

BEFORE THE COLORADO MEDICAL BOARD
STATE OF COLORADO

CASE NO.: 2007-002333-A

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF UDELL L. BERNSTEIN, M.D., LICENSE NUMBER 16211,

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel A ("Panel") of the Colorado Medical Board ("Board") and Udell L. Bernstein, M.D. ("Respondent") as follows:

JURISDICTION AND CASE HISTORY

1. Respondent was licensed to practice medicine in the state of Colorado on October 14, 1969 and was issued license number 16211, 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 August 20, 2008, the Panel reviewed case number 2007-002333-A. The Panel thereupon referred the matter to the Attorney General pursuant to Section 12-36-118(4)(c)(IV), C.R.S.
4. 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 2007-002333-A, without the necessity of holding 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.
5. 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 disciplinary hearing pursuant to Section 12-36-118(5), C.R.S.;
 - c. By entering into this Order, Respondent is knowingly and voluntarily giving up the right to a 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.

6. Respondent specifically admits and the Panel finds that:

a. Respondent practices as an obstetrician-gynecologist. Between 2003 and 2006, Respondent provided medical care and treatment to many patients. In several instances, Respondent did not legibly or adequately document Respondent's examination, assessment, plan of care, or justification for labs, prescriptions, or procedures; and

b. Patient D.B. was evaluated with colposcopy by another physician in Pueblo, CO on September 30, 2002. On October 13, 2003, after obtaining records of the September 2002 colposcopy, Respondent performed cryotherapy of the cervix for patient D.B. Respondent performed another cryotherapy procedure on patient D.B. on August 6, 2004. Respondent's records showed no documentation or explanation as to why the second procedure was performed, other than the record states "patient here for cryo." A review of her records would have revealed she had already received that treatment.

7. Respondent admits and the Panel finds that the conduct set forth above constitutes unprofessional conduct as defined in Section 12-36-117(1)(p) and (cc), C.R.S., which state:

(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) ...Repeatedly failing to make essential entries on patient records.

8. Based upon the above, the Panel is authorized by Section 12-36-118(5)(g)(III), C.R.S., to impose such conditions upon Respondent's practice that it deems appropriate.

LETTER OF ADMONITION

9. This Order shall constitute a Letter of Admonition as set forth in Section 12-36-118(5)(g)(III), C.R.S. Respondent is hereby admonished for the acts and omissions described in paragraphs 6(a) and 6(b) above.

10. By entering this Order, Respondent agrees to waive the right provided by Section 12-36-118(4)(c)(III), C.R.S., to contest this Letter of Admonition.

CPEP DOCUMENTATION SEMINAR INCLUDING PRE-PROGRAM AND POST-PROGRAM

11. Within 30 days of the effective date of this Order, Respondent shall contact the Center for Personalized Education for Physicians ("CPEP") for the purpose of enrolling in a Patient Care Documentation Seminar including the pre-program and the six-month post-program ("CPEP Documentation Seminar").

12. Within 30 days of the effective date of this Order, Respondent shall sign any and all releases necessary to allow CPEP to communicate with the Panel. Within 60 days of the effective date of this Order, Respondent shall provide the Panel with a copy of such releases. Respondent shall not revoke such releases prior to successful completion of the CPEP Documentation Seminar as set forth in this Order. Any failure to execute such a release, failure to provide copies to the Panel, or any premature revocation of such a release shall constitute a violation of this Order.

13. All instructions issued by CPEP shall constitute terms of this Order. Respondent shall comply with all CPEP instructions within the time periods set out by CPEP and/or the Panel.

14. Respondent shall timely and successfully complete the CPEP Documentation Seminar (including the pre-program and the six month post-program) within the time set out by CPEP but in no event, more than one year from the effective date of this Order unless the Panel determines in its discretion that more time is necessary.

15. Respondent has enrolled for the CPEP Documentation Seminar on December 3, 2010. His attendance and successful completion of the course on that date will satisfy his requirement to attend that course.

16. Respondent shall provide the Panel with a final report from CPEP following completion of the CPEP Documentation seminar (including the pre-program and six month post-program.) Respondent shall assure that the final report from CPEP is received by the Panel within fourteen (14) months of the effective date of this Order.

OTHER TERMS

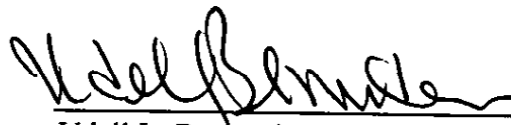
17. The terms of this Order were mutually negotiated and determined.

18. 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.

19. 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.

20. 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. Failure to comply with the terms of this Order may be sanctioned by the Inquiry Panel as set forth in Section 12-36-118(5)(g)(IV), C.R.S. This Order and all its terms also constitute a valid board order for purposes of Section 12-36-117(1)(u), C.R.S.

21. This Order shall be admissible as evidence at any future hearing before the Board.
22. 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.
23. During the pendency of any action arising out of this Order, the terms of this Order shall be deemed to be in full force and effect and shall not be tolled.
24. 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.
25. Upon becoming effective, this Order shall be open to public inspection and publicized pursuant to the Board's standard policies and procedures. Additionally, this Order shall be reported the Federation of State Medical Boards, the National Practitioner Data Bank/Healthcare Integrity and Protection Data Bank and as otherwise required by law.



Udell L. Bernstein, M.D.

THE FOREGOING was acknowledged before me this 18th day of NOVEMBER, 2010 by Udell L. Bernstein, M.D., in the County of WENOVER, State of Colorado.


NOTARY PUBLIC

May 9, 2013
Commission expiration date

BEATRICE K. KYSER
NOTARY PUBLIC
STATE OF COLORADO

Expires: May 09, 2013

9 THE FOREGOING Stipulation and Final Agency Order is approved and effective this day of June, 2010.

FOR THE COLORADO MEDICAL BOARD
INQUIRY PANEL A

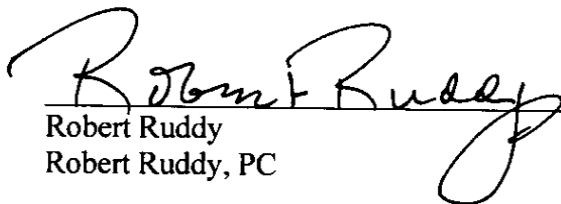


APPROVED AS TO FORM:

FOR UDELL L. BERNSTEIN, M.D.


FOR THE COLORADO MEDICAL BOARD

JOHN W. SUTHERS
Attorney General



Robert Ruddy
Robert Ruddy, PC

1512 Larimer St., Suite 600
Denver, CO 80202
Attorneys for Udell L. Bernstein, M.D.



Ashley Moller Klein, No. 29362*
C. Brent Kelly, No. 31238*
Assistant Attorneys General
Business and Licensing Section
Attorneys for the Colorado Medical Board,
Inquiry Panel A
1525 Sherman Street, 7th Floor
Denver, Colorado 80203
Telephone: (303) 866-5036
FAX: (303) 866-5395
*Counsel of Record