

BEFORE THE COLORADO MEDICAL BOARD  
STATE OF COLORADO

CASE NO. 2016-3447-B

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**STIPULATION AND FINAL AGENCY ORDER**

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IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE  
LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF  
HAROLD MELVIN CHERNE, M.D., LICENSE NUMBER DR-35889,

Respondent.

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

**JURISDICTION AND CASE HISTORY**

1. Respondent was licensed to practice medicine in the state of Colorado on March 20, 1997 and was issued license number DR-35889, which Respondent has held continuously since that date.
2. The Panel and the Board have jurisdiction over Respondent and over the subject matter of this proceeding.
3. On February 19, 2016, the Panel voted to summarily suspend Respondent's license to practice medicine, effective at 4:00pm on February 24, 2016, pursuant to Section 24-4-104(4), C.R.S.
4. On March 17, 2016, the Panel voted to sustain the suspension pursuant to Section 24-4-104(4), C.R.S., and determined that further proceedings by formal complaint were warranted pursuant to Section 12-36-118(4)(c)(IV), C.R.S. The Panel thereupon referred the matter to the Attorney General pursuant to Section 12-36-118(4)(c)(IV), C.R.S.
5. It is the intent of the parties and the purpose of this Stipulation and Final Agency Order ("Order") to provide for a settlement of all matters set forth in case number 2016-3447-B, without the necessity of conducting a formal disciplinary hearing. This Order constitutes the entire agreement between the parties, and

there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Order.

6. Respondent understands that:

a. Respondent has the right to be represented by an attorney of the Respondent's choice and Respondent has voluntarily chosen to proceed without representation;

b. Respondent has the right to a formal complaint and disciplinary hearing pursuant to Sections 12-36-118(4)(c)(IV) and 12-36-118(5), C.R.S.;

c. By entering into this Order, Respondent is knowingly and voluntarily giving up the right to a formal complaint and disciplinary hearing, admits the facts contained in this Order, and relieves the Panel of its burden of proving such facts;

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

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

### FACTUAL BASIS

7. The Respondent acknowledges and the Panel finds that, if the Panel were to prove the following facts at hearing, it would constitute a prima facie case of unprofessional conduct as defined in the Medical Practice Act, and would subject Respondent to discipline. Respondent denies the following allegation: On September 21, 2015, an investigator sent Respondent a complaint letter, along with an enclosed subpoena for medical records, on behalf of the Colorado Medical Board pursuant to Section 12-36-118(4), C.R.S., and Respondent failed to respond.

8. Respondent admits and the Panel finds that the acts or omissions described in the factual basis above, if proven, constitute unprofessional conduct pursuant to Section 12-36-117(1)(gg), C.R.S., which provides that "unprofessional conduct" includes "[f]ailing to respond in an honest, materially responsive, and timely manner to a complaint issued pursuant to section 12-36-118(4)."

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

## RETIREMENT AND RELINQUISHMENT OF LICENSE

10. Respondent hereby retires from the practice of medicine. Commencing on the effective date of this Order, Respondent's License in the state of Colorado is hereby relinquished. Following the relinquishment of Respondent's License, Respondent shall perform no act requiring a license issued by the Board, nor shall Respondent perform any act in any other location pursuant to the authority of a License granted by the state of Colorado.

11. Respondent understands and acknowledges that he is permanently relinquishing a License in Colorado. Respondent agrees not to apply for renewal, reinstatement, reactivation or issuance of a new license to practice medicine in Colorado at any time in the future. Respondent specifically waives any right to which he may be entitled pursuant to Section 12-36-118(5)(i), C.R.S. regarding application for licensure.

## OTHER TERMS

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

13. Both parties acknowledge that they understand the legal consequences of this Order; both parties enter into this Order voluntarily; and both parties agree that no term or condition of this Order is unconscionable.

14. All costs and expenses incurred by Respondent to comply with this Order shall be the sole responsibility of Respondent, and shall in no way be the obligation of the Board or Panel.

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

16. Respondent shall submit an update to his profile with the Healthcare Professions Profiling Program regarding this Order within thirty (30) days of the effective date of this Order.

17. So that the Board may notify hospitals of this agreement pursuant to Section 12-36-118(13), C.R.S., Respondent presently holds clinical privileges at the following hospitals:

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18. This Order and all its terms shall have the same force and effect as an order entered after a formal hearing pursuant to Section 12-36-118(5)(g)(III),

C.R.S., except that it may not be appealed. This Order and all its terms also constitute a valid board order for purposes of Section 12-36-117(1)(u), C.R.S.

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

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

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

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

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

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Harold Melvin Cherne, M.D.  
Harold Melvin Cherne, M.D.

THE FOREGOING was acknowledged before me this 6<sup>th</sup> day of  
April, 2016 by Harold Melvin Cherne, M.D. in the County of  
Larimer, State of COLORADO.

Cheryl Brown  
NOTARY PUBLIC

**CHERYL BROWN  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20024023445  
MY COMMISSION EXPIRES 7-23-2018**

My commission expires

THE FOREGOING Stipulation and Final Agency Order is approved this  
21<sup>st</sup> day of April, 2016.

FOR THE COLORADO MEDICAL BOARD  
INQUIRY PANEL B

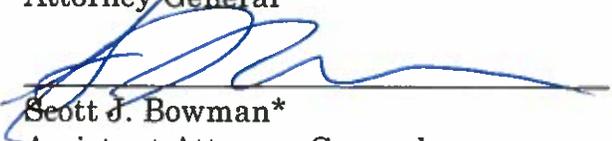
Ty T. Higuchi  
Ty T. Higuchi, M.D., Ph.D  
Chair, Inquiry Panel B

THE FOREGOING Stipulation and Final Agency Order is effective upon  
service to Respondent, on April 21, 2016.

APPROVED AS TO FORM:

FOR THE COLORADO MEDICAL  
BOARD

CYNTHIA H. COFFMAN  
Attorney General



Scott J. Bowman\*

Assistant Attorney General  
Business and Licensing Section  
Attorneys for the Colorado Medical Board  
Inquiry Panel B  
Ralph L. Carr Colorado Judicial Center  
1300 Broadway, 8th Floor  
Denver, Colorado 80203  
Telephone: 720-508-6407  
FAX: (720) 508-6037  
scott.bowman@coag.gov  
\*Counsel of Record