

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

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

**JERRY N. MIXON, MD**  
License No. MD00023643

Respondent

**No. M2011-845**

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

The Medical Quality Assurance Commission (Commission), through Teresa Landreau, Department of Health Staff Attorney, and Respondent, represented by counsel, if any, stipulate and agree to the following.

**1. PROCEDURAL STIPULATIONS**

1.1 On July 23, 2012, the Commission issued a Corrected Statement of Charges against Respondent. This followed the service of the original Statement of Charges upon Respondent on March 13, 2012.

1.2 In both the Statement of Charges and Corrected Statement of Charges, the Commission alleges that Respondent violated RCW 18.130.180 (4), (7); RCW 69.41.320, WAC 246-919-610, and 21 U.S.C.A. § 333 (e).

1.3 The Commission is prepared to proceed to a hearing on the allegations in the Corrected Statement of Charges.

1.4 Respondent has the right to defend against the allegations in the Corrected Statement of Charges by presenting evidence at a hearing.

1.5 The Commission has the authority to impose sanctions pursuant to RCW 18.130.160 if the allegations are proven at a hearing.

1.6 The parties agree to resolve this matter by means of this Stipulated Findings of Fact, Conclusions of Law and Agreed Order (Agreed Order).

1.7 Respondent waives the opportunity for a hearing on the Corrected Statement of Charges if the Commission accepts this Agreed Order.

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

1.9 If the Commission accepts this Agreed Order, it will be reported to the Health Integrity and Protection Databank (HIPDB)(45 CFR Part 61), the Federation of State Medical Boards' Physician Data Center and elsewhere as required by law. HIPDB will report this Agreed Order to the National Practitioner Data Bank (45 CFR Part 60).

1.10 This Agreed Order is a public document. It will be placed on the Department of Health's website, disseminated via the Commission's electronic mailing list, and disseminated according to the Uniform Disciplinary Act (Chapter 18.130 RCW). It may be disclosed to the public upon request pursuant to the Public Records Act (Chapter 42.56 RCW). It will remain part of Respondent's file according to the state's records retention law and cannot be expunged.

1.11 If the Commission rejects this Agreed Order, Respondent waives any objection to the participation at hearing of any Commission members who heard the Agreed Order presentation.

## 2. FINDINGS OF FACT

Respondent and the Commission stipulate to the following facts:

2.1 On March 24, 1986, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent's license is currently active. Respondent is board certified in General Family Medicine.

2.2 Respondent advertised the "Longevity Medical Clinic" on a website which offered to consumers the use of "Comprehensive Hormone Supplementation" as an anti-aging remedy. Respondent is and was at all pertinent times the governing person of Longevity Medical Clinic.

2.3 The standard of care for treatment of patients with growth hormone supplementation requires:

2.3.1 The physician must have a high index of suspicion that the patient has growth hormone deficiency. Consideration for growth hormone deficiency in adults is indicated in patients with pituitary or brain disease, tumors or irradiation; patients who have suffered traumatic brain injury; patients with Acquired Immunity Deficiency Syndrome (AIDS) wasting syndrome, or rare patients with short bowel syndrome. In addition, adults who had childhood onset growth hormone deficiency should be considered for continued growth hormone therapy as adults.

2.3.2 The diagnosis of growth hormone deficiency must be achieved by obtaining an insulin-like growth factor (IGF-1) level and then performing the provocative (or stimulation) test. The stimulation test is required unless the patient has deficiencies in at least three other hormone levels or the patient has a history of childhood growth hormone deficiency. A simple measurement of IGF-1 level is not sufficient to make the diagnosis, except in patients also diagnosed with panhypopituitarism (inadequate or absent production of the anterior pituitary hormones).

2.3.3 If growth hormone deficiency is determined by this standard, and then the physician must look for the underlying cause.

2.4 Respondent provided a long term regime of growth hormone supplementation for adult patients to treat age-related decline in growth hormone production for patients. These patients did not present with abnormally deficient hormonal levels. Respondent did not perform stimulation testing in connection with the treatment. Respondent failed to meet the standard of care for diagnosing and treating patients with growth hormone supplementation. These activities occurred after Federal law limited the off-label use of growth hormone therapy, and while State law prohibited the use of growth hormone as an anti-aging remedy.

### 3. CONCLUSIONS OF LAW

The Commission and Respondent agree to the entry of the following Conclusions of Law.

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

3.2 Respondent has committed unprofessional conduct in violation of RCW 18.130.180(4), (7); RCW 69.41.320, WAC 246-919-610, and 21 U.S.C.A. § 333 (e).

3.3 The above violations provide grounds for imposing sanctions under RCW 18.130.160

### 4. AGREED ORDER

Based on the Findings of Fact and Conclusions of Law, Respondent agrees to entry of the following Agreed Order.

4.1 **Probation.** The Commission places Respondent's license on PROBATION for five (5) years from the effective date of this Agreed Order.

4.2 **Restrictions.** Respondent shall not advertise or practice treatment that involves prescribing or administering growth hormone. Respondent shall refer to other providers outside of his clinic or practice group any patient for whom such growth hormone treatment may be indicated.

4.3 **Ethics Course.** Respondent will attend a two-day ethics course approved by the Commission Medical Consultant. The ProBE course offered by the Center for Personalized Education for Physicians (CPEP) in Denver, Colorado is pre-approved. Respondent will complete the course within six months of the effective date of this Agreed Order unless otherwise allowed in writing by the Commission Medical Consultant. Respondent will provide the course instructors with a copy of this Agreed Order prior to the course. Respondent will sign all necessary waivers to allow the Department staff to communicate with the course instructors as needed. Respondent will submit proof of the satisfactory completion of the course to the Commission. If the course requires Respondent to complete a written report, Respondent will assure that the Commission receives a copy of Respondent's written report. If the course instructors inform the Commission that Respondent did not receive an "unconditional pass" or otherwise satisfactorily complete the course, the Commission may require Respondent to re-take the course.

4.4 **Practice Reviews.** In order to monitor compliance with this Agreed Order, Respondent will submit to semi-annual practice reviews at Respondent's office throughout the period of probation. The representative will review patient records, interview Respondent and interview Respondent's employees. The representative will contact Respondent's office to give advance notice before each practice review.

4.5 **Fine.** Respondent will pay a fine to the Commission in the amount of ten thousand dollars (\$10,000.00). Respondent will pay the fine within one hundred twenty (120) days of the effective date of this Agreed Order. The fine will be paid by certified or cashier's check or money order, made payable to the Department of Health and mailed to the Department of Health, Medical Quality Assurance Commission, at P.O. Box 1099, Olympia, Washington 98507-1099.

4.6 **Compliance appearances.** Respondent shall appear before the Commission on an annual basis and present proof of full compliance with this Agreed Order. Respondent shall continue to appear annually unless otherwise instructed in writing by the Commission or its representative.

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

4.8 **Termination.** Respondent may file a petition for termination of probation after three (3) years if Respondent has been in full compliance during that period. Respondent shall appear in person at a hearing on the petition. At the hearing, the Department may present evidence in opposition to be considered by the Commission. After considering the petition and the evidence presented, the Commission will have sole discretion to grant or deny Respondent's petition.

4.9 **Responsibility for costs of compliance.** Respondent is responsible for all costs he may incur in the course of complying with this Agreed Order.

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

4.11 **Updated Address.** Respondent shall inform the Program and the Adjudicative Clerk Office, in writing, of changes in Respondent's residential and/or business address within thirty (30) days of the change.

4.12 **Effective Date.** The effective date of this Agreed Order is the date the Adjudicative Clerk Office places the signed Agreed Order into the U.S. mail. If required, Respondent shall not submit any fees or compliance documents until after the effective date of this Agreed Order.

## 5. COMPLIANCE WITH SANCTION RULES

5.1 The Commission applies WAC 246-16-800, *et seq.*, to determine appropriate sanctions. Tier B of the "Practice Below Standard of Care" schedule, WAC 246-16-810, applies to cases where substandard practices result in moderate patient harm or risk of moderate or severe patient harm. The use of human growth hormone therapy is strictly limited to specified conditions because of significant attendant risk. These risks

were unreasonably dangerous to Respondent's patients, who had none of the specified conditions to suggest a potential treatment benefit from growth hormone supplementation.

Tier B therefore applies.

5.2 Tier B requires the imposition of sanctions ranging from two years of oversight to five years of oversight, unless revocation. Under WAC 246-16-800(3)(d), the starting point for the duration of the sanctions is the middle of the range. The Commission uses aggravating and mitigating factors to move towards the maximum or minimum ends of the range.

5.3 The aggravating and mitigating factors in this case, listed below, justify moving toward the higher end of the range. The sanctions in this case include a prohibition on Respondent's advertising or prescribing of growth hormone supplementation, successful completion of an ethics training program, practice reviews, compliance appearances before the Commission, a fine and other sanctions designed to protect the public.

5.4 These sanctions are appropriate within the Tier B range given the facts of the case and the following aggravating and mitigating factors:

5.4.1 As an aggravating factor: Respondent's detracted from his patients' ability to make informed decisions about the use of growth hormone supplementation by widespread marketing via radio and internet advertising.

5.4.2 As an aggravating factor: Respondent's substandard care involved multiple patients.

5.4.3 As an aggravating factor: Respondent failed to acknowledge the wrongfulness of his conduct to the investigator for the Commission.

5.4.4 As an aggravating factor: Respondent has a history of Washington state discipline for abuse of a patient in 1999 and 2000, which formed the basis for a finding of unprofessional conduct in Washington determined by Agreed Order in 2002.

5.4.5 As a mitigating factor: Respondent cooperated with the investigator for the Commission in this matter.

**6. FAILURE TO COMPLY**


Protection of the public requires practice under the terms and conditions imposed in this order. Failure to comply with the terms and conditions of this order may result in suspension of the license after a show cause hearing. If Respondent fails to comply with the terms and conditions of this order, the Commission may hold a hearing to require Respondent to show cause why the license should not be suspended. Alternatively, the Commission may bring additional charges of unprofessional conduct under RCW 18.130.180(9). In either case, Respondent will be afforded notice and an opportunity for a hearing on the issue of non-compliance.

**7. RESPONDENT'S ACCEPTANCE**

I, JERRY N. MIXON, MD, Respondent, have read, understand and agree to this Agreed Order. This Agreed Order may be presented to the Commission without my appearance. I understand that I will receive a signed copy if the Commission accepts this Agreed Order.

  
JERRY N. MIXON, MD  
RESPONDENT

6/20/2013  
DATE

  
MICHAEL MCCORMACK, WSBA# 15006  
ATTORNEY FOR RESPONDENT

6/20/2013  
DATE

**8. COMMISSION'S ACCEPTANCE AND ORDER**

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

DATED: June 27, 2013.

STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
MEDICAL QUALITY ASSURANCE COMMISSION

Linda A. King  
PANEL CHAIR

PRESENTED BY:

[Signature]  
TERESA LANDREAU, WSBA # 9591  
DEPARTMENT OF HEALTH STAFF ATTORNEY

June 27, 2013  
DATE