

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

JUL 01 2002

FAIN, SHELDON, ANDERSON & VANDERHOEF, PLLC

In the Matter of the License to Practice)
As a Physician and Surgeon of:) **Docket No. 01-12-A-1005MD**
)
JERRY N. MIXON, MD) **STIPULATED FINDINGS OF FACT,**
License No. MD00023643) **CONCLUSIONS OF LAW AND**
) **AGREED ORDER**
Respondent.)
_____)

The Medical Quality Assurance Commission ('Commission'), by and through Michael J. Weisman, Department of Health Staff Attorney and Jerry N. Mixon, MD, Respondent, represented by Thomas H. Fain, of Fain, Sheldon, Anderson & Vanderhoef, PLLC, stipulate and agree to the following:

Section 1: PROCEDURAL STIPULATIONS

- 1.1 Jerry N. Mixon, MD, Respondent, was issued a license to practice as a physician by the state of Washington in March 1986.
- 1.2 On March 21, 2002 the Commission issued a Statement of Charges against Respondent.
- 1.3 The Statement of Charges alleges that Respondent violated RCW 18.130.180(1), -.180(22), -.180(24).
- 1.4 Respondent understands that the State is prepared to proceed to a hearing on the allegations in the Statement of Charges.
- 1.5 Respondent understands that he has the right to defend himself against the allegations in the Statement of Charges by presenting evidence at a hearing.

REDACTED ORIGINAL

1.6 Respondent understands that should the State prove the allegations in the Statement of Charges at a hearing, the Commission has the power and authority to impose sanctions, pursuant to RCW 18.130.160.

1.7 Respondent and the Commission agree to expedite the resolution of this matter by means of this Stipulated Findings of Fact, Conclusions of Law, and Agreed Order (Agreed Order).

1.8 Respondent waives the opportunity for a hearing on the Statement of Charges contingent upon signature and acceptance of this Agreed Order by the Commission.

1.9 This Agreed Order is not binding unless and until it is signed and accepted by the Commission.

1.10 Should this Agreed Order be signed and accepted it will be subject to the reporting requirements of RCW 18.130.110, Section 1128E of the Social Security Act, and any other applicable interstate/national reporting requirements.

1.11 Should this Agreed Order be rejected, Respondent waives any objection to the participation at hearing of all of the Commission members who heard the Agreed Order presentation.

Section 2: STIPULATED FACTS

The State and Respondent stipulate to the following facts:

2.1 In the summer of 1999, Respondent met Patient One through a personal ad on the Internet. They subsequently corresponded by e-mail, and met in-person, establishing a social and sexual relationship. Subsequently, in September 1999, Patient One attended a public meeting intended to solicit patients for Respondent's anti-aging and hormone therapy treatment program. Patient One continued to discuss Respondent's medical treatment program when she visited

Respondent at his clinic, and Patient One expressed her desire to undergo the treatment with Respondent's clinic.

2.2 Patient One visited Respondent's clinic and had blood drawn and analyzed in November 1999 preparatory to beginning treatment. Patient One paid for the blood draw and analysis. Patient One began receiving hormone treatments from Respondent beginning around January 2000. Patient One continued to see Respondent in his clinic for medical supervision of her treatments, while she continued a sexual relationship with Respondent. Respondent waived Patient One's payment for her medications. The medications included controlled substances and legend drugs that required Respondent's prescription or dispensing.

2.3 In February 2000 and in June 2000 Patient One accompanied Respondent to meetings to help solicit new patients. Respondent continued to have a sexual relationship with Patient One while he also monitored her treatment and provided medications and medical supervision.

Section 3: CONCLUSIONS OF LAW

The State and Respondent agree to the entry of the following Conclusions of Law:

3.1 The Commission has jurisdiction over Respondent and over the subject matter of this proceeding.

3.2 The above facts constitute unprofessional conduct in violation of RCW 18.130.180.180(24).

3.3 The above violation is grounds for the imposition of sanctions under RCW 18.130.160.

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Section 4: AGREED ORDER

Based on the preceding Stipulated Facts and Conclusions of Law, Respondent agrees to entry of the following Order:

4.1 Respondent's license shall be subject to the probationary terms and conditions in this Agreed Order.

4.2 Respondent agrees that a licensed or certified medical assistant (CMA), LPN, RN, ARNP, or PA will have the duty to monitor and chaperone all of Respondent's disrobed female patient contacts for no less than three years from the effective date of this Agreed Order. This person may also perform practice and patient care duties as delegated by the physician. The chaperone will be present in the exam room during the entire time that Respondent is performing any physical examination of a female patient in which the patient is disrobed. The chaperone shall mark each patient chart to indicate compliance with this requirement. The Medical Consultant must approve the person or persons selected for this responsibility in advance.

4.3 Respondent shall maintain a clearly legible log of all female patients so examined. At a minimum the log will record the patient's name, date and time of exam, anatomical site of exam, and facility in which exam was performed. The log will also include the names of any physicians or witnesses present, the printed name of the chaperone, and the signature of the chaperone. Respondent will present the log to a Department of Health investigator upon request.

4.4 A copy of this Agreed Order shall be read, signed and dated by each person serving as a chaperone. Respondent will maintain all signed copies in a single file, which shall be presented to a Department of Health investigator upon request.

4.5 Respondent has successfully completed the 18 hours Professional/Problem Based Ethics Program (ProBE). This course will not count toward Respondent's statutory CME requirement.

4.6 Respondent will have a psychological evaluation within 90 (ninety) days of the effective date of this Agreed Order. The Medical Consultant will approve the evaluator in advance. The evaluator will focus on Respondent's safety to practice, his ability to understand and comprehend the cause and consequences of his actions, his general psychological and emotional health, and his prognosis of future risk to patients. The evaluator will have access to all information in the Department of Health's file regarding the Respondent.

4.7 Respondent agrees to complete a program of therapy, if advised by the evaluator. Respondent shall select the provider of such therapy from a list of approved therapists provided by the Medical Consultant. The therapist will submit detailed progress reports to the Commission quarterly, or more frequently if deemed necessary. The Medical Consultant will provide the specific format and content of such progress reports to the therapist. The Medical Consultant may initially brief the selected therapist on issues of concern to the Commission in order to focus therapy most advantageously. Respondent's therapy shall continue until successful completion as recommended by the therapist and approved by the Commission. If such program of therapy is not successfully completed within the three-year period of the Agreed Order, Respondent agrees to continue the program of therapy until released from such requirement by the Commission.

4.8 Annual compliance appearances shall be an ongoing condition of this Agreed Order. After three satisfactory annual compliance appearances, Respondent may petition in

writing for release from Commission oversight. Respondent will appear at a Commission meeting to review the petition for release.

4.9 The Commission reserves the right to conduct annual reviews of Respondent's compliance with the terms of this Agreed Order, and Respondent agrees to cooperate with such reviews. Such reviews shall occur at the discretion of the Commission, and Respondent shall be given reasonable notice of no less than thirty (30) days of such reviews prior to their commencement.

4.10 Respondent agrees to provide to the Commission a current home and business address and telephone number and agrees to immediately notify the Commission of any changes in his address or telephone number.

4.11 In the event Respondent should leave Washington State to reside or to practice outside the State, he agrees to notify the Commission in writing of the date of departure and return. Respondent agrees that periods of residency or practice outside Washington State will not apply to the reduction of the duration of the terms of the Agreed Order.

4.12 Respondent agrees to bear all costs associated with compliance with this Agreed Order.

4.13 Respondent understands that if he violates any provision of this Agreed Order, the Commission, after giving Respondent notice and the opportunity to be heard, may impose any other sanction as it finds appropriate, under RCW 18.130.160.

4.14 Respondent shall pay an administrative fine to the Commission of Five thousand dollars (\$5,000.00) within twelve months of the effective date of this Order. Failure to pay the fine when due constitutes a violation of this order. The fine will be paid by certified check or money order payable to the State Treasurer and mailed to:


Department of Health
Medical Quality Assurance Commission
Post Office Box 1099
Olympia, Washington 98507-1099

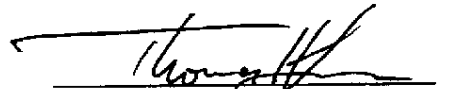
4.15 Respondent may petition in writing for termination of the terms and conditions of this Agreed Order no sooner than three years from the effective date of this Agreed Order.

4.16 Respondent shall thoroughly complete the attached Healthcare Integrity and Protection Data Bank Reporting Form (Section 1128 of the Social Security Act) and return it to the disciplining authority within ten days.

ACKNOWLEDGEMENT

I, Jerry N. Mixon, MD, Respondent, certify that I have read this Stipulated Findings of Fact, Conclusions of Law and Agreed Order in its entirety; that my counsel of record, Thomas H. Fain, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it. If the Commission accepts the Stipulated Findings of Fact, Conclusions of Law and Agreed Order, I understand that I will receive a signed copy.


JERRY N. MIXON, MD
Respondent


Thomas H. Fain, WSBA # 7177
Attorney for Respondent

6/14/02
Date

7/1/02
Date

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Section 5: ORDER

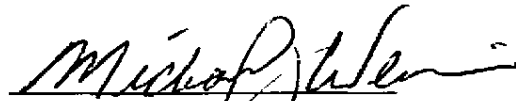
The Commission accepts and enters this Stipulated Findings of Fact, Conclusions of Law and Agreed Order.

DATED this 11th day of July, 2002.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION


Panel Chair

Presented by:


Michael J. Weisman WSBA # 17758
Department of Health Staff Attorney

11 July 2002
Date

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