with a requirement that he is reported as required by law. complete a boundaries course. This Order is open for public inspection and is re- Michael R. Menachof, M.D. ported as required by law.

#### Laurence S. Lopez, M.D.

Colorado Springs, CO License #27415

On June 12, 2003, Inquiry Panel A apported as required by law. proved a Second Stipulation and Final Agency Order to run concurrent with William H. Mendez, M.D. terms of the First Stipulation and Final Denver, CO Agency Order dated August 14, 2002. Re- License #15913 spondent's license remains under proba- On October 28, 2003, Respondent agreed pleted. The 2003 Order supersedes the spection and reported as required by law. conditions of the 2002 Order. Two practice monitors are to review 100% of his David C. Meyer, M.D. charts and he is required to complete a Colorado Springs, CO one-year modified residency program fol- License #31450 lowed by another CPEP assessment and Letter of Admonition (LOA) issued and further recommendations, if any,

#### Ulysses G. Mason, III, M.D.

Denver, CO License #21564

On November 12, 2003, Inquiry Panel A Gary S. Milzer, M.D. approved the Stipulation and Final Denver, CO Agency Order whereby Respondent License #42171 quired by law.

### Brian M. McGuire, M.D.

Boulder, CO License #17404

approved the Stipulation and Final guired by law. Agency Order granting Dr. McGuire a lim-

ited license to perform histories and physi- Robert F. Mimmack, M.D. cal exams on patients admitted to nursing Grand Junction, CO homes following Dr. McGuire's voluntary License #31001 request to reactivate his license. The Stipulation and Final Agency Order On June 19, 2003, Inquiry Panel B ap- Stipulation is not a disciplinary action and (Order) approved by Inquiry Panel A on proved a Stipulation and Final Agency Dr. McGuire has never been disciplined February 12, 2003, based upon unprofes-Order whereby Respondent agrees to a by the Board. His initial retirement was sional conduct as defined in section 12five-year probation, which includes prac- not an issue negotiated with the Board. 36-117(1)(r), C.R.S. Respondent's meditice monitoring and treatment monitoring. The Stipulation is a matter of public re- cal license is placed on a five-year probawith CPHP. The Order is open for public cord, open for public inspection and re- tionary period with terms and conditions.

#### Gary E. McKinney, M.D.

Canon City, CO License #29138

On May 16, 2003, Inquiry Panel B issued License #39688 On July 17, 2003, Inquiry Panel B ap- Respondent a Letter of Admonition (LOA).

Englewood, CO License #31645

Letter of Admonition (LOA) issued by Inquiry Panel A on March 13, 2003. The Michael B. Moore, M.D. LOA is open for public inspection and re- Denver, CO

tion pursuant to the 2002 Order and pro- to retire from the practice of medicine and CPHP monitoring. The Order is a matter bationary period is extended until all terms relinquish his license. The Order is a matof the 2003 Order are successfully com- ter of public record, open for public in-

accepted by Respondent by Inquiry Panel B on December 19, 2002. The LOA is agreed to receive such treatment monitoropen for public inspection and is reported ing as deemed appropriate due to his subas required by law.

agreed to permanently inactivate his li- On November 12, 2003, Licensing Panel cense to practice medicine. Respondent A approved a Stipulation and Final John R. Nordlund, M.D. agrees not to apply for reactivation of his Agency Order granting the Applicant a Rochester, MN license or to apply for a new license. The limited license to practice medicine. Appli- License #41646 Order is a matter of public record, open cant has agreed to a Stipulation and Final Stipulation and Final Agency Order apfor public inspection and reported as re- Agency Order issuing him a license lim- proved by Inquiry Panel B on May 16, ited to administrative medicine only. The 2003. Respondent has agreed to a non-Order includes a five-year probationary surgical practice. This Order is open for period, treatment monitoring and absti- public inspection and reported as required nence from addictive substances. The by law. Order is a matter of public record, open On October 27, 2003, Licensing Panel A for public inspection and reported as re-

The Order is open for public inspection and is reported as required by law.

#### Scott A. Monheit. D.O.

Englewood, CO

On July 17, 2003, Inquiry Panel B approved a Stipulation and Final Agency Order, whereby Respondent agrees to a five-year probation, treatment monitoring with CPHP and practice monitoring. This Order is open for public inspection and is reported as required by law.

License #42173

On November 14, 2003, Licensing Panel B approved a Fourth Stipulation and Final Agency Order whereby Respondent has agreed to a limited license to complete a CPEP educational plan and to undergo of public record, open for public inspection and reported as required by law.

#### C. David Neece, D.O.

Walsenburg, CO License #27053

Second Stipulation and Final Agency Order ("Order") approved by Inquiry Panel A on January 9, 2003, whereby Respondent stance use disorder. Respondent's medical license is placed on a five-year probationary period. The Order is open for public inspection and reported as required by

(Continued on page 13)

(Continued from page 12)

### Karl E. Olsen, M.D.

Fort Collins, CO License #37735

Letter of Admonition (LOA) issued by In- License #31058 quiry Panel A on April 10, 2003. The LOA On July 10, 2003, Inquiry Panel A ap- tice medicine until the Panel finds that Reported as required by law.

#### Heidi Jo Oster, M.D., (formerly Jatana)

Highlands Ranch, CO License #37061

Letter of Admonition (LOA) issued by Inquiry Panel B on December 19, 2002. The LOA is open for public inspection and is Carey E. Renken, M.D. reported as required by law.

### Michael R. Philipps, M.D.

Cypress, CA

License #42095

On October 16, 2003, Licensing Panel A administrative medicine as the Medical law. Director for PacifiCare Health Systems, Inc. This Stipulation is not a disciplinary Augustine Rios, M.D. action and Dr. Phillips has never been Denver, CO disciplined by the Board. This Stipulation TL License #523 is open for public inspection and is re- On July 17, 2003, Inquiry Panel B ap- Cedaredge, CO ported as required by law.

#### Teresa L. Platt, M.D.

Glenwood Springs, CO License #41008

On October 9, 2003, Inquiry Panel A approved the Interim Stipulation to allow Respondent an additional 90 days to com- Jeffrey N. Roberts , M.D. plete the necessary requirements of the Greenville, SC Third Stipulation and Final Agency Order License #38746 dated 10/10/02. The Order is not a final Stipulation and Final Agency Order ap- Joseph M. Saber, M.D. action as defined in section 24-4-102(1), proved by Inquiry Panel B on March 27, Delta, CO C.R.S., and is not reportable to the Na- 2003, whereby Respondent agrees to pro- License #29343 tional Practitioner Databank. The Order bation and a permanent practice restric- Stipulation and Final Agency Order does not constitute disciplinary action, tion and a 90-day suspension which was (Order) approved by Inquiry Panel B on The Order is a matter of public record and already served. The Order is open for March 27,2003, whereby Respondent volis open for public inspection.

### Kathleen B. Polo, M.D.

Colorado Springs, CO License #36931

1998 Stipulation and Final Agency Order License #32226 status.

### Bernard J. Powers, M.D.

Villanova, PA

License #28046

Letter of Admonition accepted by Respon- law. dent on April 28, 2003. The Stipulated

Letter of Admonition is open for public in- John J. Rubino, M.D. spection and reported as required by law.

#### Mary A. Reeves, M.D.

Salida, CO

is open for public inspection and is re- proved a Stipulation and Final Agency spondent is able to practice medicine Order, whereby Respondent agreed to a safely. The Order is not a final action as three-year probation, CPEP Educational defined in section 24-4-102(1), C.R.S., Plan and practice monitoring. The Order and is not reportable to the National Pracis a matter of public record and is open for titioner Databank. The Order does not public inspection and is reported as re- constitute disciplinary action. The Order is quired by law.

Denver, CO

License #39769

On July 19, 2003, Inquiry Panel B ap- License #37185 proved a Third Stipulation. Respondent On July 10, 2003, Inquiry Panel A rehas agreed to indefinite probation. Her viewed information stating that Responlicense is restricted to practice in the resi- dent had failed to comply with the August approved the Stipulation and Final dency program at UCHSC for child psy- 14, 2002 Board Order. The Panel issued Agency Order whereby Respondent has chiatry. This Stipulation is open for public a Suspension Order against Responagreed to a limited license to perform only inspection and is reported as required by dent's medical license. The Order is a

proved a Suspension Order suspending License #37185 Respondent's license to practice medicine On September 26, 2003, on behalf of Infor failure to comply with an Order of the quiry Panel A, information was received Board. The Order is a matter of public record and is open for public inspection and with the August 14, 2003 Stipulation and is reported as required by law.

public inspection and is reported as re- untarily relinquished his license to practice quired by law.

### David K. Rosenthal, M.D.

Sacramento, CA

has been completed. Dr. Polo's license On November 14, 2003, Licensing Panel James M. Satt, M.D. has been returned to an unrestricted B approved a Stipulation and Final Rocky Ford, CO Agency Order granting Applicant a re- License #23516 stricted license to only practice medicine Letter of Admonition (LOA) issued by Inwithin a correctional facility and to com- quiry Panel A on December 12, 2002. The plete a boundaries course. The Order is a LOA is open for public inspection and rematter of public record, open for public ported as required by law. Stipulation and Final Agency Order for a inspection and reported as required by

Castle Rock, CO License #36369

On October 16, 2003, Inquiry Panel B approved an Interim Cessation of Practice whereby Respondent agreed not to praca matter of public record and is open for public inspection.

#### Scott C. Russell, D.O.

Cedaredge, CO

matter of public record, open for public inspection and reported as required by

#### Scott C. Russell, D.O.

showing Respondent is in compliance Final Agency Order. Therefore, the Suspension issued on July 10, 2003 is hereby vacated. The Order is open for public inspection and reported as required by law.

medicine in Colorado. This is a permanent surrender of his license. The Order is open for public inspection and is reported as required by law.

(Continued on page 14)

(Continued from page 13)

#### Charlotte D. Scanlon, M.D.

Colorado Springs, CO

License #31977

tice monitoring, treatment monitoring, CPEP assessment and completion of a Ann K. Smith-Rudnick, M.D. boundaries course. The Order is open for Littleton, CO public inspection and is reported as re- License #39352 quired by law.

#### Joseph M. Sharkey, M.D.

Golden, CO

License #19708

On October 16, 2003, Inquiry Panel B approved a Stipulation and Final Agency required by law. Order whereby Respondent agreed to permanent practice restrictions and com- Randall L. Snook, M.D. pletion of CPEP documentation seminar Castle Rock, CO post-program. The Order is a matter of License #34633 public record, open for public inspection On July 10, 2003, Inquiry Panel A reand reported as required by law.

#### Joseph M. Sherman, M.D.

Grand Junction, CO License #19940

Order whereby Respondent agrees to a law. five-year probation, treatment monitoring with CPHP and a boundaries course. This Michael Spector, M.D. Order is open for public inspection and is Superior, CO reported as required by law.

#### Jerald L. Sisk, M.D.

Brighton, CO

License #18251

(Order) approved by Inquiry Panel A on program. The Order is not a final action as conviction as defined in section 12-36-February 12, 2003, whereby Respondent defined in section 24-4-102(1), C.R.S., 117, C.R.S. The Stipulation and Final accepted a Letter of Admonition regarding and is not reportable to the National Prac- Agency Order is open for public inspechis medical care and treatment of two pa- titioner Databank. The Order does not tion and is reported as required by law. tients. The Order is open for public in- constitute disciplinary action. The Order is spection and is reported as required by a matter of public record and is open for Norman L. West, M.D. law.

#### John P. Smith, M.D.

Thornton, CO

License #17620

tion and is reported as required by law.

#### Nancy A. Smith, P.A.

Denver, CO

License #1354

Stipulation and Final Agency Order ap- David W. Terry, D.O. proved by Inquiry Panel B on April 17, Grand Junction CO

2003. The Stipulation includes a stayed On June 19, 2003, Inquiry Panel B ap-Stipulation and Final Agency Order was tion. Respondent's physician assistant's Interim Cessation Stipulation is to allow approved by Inquiry Panel A on May 14, license is placed on a 24-month probation sufficient time to finalize a resolution in 2003, whereby Respondent agrees to a period. The Order is open for public in- this matter and in consideration of the five-year probation, which includes prac- spection and reported as required by law.

On September 18, 2003, Inquiry Panel B approved the termination of Respondent's 1998 Stipulation and Final Agency Order. James A. Tharp. M.D. Dr. Smith-Rudnick's license is returned to Littleton, CO an unrestricted status. This Order is open License #18899 for public inspection and is reported as Stipulation and Final Agency Order

viewed the information submitted by the required by law. Respondent and approved his request to terminate his June 8, 2000 Stipulation and Warren I. Tripp, M.D. Final Agency Order. Respondent's license Boulder, CO has been restored to an active, unre- License #25330 On August 13, 2003, Inquiry Panel A ap- stricted status. The decision of the Panel On June 12, 2003, Inquiry Panel A ap-

License #39578

On September 18, 2003, Inquiry Panel B License #41466 Stipulation and Final Agency Order until the Panel approves his treatment conduct for moral turpitude and a felony public inspection.

#### David W. Terry, D.O.

Grand Junction, CO

License #23358

issued Dr. Smith a Letter of Admonition of Practice approved by Inquiry Panel B tice medicine in Colorado. Respondent (LOA). The LOA is open for public inspec- on March 27, 2003, in effect through May agrees to not apply for reactivation or reand is not reportable to the National Prac- new license issued by the Board. The Ortitioner's Databank. The Order is open for der is open for public inspection and republic inspection.

License #23358

suspension if she completes 45 hours of proved a Third Interim Cessation of Praccommunity service and complies with the tice Stipulation Agreement in effect other terms and conditions of the Stipula- through September 1, 2003. The Third First and Second Stipulation. This Stipulation does not constitute disciplinary action and is not reportable to the National Practitioners Databank. The Stipulation is a matter of public record and is open for public inspection.

(Order) approved by Inquiry Panel B on March 27, 2003, whereby Respondent agrees to not engage in the practice of pediatric anesthesiology due to a medical condition affecting his back. The Order is open for public inspection and reported as

proved a Stipulation and Final Agency is public and is reported as required by proved a Letter of Admonition (LOA). The LOA is open for public inspection and is reported as required by law.

#### Howard S. Weiss, M.D.

Centennial, CO

approved a Stipulation for Interim Cessa- Stipulation and Final Agency Order tion of Practice. Pursuant to this agree- ("Order") approved by Inquiry Panel B on ment, Respondent agreed not to practice April 17, 2003, based upon unprofessional

South Fork, CO

License #20324

Stipulation and Final Agency Order ("Order") approved by Inquiry Panel B on February 14, 2003, whereby Respondent On September 18, 2003, Inquiry Panel B Second Stipulation for Interim Agreement voluntarily relinquishes his license to prac-1, 2003. This is not a disciplinary action instatement of his license or apply for a ported as required by law.

(Continued on page 15)

(Continued from page 14)

#### Harry L. Wherry, M.D.

Longmont, CO License #11305

Letter of Admonition (LOA) issued by Inquiry Panel B on April 17, 2003. The LOA **Donald Ray Zelkind, M.D.** is open for public inspection and reported Denver, CO as required by law.

#### Michael S. Woods, M.D.

Mancos, CO License #42094

plete his CPEP educational plan. The Or- Respondent must meet conditions as set reported as required by law.■

der is not a disciplinary action and Dr. forth in the Order prior to returning to the Woods has never been disciplined by the clinical practice of medicine. Respondent Board. The Order is a matter of public re- shall also receive such treatment monitorcord and is open for public inspection and ing as determined to be appropriate for as reported as required by law.

License #22182 Stipulation and Final Agency Order Leonard R. Zemel, M.D. ("Order") approved by Inquiry Panel B on Denver, CO January 16, 2003, whereby Respondent License #27647 agreed to limit his practice of medicine to Letter of Admonition (LOA) issued by In-On October 9, 2003, Licensing Panel A administrative or forensic medicine only quiry Panel B on January 16, 2003. The granted applicant a limited license to com- due to suffering from a physical disability. LOA is open for public inspection and is

long as he retains a license to practice medicine in Colorado. The Order is open for public inspection and reported as required by law.

# **Formal Complaints**

The Office of the Attorney General, on behalf of the State Board of Medical Examiners, filed Formal Complaints regarding the licenses listed below with the Division of Administrative Hearings. These are the Formal Complaints filed since January 1, 2003 that remain open as of January 1, 2004.

A Formal Complaint is the document filed with the Administrative Law Judge by the Board's attorney that sets forth the charges being made against the licensee by the Board and the provisions of the law the Board believes it can prove that the licensee violated.

#### **Explanation of alleged violations:**

12-36-117(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 (.) ■

NAME	LICENSE #	DATE FILED	CITY OF RECORD	ALLEGED STATUTORY VIOLATION
Richard R Bury, MD	23175	11/20/03	Aurora, Colorado	12-36-117(1)(p) and (cc)
Allen B. Dunning, MD	24167	09/24/03	Erie, Colorado	12-36-117(1)(p)
Robert W. Lawrence MD	20213	11/24/03	Ft. Collins, CO	12-36-117(1)(p)

#### CHANGING YOUR ADDRESS OF RECORD

Pursuant to Colorado law, the designated mailing address of any licensee or applicant is considered public information, and therefore, available to the public. The designated mailing address is used to mail all licenses, renewal notices and other official correspondence from the Board.

Please be aware, this address is also the address the Board releases to the public when an inquiry is made.



that the Board may legally be required vacy, you may wish to use only a busi- 1350, Denver, Colorado, 80203, or fax to release all addresses currently on ness address in place of your home it to the Division at (303) 894-7693. ■

mailing address and/or direct Board Staff to remove your home address information from our records.

If you are making an address change, you must do so in writing. This request should contain your name, license number and your new address. You should indicate if this is a home or business and whether this is your designated address. You may either mail this change to the Division However, there is also the potential record. If you are concerned about pri- of Registrations, 1560 Broadway, Suite

### THE COLORADO BOARD OF MEDICAL EXAMINERS

1560 Broadway, Suite 1300, Denver, Colorado 80202-5140 Phone (303) 894-7690 Fax (303) 894-7692 <a href="www.dora.state.co.us/medical">www.dora.state.co.us/medical</a>

#### Susan Miller

Program Director (303) 894-7714

#### **Cindy Klyn**

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#### **Lorraine Lucero**

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