

Oregon Medical Board
BOARD ACTION REPORT
October 15, 2013

The information contained in this report summarizes new, interim, and final actions taken by the Oregon Medical Board between September 16, 2013 and October 15, 2013.

Scanned copies of Interim Stipulated Orders, Orders of Emergency Suspension, Stipulated Orders, Corrective Action Agreements, Final Orders, Termination Orders, Modification Orders and Voluntary Limitations are included at the end of this report in the order that they appear in the report. These orders are marked with an * asterisk. **Scanned copies of Consent Agreement are not posted, as they are not disciplinary action and impose no practice limitations.** Complaint and Notices of Proposed Disciplinary Action are not listed in this report, as they are not final actions by the Board. Both Orders, however, are public and are available upon request.

Printed copies of the Board Orders not provided with this report are available to the public. To obtain a printed copy of a Board Order not provided in this report, please complete a Service Request Form (<http://egov.oregon.gov/BME/PDFforms/VerDispMalFillin.pdf>) found under the Licensee Information Request Form link on the Board's web site, submit it with the \$10.00 fee *per licensee* and mail to:

Oregon Medical Board
1500 SW 1st Ave, Ste 620
Portland, OR 97201

Copies of the Orders listed below are mailed to Oregon hospitals where the Licensee had self-reported that he/she has privileges.

***Andrews, David Anker, MD; MD09145; Hillsboro, OR**

On September 27, 2013, Licensee entered into an Interim Stipulated Order to voluntarily cease the prescribing of all controlled substances pending the completion of the Board's investigation into his ability to safely and competently practice medicine. Additionally, Licensee agrees to close his private practice clinic, work only in practice settings approved by the Board's Medical Director (at which time he may resume prescribing), and notify patients who received non-FDA approved IUDs.

***Bailey, William Merrill, MD; MD14622; Newberg, OR**

On October 3, 2013, Licensee entered into a Stipulated Order with the Board for unprofessional or dishonorable conduct, and gross or repeated acts of negligence. This Order reprimands Licensee; assesses a civil penalty of \$5,000; requires Licensee to undergo a CPEP assessment; requires Licensee to obtain a consultant to review his office policies; and requires Licensee to complete a pre-approved boundaries course.

***Beckmann, Brooke Robert, DPM; DP00434; Salem, OR**

On October 3, 2013, the Board issued a Final Order. This Order upholds the Board's August 1, 2013 Order of Emergency Suspension.

***Bost, Dawn Elizabeth, MD; MD16820; Aloha, OR**

On October 3, 2013, Licensee entered into a Corrective Action Agreement with the Board. In this Agreement, Licensee agreed to limit her work hours to 40 hours per week, and practice at a Board-approved site with a Board-approved mentor.

***Cheon, Sung Jin, LAc; AC01102; Beaverton, OR**

On October 3, 2013, the Board issued an Order Terminating Corrective Action Agreement. This Order terminates Licensee's January 13, 2011, Corrective Action Agreement.

***Cross, Lorne Max, MD; MD27400; Portland, OR**

On October 4, 2013, Licensee entered into an Interim Stipulated Order to voluntarily withdraw from practice and place his license in Inactive status pending the completion of the Board's investigation into his ability to safely and competently practice medicine.

***Dempsey, Jackson Tyler, MD; MD15946; Medford, OR**

On October 3, 2013, Licensee entered into a Stipulated Order with the Board for unprofessional or dishonorable conduct. This Order reprimands Licensee and requires Licensee to be followed by a Board-approved healthcare provider.

***Farris, Clyde Alan, MD; MD11437; West Linn, OR**

On October 3, 2013, the Board issued an Order Terminating Corrective Action Agreement. This Order terminates Licensee's October 11, 2012, Corrective Action Agreement.

***Imperia, Paul Steven, MD; MD17163; Medford, OR**

On October 3, 2013, the Board issued an Order Terminating Stipulated Order. This Order terminates Licensee's August 5, 2010, Stipulated Order.

***Lai, Wallace, MD; MD17813; Salem, OR**

On October 3, 2013, the Board issued an Order Modifying Stipulated Order. This Order modifies Licensee's January 14, 2010 Stipulated Order.

***Lee, Carma Jane, MD; MD21672; Portland, OR**

On October 3, 2013, the Board issued an Order Terminating Stipulated Order. This Order terminates Licensee's October 6, 2011, Stipulated Order.

***Mozena, Joseph Michael, DPM; Applicant; Portland, OR**

On October 3, 2013, the Board issued a Final Order. This Order denies the application to practice podiatric medicine in Oregon and assesses the costs of the contested case hearing. The Board issued the Bill of Costs on October 15, 2013.

***Park, Jae Ok, MD; MD13752; Beaverton, OR**

On September 23, 2013, Licensee entered into an Interim Stipulated Order to voluntarily cease the prescribing of all scheduled controlled substances pending the completion of the Board's investigation into his ability to safely and competently practice medicine.

***Polchert, Susan Elizabeth, MD; MD16479; Eugene, OR**

On October 3, 2013, the Board issued an Order Terminating Consent Agreement. This Order terminates Licensee's October 11, 2012, Consent Agreement.

***Purtzer, Thomas John, MD; MD12880; Medford, OR**

On September 24, 2013, Licensee entered into an Interim Stipulated Order to voluntarily discontinue treating new or existing patients with chronic pain medication or Suboxone, pending the completion of the Board's investigation into his ability to safely and competently practice medicine.

***Robinson, Michael Truman, DO; DO10555; Central Point, OR**

On October 3, 2013, the Board issued an Order Terminating Corrective Action Agreement. This Order terminates Licensee's July 12, 2012, Corrective Action Agreement.

Sasich, Randy Louis, MD; MD28977; Portland, OR

On October 3, 2013, Licensee entered into a Consent Agreement with the Board. In this Agreement, Licensee agreed to practice for six months under the supervision of a Board-approved mentor who will submit a report to the Board, and complete the recertification process with the American Board of Internal Medicine.

***VanderVeer, Elizabeth, MD; MD23287; Portland, OR**

On October 3, 2013, Licensee entered into a Stipulated Order with the Board for unprofessional or dishonorable conduct; making statements that the licensee knows, or with the exercise of reasonable care should know, are false or misleading regarding skill or efficacy or value of the medicine, treatment or remedy prescribed or administered; and gross or repeated negligence. This Order reprimands Licensee; prohibits Licensee from providing low calorie (1200 calories or less) diet plans to her patients; prohibits Licensee from prescribing hCG; requires Licensee to complete pre-approved courses on obesity and diet plans; and assesses a \$10,000 civil penalty (\$5,000 of which is held in abeyance).

***Welker, Kenneth Jay, MD; MD22731; Lake Oswego, OR**

On September 19, 2013, Licensee entered into an Interim Stipulated Order in which he agreed to cease performing Adipose Derived Mesenteric Cell Harvesting and Transfer (stem cell) therapy for any patient, pending the completion of the Board's investigation into his ability to safely and competently practice medicine.

If you have any questions regarding this service, please call the Board at (971) 673-2700 or toll-free within Oregon at (877) 254-6263.

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BEFORE THE
OREGON MEDICAL BOARD
STATE OF OREGON

In the Matter of)
DAVID ANKER ANDREWS, MD) INTERIM STIPULATED ORDER
LICENSE NO. MD09J45)
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1.

The Oregon Medical Board (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including physicians, in the state of Oregon. David Anker Andrews, MD (Licensee) is a licensed physician in the state of Oregon and holds an active medical license.

2.

The Board received credible information regarding Licensee that resulted in the Board initiating two separate investigations. The results of the Board's investigations to date have raised concerns to the extent that the Board believes it necessary that Licensee agree to certain terms until the investigation is completed.

3.

In order to address the Board's concern, Licensee and the Board agree to the entry of this Interim Stipulated Order, which will remain in effect while this matter remains under investigation, and provides that Licensee shall comply with the following conditions:

3.1 Licensee must immediately cease prescribing any controlled substances to patients, family, friends or himself.

3.2 Licensee agrees to close the Hillsboro Women's Clinic, his private practice clinic, within two weeks (14 calendar days) of the effective date of this Order. Licensee agrees to destroy all existing blank prescriptions from his private practice clinic.

3.3 Licensee agrees not to engage in the solo practice of medicine.

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JKC

1 will remain in effect while the Board conducts a complete investigation in order to fully inform
 2 itself with respect to the conduct of Licensee. Pursuant to ORS 677.425, Board investigative
 3 materials are confidential and shall not be subject to public disclosure, nor shall they be admissible
 4 as evidence in any judicial proceeding. However, as a stipulation, this Order is a public document
 5 and is reportable to the National Databank and the Federation of State Medical Boards.

6 IT IS SO STIPULATED THIS 27th day of Sept, 2013.

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 8 SIGNATURES REDACTED

9 DAVID ANKER ANDREWS, MD

10 IT IS SO ORDERED THIS 30th day of September, 2013.

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 13 OREGON MEDICAL BOARD
 State of Oregon

14 SIGNATURES REDACTED

15 ~~JOSEPH THALER, MD~~
 16 MEDICAL DIRECTOR

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BEFORE THE
OREGON MEDICAL BOARD
STATE OF OREGON

In the Matter of)
WILLIAM MERRILL BAILEY, MD) STIPULATED ORDER
LICENSE NO. MD14622)

1.

The Oregon Medical Board (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including physicians, in the state of Oregon. William Merrill Bailey, MD (Licensee) is a physician licensed in the state of Oregon.

2.

On April 5, 2013, the Board issued a Complaint and Notice of Proposed Disciplinary Action in regards to Licensee. In this document, the Board proposed to take disciplinary action by imposing up to the maximum range of potential sanctions identified in ORS 677.205(2), to include the revocation of license, a \$10,000 fine, and assessment of costs, pursuant to ORS 677.205 against Licensee for violations of the Medical Practice Act, to wit: ORS 677.190(1)(a) unprofessional or dishonorable conduct, as defined by ORS 677.188(4)(a); and ORS 677.190(13) gross or repeated acts of negligence.

3.

Licensee is a board certified family medicine physician. Licensee's acts and conduct that violated the Medical Practice Act are:

3.1 Patient A, a 49 year old, 165 pound male, presented to Licensee on November 3, 2006 complaining of persistent pain in the left lower quadrant of the abdomen and testicle that started a year prior to the appointment and had become worse over the last few months. Licensee conducted an examination and found no abdominal masses, but noted a weak abdominal wall and in his assessment, noted "Inguinal hernia, bilateral without mention of

1 obstruction or gangrene.” Patient A returned for a physical examination on November 22, 2006,
2 at which time Licensee noted Patient A’s weight to be 165 pounds and reported a weight loss of
3 25 pounds over six months with complaints of abdominal pain and stomach pressure. Licensee’s
4 assessment included inguinal hernia and a pulsatile abdominal mass. Lab work collected on
5 November 18, 2006 reported a hematocrit (HCT) level of 49.9%. Licensee ordered an
6 ultrasound of the abdomen, which reported no visual mass, and referred Patient A to undergo
7 surgery for hernia repair. The ultrasound report by the radiologist notes that “given the history, a
8 CT of abdomen and pelvis would be recommended” but Licensee failed to order any additional
9 studies. Patient A returned on December 4, 2006 for a follow up clinical visit. Licensee noted
10 “Left inguinal area tender to deep palp. without masses.” Patient A underwent successful
11 surgery for hernia repair on January 10, 2007. Patient A walked into the Emergency Department
12 (ED) of Newberg Medical Center on July 6, 2008 complaining of diarrhea, problems urinating
13 and chills. Patient A’s HCT was 42.5%. A copy of the ED report was sent to Licensee, who did
14 not follow-up. In February of 2009, Patient A presented to a clinician with symptoms of
15 continuing weight loss, abdominal distension and changes in bowel habits. The clinician ordered
16 a Computed Tomography (CT) scan of the abdomen and pelvis, which demonstrated ascites,
17 multiple liver metastases, omental caking, and a mass in the sigmoid colon. Patient A was
18 diagnosed with abdominal carcinomatosis, with a primary tumor located in the sigmoid colon.
19 Treatment was not successful and Patient A expired in June of 2010. Licensee failed to
20 adequately work up Patient A’s unresolved symptoms of a 25 pound weight loss and persistent
21 abdominal pain, to include failing to develop a differential diagnosis, failing to schedule Patient
22 A for regular follow up in order to pursue the symptoms to establish a conclusive diagnosis, to
23 include endoscopy of the colon.

24 3.2 The Board’s investigation included a review of charts for Patients B – F, who
25 presented to Licensee with complaints of abdominal pain. The Board’s review reveals a pattern
26 of substandard care, to include failing to work up the patients to develop a differential diagnosis
27 and plan for regular follow up in order to arrive at a conclusive diagnosis or referral, and failing

1 to recommend screening colonoscopy. Specific concerns related to patient care include the
2 following:

3 a. On March 7, 2012, Patient B, a 61 year old male, presented to Licensee
4 with complaints of central abdominal pain, bloating and lack of energy. Licensee's
5 assessment listed "abdominal pain, epigastric" and hyperlipidemia and prescribed
6 dexlansoprazole, 60 mg (Dexilant). On March 13, 2012, Patient B returned and reported
7 feeling better. Licensee failed to chart whether Patient B was current for colon cancer
8 screening or to offer colon cancer screening.

9 c. Patient C, a 51 year old female, presented to Licensee on August 30, 2011,
10 with complaints of abdominal fullness that had persisted for six months, and that it feels
11 "like there is a mass in there." Licensee's assessment included abdominal pain, left lower
12 quadrant. Licensee note states "consider colonoscopy" but there is no indication that this
13 was offered to the patient. In follow up, Licensee ordered an ultra sound and screening
14 for cervical cancer, which were normal. No plans for additional follow-up visits or
15 referral were made.

16 d. Patient D, 56 year old male, presented to Licensee on August 2, 2011 with
17 a complaint of right lower quadrant pain when sitting for the past month. Licensee's
18 assessment included inguinal hernia and was subsequently referred for surgical hernia
19 repair. Licensee did not chart any discussion of the need for colon cancer screening.

20 e. Patient E, a 53 year old male, presented to Licensee on May 31, 2011 with
21 a sudden onset of abdominal pain that had started 18 hours previously, and progressed to
22 the point where he could hardly move. Patient E's white count and complete urine panel
23 were normal. Licensee's assessment listed "abdominal pain, left lower quadrant."
24 Treatment consisted of naproxen (Aleve). On June 3, 2011, Patient E called the clinic to
25 report ongoing pain in the lower left quadrant that did not resolve with Aleve. Licensee
26 started Patient E on acetaminophen with codeine and referred Patient E to a
27 gastroenterologist, who saw Patient E on June 11, 2011. This clinician diagnosed

1 possible mild diverticulitis that “had run its course at this point and was rather mild...”
2 and scheduled Patient E for a colonoscopy. In this case, Licensee did not consider
3 diverticulitis or order a colonoscopy in his work-up of this patient, but did make an
4 appropriate referral.

5 f. Patient F, a 49 year old male, presented to Licensee on May 25, 2006, with
6 a complaint of severe stomach cramps that started five days previous. Patient F denied
7 nausea, diarrhea, constipation, or history of irritable bowel syndrome. Nevertheless,
8 Licensee’s assessment included irritable bowel syndrome and viral gastroenteritis, and
9 directed Patient F to stop taking naproxen, and start celecoxib (Celebrex), 200 mg, and
10 hyoscyamine (Levsin), 0.125 mg. Patient F was instructed to follow-up as needed, but
11 there was no plan for follow-up or additional work up. Patient F returned to the clinic in
12 November of 2006 to complain of continuing abdominal pain and diarrhea. Licensee’s
13 assessment was gastroenteritis. Licensee ordered lab work and continued Patient F on
14 Levsin. Patient F returned for a scheduled follow up visit on December 6, 2006, and
15 reported continuing diarrhea and joint pain with chills. Licensee’s assessment was
16 salmonella gastroenteritis. Patient F was told to return to the clinic as needed. Licensee
17 did not order or discuss the need for colon cancer screening with Patient F. On June 16,
18 2008, Patient F underwent a colonoscopy that demonstrated two small polyps, one of
19 which was an adenoma in the sigmoid colon, a premalignant lesion, as well as
20 diverticulosis of the sigmoid.

21 3.3 In March of 2008, Licensee employed Patient G, a 22 year old female, as a
22 medical assistant. Licensee directed the medical assistants of his clinic to perform digital rectal
23 examinations (DRE) and administer enemas to his patients. In what he has described as an effort
24 to instruct Patient G, Licensee asked Patient G to perform a DRE on him and to administer an
25 enema. Patient G reluctantly complied with her employer’s request. Licensee did not provide a
26 chaperone. On a different occasion, Licensee had Patient G administer a second enema to him.
27 On another occasion Licensee offered to administer an enema to Patient G and she declined.

1 4.

2 Licensee and the Board desire to settle this matter by the entry of this Stipulated Order.
3 Licensee understands that he has the right to a contested case hearing under the Administrative
4 Procedures Act (Chapter 183 Oregon Revised Statutes), and fully and finally waives the right to
5 a contested case hearing and any appeal therefrom by the signing of and entry of this Order in the
6 Board's records. Licensee admits that he engaged in the conduct described in paragraph 3, and
7 that this conduct violated ORS 677.190(1)(a) unprofessional or dishonorable conduct, as defined
8 by ORS 677.188(4)(a); and ORS 677.190(13) gross or repeated acts of negligence. Licensee
9 understands that this Order is a public record and is a disciplinary action that is reportable to the
10 National DataBank and the Federation of State Medical Boards.

11 5.

12 Licensee and the Board agree to resolve this matter by the entry of this Stipulated Order
13 subject to the following terms:

14 5.1 Licensee is reprimanded.

15 5.2 Licensee must pay a civil penalty of \$5,000, which must be paid in full no later
16 than 120 days from the date this Order is signed by the Board Chair. This fine may be paid with
17 installment payments of no less than \$1,000.

18 5.3 Within 180 days from the signing of this Order by the Board Chair, Licensee must
19 at his own expense complete a physician assessment at the Center for Personalized Education for
20 Physicians (CPEP). Licensee must sign all necessary releases to allow full communication and
21 exchange of documents and reports between the Board and CPEP. Licensee will comply with all
22 CPEP recommendations for educational remediation.

23 5.4 Within 180 days from the signing of this Order by the Board Chair, Licensee
24 must, at his own expense, obtain a consultant to review his office and personnel management
25 policies. This consultant must be pre-approved by the Board's Medical Director. Licensee must
26 satisfactorily implement any and all recommendations of the consultant.

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BEFORE THE
OREGON MEDICAL BOARD
STATE OF OREGON

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IN THE MATTER OF:)
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BROOKE ROBERT BECKMANN, DPM) FINAL ORDER
License No. DP00434)
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HISTORY OF THE CASE

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On August 1, 2013, the Oregon Medical Board (Board) issued an Order of Emergency Suspension to Brooke Robert Beckmann, D.P.M., ordering the immediate suspension of Dr. Beckmann's license to practice as a podiatric physician¹ in Oregon, and ordering that Dr. Beckmann immediately cease the practice of podiatric medicine until otherwise ordered by the Board. On or about August 6, 2013, Dr. Beckmann requested an administrative hearing.

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On August 12, 2013, the Board referred the matter to the Office of Administrative Hearings (OAH). The OAH received the referral on August 19, 2013.

On August 22, 2013, Senior Administrative Law Judge (ALJ) Monica A. Whitaker of the OAH convened a prehearing conference via telephone. Senior Assistant Attorney General Warren Foote represented the Board. Dr. Beckmann represented himself. ALJ Whitaker scheduled a hearing for September 6, 2013, and established a deadline for the submission of exhibits and witness lists.

On September 6, 2013, Senior ALJ Jennifer H. Rackstraw of the OAH convened a hearing at the Board's office in Portland, Oregon. Mr. Foote represented the Board. Dr. Beckmann represented himself. The following witnesses testified for the Board: Dr. Beckmann; Paul Conti, M.D.; and Mei-Mei Wang, investigator for the Board. Dr. Beckmann also testified on his own behalf. Also present at the hearing were Dennis Dalton, protection specialist; and Mary Jacks, court reporter. The evidentiary record closed at the conclusion of the hearing on September 6, 2013. On September 12, 2013, ALJ Rackstraw received a transcript of the proceedings.

On September 18, 2013, ALJ Rackstraw issued a Proposed Order. Dr. Beckmann filed no exceptions.

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¹ A podiatric physician treats "ailments of the human foot, ankle and tendons directly attached to and governing the function of the foot and ankle." ORS 677.010(14).

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ISSUE

Whether the Board's Order of Emergency Suspension should be upheld on the ground that Dr. Beckmann's continued practice of podiatric medicine would pose an immediate danger to the public. ORS 677.205(3); OAR 137-003-0560(6), (7).

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EVIDENTIARY RULINGS

The Board offered Exhibits A1 through A16. Dr. Beckmann offered Exhibits R1 and R2. All exhibits were admitted into the record without objection. In addition, the Board's Pleadings P1 through P4 were made a part of the record.

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FINDINGS OF FACT

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1. In 2005, Dr. Beckmann received a degree in podiatric medicine from Sholl College of Podiatric Medicine at Rosalind Franklin University. He thereafter completed two years of a residency program in podiatric medicine and surgery at (what was then called) OCPM Richmond Heights Hospital University. (Test. of Dr. Beckmann.)

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2. In February 2007, Dr. Beckmann and his then-wife, Heather Beckmann, filed for divorce. In approximately August 2007, Dr. Beckmann moved to Oregon. At that time, Ms. Beckmann and their two daughters were living in Oregon. In October 2007, the divorce was finalized. (Test. of Dr. Beckmann.)

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3. Since October 3, 2007, Dr. Beckmann has been a licensed podiatric physician in Oregon. (Ex. A1 at 1.)

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4. On April 22, 2008, Dr. Beckmann underwent a psychological evaluation with psychologist Howard L. Deitch, Ph.D. (Ex. A10 at 1-8.) Heather Beckmann had requested the evaluation to determine whether it was safe for Dr. Beckmann to have unsupervised visitation with their daughters. In a letter written in support of the evaluation, Ms. Beckmann stated that she had concerns regarding Dr. Beckmann's misdirected anger, impulsive and inappropriate decision-making, risky and excessive behaviors, paranoia, and drug and alcohol abuse. Ms. Beckmann also expressed her belief that Dr. Beckmann was having hallucinations and exhibiting delusional behavior. (*Id.* at 1.) In a written report, Dr. Deitch noted, in part, that Dr. Beckmann "was oriented as to person, place and time and showed no evidence of a thought disorder, psychotic symptoms or obvious gross mental health dysfunction." (*Id.* at 5.) Dr. Deitch concluded that the results of the evaluation did not indicate that Dr. Beckmann had any "significant mental health or personality disorder concerns, apart from some reactive stress related to his circumstances." (*Id.* at 7.) Dr. Deitch diagnosed Dr. Beckmann with adjustment disorder, unspecified. (*Id.*)

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5. From approximately September 2008 to June 2009, Dr. Beckmann performed podiatric work for the Salem Foot Clinic as an independent contractor. (Test. of Dr. Beckmann; Ex. R2.) In a letter to Dr. Beckmann dated April 7, 2009, Richard W. Peffley, D.P.M., of the Salem Foot Clinic informed Dr. Beckmann that had had concerns regarding Dr. Beckmann's

1 “productivity and conduct inside and outside the office.” (Ex. R2.) Dr. Peffley specifically
2 noted concerns regarding Dr. Beckmann’s patient retention rate and his professional image and
3 lack of professional demeanor. (*Id.*)
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5 6. Dr. Beckmann subsequently moved to Texas and allowed his Oregon podiatric license
6 to lapse. In 2010, he returned to Oregon and applied for reactivation of the license. The Board
7 had concerns about his ability to resume practice, including concerns that he might be impaired
8 due to substance abuse or a psychiatric disorder. The Board therefore ordered that he undergo a
9 behavioral evaluation. (Exs. A1 at 1, 3; A8 at 1; test. of Wang.)
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11 7. On August 12, 2010, Glenn Maynard, L.P.C., evaluated Dr. Beckmann. (Ex. A8 at 1-
12 4.) Mr. Maynard did not provide any psychiatric diagnosis for Dr. Beckmann, but he did note
13 that Dr. Beckmann has a “multiyear history of difficulty in maintaining effective interpersonal
14 relationships in both his personal and professional life.” (*Id.* at 4.) The Board subsequently
15 reactivated Dr. Beckmann’s license. (Ex. A1 at 1.) Dr. Beckmann thereafter practiced podiatric
16 medicine at various skilled nursing facilities and care homes in Oregon. (Ex. A6 at 2.)
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18 8. On August 25, 2010, the Board ordered that Dr. Beckmann’s podiatric medicine
19 license be suspended for failure to pay child support. (Ex. A5.) On August 31, 2010, the Board
20 received notification from the Oregon Department of Justice (DOJ) that the reasons for the
21 suspension no longer existed. On September 2, 2010, the Board ordered that Dr. Beckmann’s
22 license be returned to active status. (Ex. A4.)
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24 9. On January 24, 2013, the Board ordered that Dr. Beckmann’s podiatric medicine
25 license be suspended for failure to pay child support. (Ex. A3.) On February 4, 2013, the Board
26 received notification from the DOJ that Dr. Beckmann was in compliance with his child support
27 obligations. The Board consequently ordered that Dr. Beckmann’s license be returned to active
28 status. (Ex. A2.)
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30 10. On April 10, 2013, Dr. Beckmann sent an email to “webmaster@unog.ch.” (Ex. A14
31 at 4-5.) The email contained the following subject line: “7 years of being put through pain 18
32 hours per day in the US/Human Rights.” (*Id.*) The text of the email stated, in part:²
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34 [I] am an inventor businessman and physician in the United States of
35 America. * * *. Dr. Michelle Lynn Dunbar DPM³ met up with a famous
36 actress, Andrew Maddux an engineer from Iowa State University and
37 General Dunbar in Wisconsin and made up so many different lies through
38 utilization of the new version of the Haliburton Ear Implants that the US
39 President Obama knows are being illegally implanted into people within
40 the US. These implants used to look like rootbeer Barrels. The atrocities
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42 ² The email excerpts and FCC complaint from Dr. Beckmann that appear in these findings of facts are in
43 their original form, with no corrections made for typographical errors, or with regard to proper grammar,
44 punctuation, or spelling.
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46 ³ Michelle Lynn Dunbar spent two years in the same podiatric residency program as Dr. Beckmann.
(Test. of Dr. Beckmann.)

1 being inacted within the US are much worse than recently in Germany. It
2 is to the point that they have areas set up on Grids within the
3 telecommunications industry and from the National Guard bases to effect
4 the vote and take away freedom of thought and right to privacy while
5 claiming to protect. This is being done by them breaking into peoples
6 houses with the Sheriff and implantation of a small needle like
7 transmitting device that allows the own body to receive signals and put off
8 signals within the inner ear as they did illegally in Iraq with KBR and
9 Haliburton and my never met and estranged cousin Eric Barnhart.⁴ The
10 General, Eric Barnhart, Greg Lyons of San Andias, Dr. Gordon Denno of
11 Scholl College an ex military advisor, Bill Gates, the Aniston and Obama
12 family have all joined together with the FBI operatives to put these into
13 people at the college level that are bright to be able to steal their ideas
14 through the technology. * * *. The neural imaging is to a point as to
15 allow reading of thought and in combination with sound it acts as small
16 radio transmitters within citizens heads to be used to torture with stimulus
17 of pain centers and sleep deprivation. * * *. President Obama and his staff
18 have been notified of the torture to myself by these factions and has
19 refused to reply as has the Oregon Senators, Oregon Representatives, The
20 Portland and Salem FBI, the US Attorney General. They are so many now
21 that they are able to activate them during simple phone calls to influence
22 the decisions of others during their conversations revealing information
23 from them personally about me that they could not know. They refuse to
24 remove them from me, it causes pain constantly, causes ringing in my
25 ears, and was all done during a second breakin in my Cleveland Ohio
26 residency program under William Saar⁵ and Vincent Hetherington. * * *.
27 I have been used as an experiment because of my intelligence, without my
28 permission or consent. * * *. I need help as do the American People
29 because we do not deserve to be treated this way[.]

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31 (Id.)

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33 11. On April 11, 2013, Dr. Beckman sent an email to “webmaster@unog.ch,” which
34 stated, “They are torturing me with pain within my right ear again tonight.” (Ex. A14 at 4.)

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36 12. On April 12, 2013, Dr. Beckman sent an email to “webmaster@unog.ch,” which
37 stated, in part:

38
39 During the experimentation done upon me also involving the relatives of
40 Michelle Achor DPM and involving Stoger Hospital in Chicago IL (near
41 Rosalind Franklin University) while I was located in Keizer, OR. Their

42
43 ⁴ Eric Barnhart is Dr. Beckmann’s cousin, whom Dr. Beckmann only met once, when they were children.
44 (Test. of Dr. Beckmann.)

45
46 ⁵ Bill Saar Sr. was the program coordinator for the residency program that Dr. Beckmann attended. (Test.
of Dr. Beckmann.)

1 inner ear/ brain implant technology was used to give me the most
2 excruciating pain I have ever felt. I have had abdominal surgery before
3 and know the pain of recovering from this surgery so I have a high pain
4 tolerance. The procedure done at the hospital was cauterization of internal
5 hemorrhoids. Based on my medical knowledge it had to be done with
6 General anesthesia and succinylcholine. The patient stays unconscious
7 and immobile but can still feel some pain as some do not utilize local in
8 the procedure. They, without my permission or ever even giving consent
9 to having had the implants in my body, linked me to this person. I felt the
10 cautery within my own rectum, fully clothed. * * *. This went on for a
11 long time. * * *. I am asking for your help as they are also utilizing these
12 within my 6 and 8 year old children. They have had night terrors. The
13 four letters I wrote through the official White House website were ignored
14 aside from increased pain and signals received one day after they were
15 sent. There was a black stealth helicopter outside my house that gave a
16 minimal pain signal as if I was whining or joking. Another tadpole shaped
17 camouflaged helicopter hovered right over my car * * * after following me
18 for two miles. I need some help and this country needs some
19 insurrection[.]
20

21 (Ex. A14 at 3-4.)
22

23 13. On April 16, 2013, Dr. Beckman sent an email to "webmaster@unog.ch," which
24 stated, in part:

25
26 [I] do not date actresses and I am not a millionaire. * * *. I never dealt
27 drugs and the people involved are still committing the crimes against me
28 and causing pain. President Obama needs to be investigated for the items
29 I have discussed below, and I would like to be contacted.
30

31 (Ex. A14 at 3.)
32

33 14. On April 18, 2013, Dr. Beckman sent an email to "webmaster@unog.ch," which
34 stated, in part:

35
36 One of the individuals partially responsible for the violations is
37 MICHELLE LYNN DUNBAR DPM[.] The woman has followed,
38 stalked, harassed, and stolen from me with the illegal implants for years
39 now. She is so stupid and bold as to be given a phone by which she can
40 harass me by talking directly into my right ear with it when nowhere near.
41 She does nothing other than to harass, and they will not investigate it here.
42 Tonight they did the same thing from an SUV and from what I can tell it
43 has to be a close signal to work. The glasses were tinted so I cannot tell if
44 it was her or if she gave the item or information to do so to someone
45 else[.]
46 ///

1 (Ex. A14 at 3; capitalization in original.)
2

3 15. Also on April 18, 2013, Dr. Beckman sent an email to “support@barachobama.com,”
4 which stated, “I have been requesting help with this and not to be tortured for 7 years. Please see
5 below.” (Ex. A14 at 4.)
6

7 16. On June 19, 2013, Dr. Beckmann submitted a written complaint to the Federal
8 Communications Commission (FCC). (Ex. A12 at 1-2.) The complaint stated, in part:
9

10 I would like to make a large complaint concerning several individuals.
11 My complaint concerns people illegally tracking me and seems not to be
12 of your office. It concerns the fact that there have been illegal ear
13 implants placed into my ears without legal reason and without my
14 permission. There are three individuals directly involved: Andrew
15 Maddux an Engineer of DesMoines IA worked for sprint, Eric Barnhart
16 whom used to be of KBR who now works after Haliburton for a
17 telecommunications company in SW Washington, and Jeremy Beckmann
18 of central Iowa who has worked for Mcleod in the past. They utilize this
19 system to be able to call my ear directly, the right one that is, also they
20 seem to be utilizing this technology within the state of Oregon to track and
21 record my statements almost to the point of my thoughts. I get criminally
22 harassed and followed. I would appreciate your investigation and help as
23 this concerns a William Saar and his Harassment as Well. I have
24 requested help from the FBI, Oregon Senators, Oregon Representatives,
25 and the White House site for discussion. I have proof and every time
26 things are close being acted upon Michelle Lynn Dunbar DPM’s name
27 comes up and they try to stop the repercussions due to her association with
28 General Dunbar of Northwest Wisconsin. There have been several others
29 to meet with Rocky Lyons Beaman⁶ and follow me three of which are
30 telecommunications pole workers and one is Tom Pepper. I need your
31 help[.]
32

33 (*Id.* at 2.)
34

35 17. On June 20, 2013, Dr. Beckmann sent an email to Raymond Beckmann, his adoptive
36 father, which stated:
37

38 Raymond, By the way dumb niggerray, tell ed I told on his nigger
39 bootcamp son in Colorado springs and your nigger ass got reported to the
40 IRS, FTC, and SEC Ray, Im still licensed oh, a few others like your
41 kimmy bitch got told on as well. just to let you know, so if you bring this
42 to court Jay, Ill win!
43
44
45
46

⁶ Rockie Lyons Beaman is Heather Beckmann’s mother. (Ex. A14 at 1-2.)

1 (Ex. A14 at 1.) Dr. Beckmann copied Jay Beaman, Heather Beckmann's father, on the June 20,
2 2013 email. Dr. Beckmann also sent Mr. Beaman the entire string of emails previously cited in
3 these findings of fact. (*Id.* at 1-5.)
4

5 18. Some time prior to July 11 or 12, 2013, the Board learned of Dr. Beckmann's FCC
6 complaint. (*See* Ex. A6 at 2.) On July 11, 2013, the Board opened an investigation regarding
7 Dr. Beckmann's fitness to practice podiatric medicine. (*Id.* at 1.)
8

9 19. Also on July 11, 2013, Mr. Beaman provided to Board Investigator Mei-Mei Wang
10 copies of some of the emails he had previously received, or was copied on, from Dr. Beckmann.
11 He informed Investigator Wang that he did not solicit any of the emails from Dr. Beckmann, and
12 that he had not written any emails to Dr. Beckmann in at least a year. (Exs. A6 at 2, A14 at 1-5.)
13

14 20. On July 11 and 12, 2013, Investigator Wang spoke with Heather Beckmann via
15 phone. Ms. Beckmann stated that she had long questioned whether Dr. Beckmann had a mental
16 illness and/or a substance abuse issue. Ms. Beckmann also stated that Dr. Beckmann's recent
17 behavior, emails, and conduct had become increasingly alarming. (Ex. A6 at 2.)
18

19 21. On July 16, 2013, Investigator Wang called Dr. Beckmann to inquire about the FCC
20 complaint. Dr. Beckmann confirmed to Investigator Wang that he had filed the complaint. He
21 then discussed certain family members and his ex-wife. He also talked about his beliefs that he
22 has devices implanted in his body, that he is under surveillance, that his conversations and
23 thoughts are monitored, and that certain persons want to steal his patent ideas.⁷ (Ex. A6 at 2;
24 test. of Wang.) Investigator Wang perceived much of his statements as "non-sensical and
25 rambling." (Ex. A6 at 2.) Ms. Wang informed Dr. Beckmann that the Board wanted him to
26 undergo a psychiatric evaluation. (*Id.*; test. of Wang.)
27

28 22. On July 25, 2013, psychiatrist Paul Conti, M.D., conducted a psychiatric evaluation
29 of Dr. Beckmann. The evaluation consisted of a 90-minute interview, and Dr. Conti's review of
30 the FCC complaint and various emails written by Dr. Beckmann. Dr. Conti subsequently
31 prepared a written report based on the evaluation. (Ex. A7 at 1-6; test. of Dr. Conti.)
32

33 23. In his written report, Dr. Conti noted the following discussion with Dr. Beckmann
34 regarding the FCC complaint:
35

36 [In reference to his FCC complaint, Dr. Beckmann stated,] "There is
37 nothing mentally ill about that." I pressed him about this, talking about
38 the fact that it seems paranoid to me, and that it draws together a
39 conspiracy of many different people from different phases of his life, who
40 would be acting against him, and that he feels he is being followed and
41 observed * * *. He again insisted that this is true, and expressed
42 frustration that I could not see this and would instead attribute it to mental
43
44

45 ⁷ Dr. Beckmann has filed numerous patent applications with the U.S. Patent and Trademark Office. (*See*
46 Ex. R2; test. of Dr. Beckmann.)

1 illness. He told me that an MRI would show that he has transmission
2 devices embedded in his second and eighth cranial nerves[.]⁸
3

4 (Ex. A7 at 2.)
5

6 24. In his written report, Dr. Conti noted the following with respect to Dr. Beckmann's
7 beliefs regarding his father (Raymond Beckmann), Ms. Dunbar, and other individuals:
8

9 [Dr. Beckmann spoke of] his belief that his adoptive father has been doing
10 things to sabotage his life. * * *. [H]e told me he had sent an email in
11 which he threatened to kill his adoptive father. I asked him if he meant
12 this and he said, "Yes and no." * * * I learned that he has no immediate
13 plans to harm his adoptive father. He was adamant that he has never
14 engaged in physical violence, and he does not think he would do this, but
15 he does feel that violence could be justified, given the things that he
16 believes are being done to him.⁹
17

18 * * * * *

19
20 [H]e believes that many people around him are trying to steal his patents
21 and his practice for financial gain. * * *. He was particularly focused
22 upon * * * Michelle Lynn Dunbar. He feels that this person was one of
23 the primary thieves of his intellectual property, and that he has randomly
24 seen her on several occasions, despite no knowledge of whether or not she
25 lives in the same city that he lives in.
26

27 * * * * *

28
29 [H]e told me that he was sitting on a park bench one day, when he saw
30 Michelle Lynn Dunbar walking toward him. He states she stopped 20 or
31 30 feet away and began speaking into a cell phone. He said he could see
32 her lips moving, but she was transmitting the sound from the phone
33 directly into his right ear. * * *. He also talked about a person named Bill
34 Saar, whom he has not seen since 2007, but who he believes "tracking
35 him." * * *. He believes that multiple people are receiving money from
36 his patents, and this is the basic point of the email that he sent to the FCC,
37 and it constitutes his basic belief system. * * *. He does believe that his
38 ex-wife wants to harm him, although he was much less focused upon her
39 than other people[.]
40

41 * * * * *

42
43 ⁸ At hearing, Dr. Beckmann insisted that during the evaluation he told Dr. Conti only that he had an
44 implant in his auditory nerve (*i.e.* the eighth cranial nerve), and not in his optic nerve (*i.e.* the second
45 cranial nerve). (Test. of Dr. Beckmann.)

46 ⁹ At hearing, Dr. Beckmann clarified that his statement to Dr. Conti regarding his belief that violence
could be justified was specific to his father. (Test. of Dr. Beckmann.)

1 [H]e did express ideation to harm his adoptive father, but he has no
2 intention or plan, and told me he feels he would never do this, although it
3 could be justified if his adoptive father continues to damage his life[.]
4

5 (Ex. A7 at 1-3.)
6

7 25. In his written report, Dr. Conti noted that Dr. Beckmann denied experiencing any
8 symptoms of mental illness:
9

10 [Dr. Beckmann] denies any and all symptoms of affective, psychotic, or
11 anxiety-related illness. * * *. He adamantly denied an inventory of
12 psychotic symptoms, including auditory, visual, olfactory, and tactile
13 hallucinations. He denied ideas of reference, thought insertion, and
14 thought withdrawal.
15

16 (Ex. A7 at 2-3.) Dr. Conti further noted that Dr. Beckmann “continued to express surprise and
17 frustration that I could think he could be mentally ill, specifically paranoid, or that I might think
18 he was hearing voices when sound was being directly transmitted * * * into his nerves.” (*Id.* at
19 2.)
20

21 26. In his written report, Dr. Conti provided, in part, the following assessment of Dr.
22 Beckmann:
23

24 [I] believe Dr. Beckmann is paranoid, and he is operating within a
25 complex delusional system¹⁰ that is characterized by a broad conspiracy
26 against him by many people who have been in his life over the years.
27 * * *. I note that his paranoid delusions are mostly non-bizarre, although
28 they could be characterized as bizarre when he talks about implants in his
29 optical nerve transmitting voices, and when he talks about implants
30 transmitting not only voices, but perhaps his thoughts as well. * * *. I
31 note that he does have some affect-driven associations, and he at times
32 links perceived threatening entities through illogical mechanisms. * * *.
33 [I] do believe he has experienced auditory hallucinations on two different
34 occasions[.]
35

36 (Ex. A7 at 4-5.) In Dr. Conti’s opinion, it is “medically implausible” that Dr. Beckmann has an
37 implant such as Dr. Beckmann has alleged and described. (Test. of Dr. Conti.)
38

39 27. With respect to a diagnosis, Dr. Conti stated the following in his written report:
40

41 At this point, I do not know what the underlying diagnosis is. There are a
42 number of possibilities. One possibility is that he is suffering from a
43 general medical condition * * * [such as] an intercranial mass, an
44

45 ¹⁰ A “complex delusional system” usually involves multiple, often unrelated, people and entities from
46 different phases of a person’s life. The affected person makes irrational links between the people and
entities. The system is driven by paranoia and evolves over time. (Test. of Dr. Conti.)

1 infectious etiology, or a toxin. * * *. [T]his could be [] late onset
2 schizophrenia, although this would be atypical * * *. Another possibility
3 is schizophrenia occurring after an extended prodromal period. There is a
4 possibility of a neurobiological predisposition to schizophrenia, with the
5 patient being pushed toward overt pathology and disease manifestation by
6 the multiple stressors in his life * * *. Yet another possibility is cluster A
7 personality traits, or a full cluster A personality disorder, that combined
8 with stress has led to a brief psychotic episode. * * * * *
9

10 Overall, I would lean toward a diagnosis of schizophrenia, noting that I
11 believe he meets criteria for either a schizophreniform disorder or for
12 schizophrenia, depending upon the time course of illness. He has paranoid
13 delusions which may be considered bizarre, he has auditory hallucinations,
14 and he does have elements of thought disorder[.]
15

16 (Ex. A7 at 5-6.) Dr. Conti provided an Axis I diagnosis of psychosis, not otherwise specified,
17 with the diagnostic considerations noted in his written report. As to Axis II, Dr. Conti noted
18 possible cluster A personality traits or a cluster A personality disorder. (*Id.* at 6; test. of Dr.
19 Conti.)
20

21 28. With respect to potential risks and concerns regarding Dr. Beckmann, Dr. Conti
22 stated the following in his written report:
23

24 [I] note that paranoia does not necessarily signify an inability to practice a
25 learned set of skills, but it could certainly impact judgment. For example,
26 [Dr. Beckmann's] judgment could be impaired if a patient resembles a
27 person of whom he is paranoid, or a patient who was a police officer, FBI
28 agent, etc. In addition, we do not know what illness we are dealing with,
29 and if it may be progressive. Examples could include progression of a
30 brain tumor, or the possibility that he is deeply into an as-yet prodromal
31 phase of schizophrenia, and this condition will worsen. Given this set of
32 facts, I believe there is too great a risk to the general public for him to
33 practice without further evaluation. However, I am concerned about
34 potential desperation if he is not allowed to work and receives no help. I
35 believe this could lead to thoughts of harming himself or others who he
36 believes are persecuting him. In fact, such a situation could further
37 reinforce his beliefs of being persecuted. He is paranoid regarding many
38 people, * * * [with] Ray Beckmann and Michelle Lynn Dunbar * * *
39 foremost amongst these people. I do not believe that his current situation
40 warrants warning or efforts to protect these people, but it could proceed to
41 that point if he feels further persecuted. In this context, I recommend a
42 brief diagnostic hospital stay[.]
43

44 (Ex. A7 at 5-6.) Dr. Conti recommends that Dr. Beckmann undergo further diagnostic testing,
45 including an MRI of the brain and laboratory testing to check for infectious and metabolic
46 problems. (Test. of Dr. Conti.)

1 29. On July 26, 2013, the Board offered Dr. Beckmann an Interim Stipulated Order to
2 withdraw from practice. He declined to sign the Order. (Ex. A6 at 3; test. of Wang.)
3

4 30. Dr. Beckmann requested that administrators and nursing directors at various facilities
5 where he has provided patient care send the Board letters with regard to his competency and
6 treatment of patients. (Ex. A6 at 3; test. of Wang.) The Board received at least four such
7 communications, three of which indicated that Dr. Beckmann had provided satisfactory care to
8 patients. (Stipulation of Parties; *see also* Ex. A15.)
9

10 31. An email from Timberview Care Center to the Board dated July 29, 2013, stated in
11 part:
12

13 [Dr. Beckmann] started working with us a couple years ago. We have had
14 mixed reviews from our patients. * * *. [W]e would get regular
15 complaints from staff that he would “butcher” our residents['] toes. He
16 did admit to having some occasional nicks, but would usually explain
17 them away. Finally, one of our residents got so upset, she yelled at him in
18 the hallway. Instead of remaining calm, he argued with her, which upset
19 her more.
20

21 * * * * *

22
23 Finally, we told him we would only be using his services on the rare
24 occasion we would be unable to get our residents out to a podiatrist. He
25 has only been in our building once in the past 3 months and only saw one
26 patient. We don't feel our residents get the best care from him.
27

28 I wouldn't say he is “psychotic,” but I would say he needs to work on his
29 interpersonal skills and his boundaries. He came in on his personal time to
30 ask one of my aid[e]s out on a date. This made her very uncomfortable. I
31 had to ask him to leave. He just walked in and sat behind the nurses[']
32 station. I found it to be very odd. After she told him she had a boyfriend,
33 he continued to pursue her.
34

35 On another occasion, he ran after my DNS [director of nursing services],
36 who was living at the same apartment complex at the time, and asked him
37 for a ride because he doesn't have a license. He was wearing very tight,
38 short shorts and it made my DNS very uncomfortable. As [Dr.
39 Beckmann] was rushing his car in the apartment complex, he slammed
40 into a post and then fell on the hood of [the DNS's] car[.]
41

42 [I] don't think he's a bad person, but he's definitely not a good podiatrist.
43 (Ex. A15 at 1.)
44

45 32. Dr. Beckman believes that in mid-June of 2007, Mr. Barnhart surreptitiously placed
46 an implant into Dr. Beckmann's right ear. Dr. Beckmann believes that the implant allows people

1 to track him, hear what he is saying, and tell him things. Dr. Beckmann believes that the primary
2 purpose of the implant is for people to hear him talk about his patent ideas, so that they can
3 capitalize on the ideas themselves. Dr. Beckmann suspects that he may be under surveillance
4 because, in his opinion, a lot of people know his whereabouts. Dr. Beckmann believes that on
5 two occasions in the past seven years, Ms. Dunbar has spoken to him through his ear implant.
6 Dr. Beckmann believes that Mr. Barnhart has implanted auditory devices into both of Dr.
7 Beckmann's daughters. (Test. of Dr. Beckmann.)
8

9 33. Dr. Beckmann does not believe that he has any physical or mental conditions that
10 could interfere with his ability to practice podiatric medicine. (Test. of Dr. Beckmann.) Dr.
11 Conti believes that Dr. Beckmann's insight into his own mental health status is "poor." (Test. of
12 Dr. Conti.)
13

14 34. Dr. Beckmann's behavioral symptomatology is progressive. With respect to his
15 continued practice of podiatric medicine, the progressive nature of his symptoms is more
16 worrisome to Dr. Conti than if, for example, Dr. Beckmann had symptoms that been stable for
17 the past decade. Dr. Conti has opined that progression leading to worse pathology can cause
18 further paranoia, and could ultimately lead Dr. Beckmann to conclude that violence that was not
19 previously justified is now justified. In Dr. Conti's opinion, the evolution of Dr. Beckmann's
20 pathology is "extremely worrisome" and there is a risk of violence. (Test. of Dr. Conti.)
21

22 35. At the hearing, when asked whether he ever got the impression that a patient might
23 be "keeping tabs" on him, Dr. Beckmann answered in the negative and added, "I don't even
24 concern myself with the people that I date and interact with until they give me some reason to
25 think otherwise or threaten me in some way." (Test. of Dr. Beckmann.) Dr. Beckmann's
26 response concerns Dr. Conti because "the idea behind a complex delusional system is that a
27 person is making irrational links between people and finding reasons to be suspicious that are
28 driven by the paranoia, as opposed to [being] driven by rational data collection." (Test. of Dr.
29 Conti.) In Dr. Conti's opinion, Dr. Beckmann's delusional thought process could cause him to
30 believe that a patient is part of the conspiracy against him. (*Id.*)
31

32 36. In Dr. Conti's opinion, Dr. Beckmann currently poses too great a risk to the public to
33 practice podiatric medicine without further evaluation. (Test. of Dr. Conti.)
34

35 37. At the time of the hearing, Dr. Beckmann did not have a primary care physician, he
36 was not under any physician's care, and he was not taking any medications. (Test. of Dr.
37 Beckmann.) At the time of the hearing, he was 42 years old and residing at the Portland Rescue
38 Mission. (Exs. A6 at 2, A7 at 1; test. of Dr. Beckmann.)
39

40 38. Dr. Conti is a board-certified psychiatrist. In 2001, he received his medical doctorate
41 from Stanford University School of Medicine. He completed three years of a residency program
42 at Stanford University Hospital and Clinics. He completed his fourth and final year of residency
43 training at Harvard University School of Medicine (Harvard), where he was the chief resident of
44 the acute inpatient psychiatry unit at Beth Israel Deaconess Medical Center. From 2005 to 2007,
45 he was an instructor of psychiatry at Harvard. From 2007 to 2010, he was an attending physician
46 in the inpatient psychiatry unit and outpatient psychiatry clinic at Providence St. Vincent

1 Medical Center. Since 2009, he has been a clinical adjunct professor at the Oregon Health &
2 Science University, Department of Psychiatry. In 2010, he began a private clinical practice.
3 Since 2012, he has been the outpatient medical director at the Hazelden Clinic in Beaverton,
4 Oregon. In that capacity, he provides programmatic guidance regarding medication-assisted
5 treatment services for substance use disorders, direct clinical care, business operations and
6 management services, and community education. He also performs independent psychiatric
7 evaluations on a regular basis. (Ex. A16 at 1-4; test. of Dr. Conti.)
8

9 **CONCLUSION OF LAW**

10
11 The ALJ recommended in her proposed order, and the Board agrees, that the Board's
12 Order of Emergency Suspension should be upheld on the ground that Dr. Beckmann's continued
13 practice of podiatric medicine would pose an immediate danger to the public.
14

15 **OPINION**

16
17 Under ORS 677.015, the Board is charged with regulating the practice of medicine to
18 protect the health, safety, and welfare of the public.¹¹ ORS 677.205(3) allows the Board to
19 temporarily suspend a license without a hearing "if the [B]oard finds that evidence in its
20 possession indicates that a continuation in practice of the licensee constitutes an immediate
21 danger to the public."
22

23 On August 1, 2013, the Board issued an Order of Emergency Suspension to Dr.
24 Beckmann, ordering the immediate suspension of his license to practice as a podiatric physician,
25 and ordering that he immediately cease the practice of podiatric medicine until otherwise ordered
26 by the Board.
27

28 OAR 137-003-0560 governs the procedural aspects of emergency license suspensions
29 and provides, in part:
30

31 (1) If the agency finds there is a serious danger to the public health or
32 safety, it may, by order, immediately suspend or refuse to renew a
33 license[.]
34

35 * * * * *

36
37
38
39
40
41 ¹¹ ORS 677.015 provides:

42 Recognizing that to practice medicine is not a natural right of any person but is a
43 privilege granted by legislative authority, it is necessary in the interests of the
44 health, safety and welfare of the people of this state to provide for the granting of
45 that privilege and the regulation of its use, to the end that the public is protected
46 from the practice of medicine by unauthorized or unqualified persons and from
unprofessional conduct by persons licensed to practice under this chapter.

1 (3) If the licensee files a timely request, the matter shall be referred to the
2 Office of Administrative Hearings, [and] the hearing on an emergency
3 suspension held[.]

4
5 * * * * *

6
7 (6) At the hearing regarding the emergency suspension order, the
8 administrative law judge shall consider the facts and circumstances
9 including, but not limited to:

10
11 (a) Whether the acts or omissions of the licensee pose a serious danger to
12 the public health or safety; and

13
14 (b) Whether circumstances at the time of the hearing justify confirmation,
15 alteration or revocation of the order.

16
17 (7) The administrative law judge shall issue a proposed order * * *
18 [which] shall contain a recommendation whether the emergency
19 suspension order should be confirmed, altered or revoked[.]
20

21 As the proponent of the position that Dr. Beckmann's continued practice of podiatry
22 would pose an immediate danger to the public, the Board has the burden of coming forward with
23 sufficient evidence to support its position. ORS 183.450(2) ("The burden of presenting evidence
24 to support a fact or position in a contested case rests on the proponent of the fact or position"). If
25 the Board meets its burden, then the burden shifts to Dr. Beckmann to present sufficient
26 rebutting evidence. If he does so, then all credible evidence, and all reasonable and permissible
27 inferences drawn from that evidence, are weighed to determine which propositions are more
28 probably true than false. *See Metcalf v. AFSD*, 65 Or App 761, 765 (1983) (in the absence of
29 legislation specifying a different standard, the standard of proof in an administrative hearing is
30 preponderance of the evidence); *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402
31 (1987) (proof by a preponderance of the evidence means the fact finder is persuaded the facts
32 asserted are more likely than not true).
33

34 The Board's position is that Dr. Beckmann's continued practice of podiatric medicine
35 would pose an immediate danger to the public because Dr. Beckmann is currently operating
36 within a complex delusional system that is driven by paranoid beliefs, his symptoms have been
37 progressively worsening, he lacks any insight into his mental health or the symptoms he
38 experiences, the nature of his illness remains undiagnosed, he requires further diagnostic testing,
39 and he is not currently under the care of any physician. To support its contentions, the Board
40 relies primarily on the psychiatric evaluation and expert opinions of psychiatrist Dr. Conti.
41

42 Dr. Beckman denies that he has any mental or physical conditions that could negatively
43 affect his ability to practice podiatric medicine. He argues that Dr. Conti's opinions are flawed
44 because Dr. Conti lacks any knowledge, training, or experience with regard to the type of
45 auditory implant Dr. Beckmann has in his body. Dr. Beckmann insists that he poses no danger to
46 the public, and he asserts that he has never harmed, and would never harm, a patient.

1 Dr. Conti finds it “medically implausible” that Dr. Beckmann has the type of implant that
2 Dr. Beckmann has alleged and described. Testimony of Dr. Conti. Dr. Conti’s qualifications, as
3 set forth in Exhibit A16, clearly establish him as an expert in the field of psychiatry. He is,
4 therefore, qualified to assess Dr. Beckmann and render expert opinions with regard to Dr.
5 Beckmann’s mental health issues. The fact that Dr. Conti has no specific expertise relating to
6 auditory implants, such as the type that Dr. Beckmann alleges to have in his body, does not make
7 Dr. Conti unqualified to render an opinion as to the medical plausibility of such implants.
8

9 Dr. Beckmann insists that the alleged auditory implants exist, and that he and his two
10 daughters have been subjected to them by his cousin, Mr. Barnhart. In support of the existence
11 of such implants, Dr. Beckmann provided an internet article from a website called
12 “examiner.com” and a listing of other websites pertaining to implants and associated technology.
13 See Exhibit R1.
14

15 Dr. Beckmann’s claims that Mr. Barnhart implanted an auditory device into Dr.
16 Beckmann’s body (as well as into the bodies of Dr. Beckmann’s children) are not persuasive.
17 Rather, the greater weight of the evidence establishes that Dr. Beckmann’s beliefs regarding the
18 implants and the conspiracies against him are fueled by paranoia and form the basis of a complex
19 delusional system.
20

21 In Dr. Conti’s expert opinion, Dr. Beckmann has poor insight into his mental health
22 condition. This is supported by the record. During Dr. Conti’s July 25, 2013 evaluation, Dr.
23 Beckmann denied all symptoms of mental illness, and he expressed surprise and frustration that
24 Dr. Conti would think that he was paranoid and mentally ill. At hearing, Dr. Beckmann’s
25 testimony demonstrated that he continues to believe that negative events in his life (*e.g.* this
26 licensing matter, traffic violations¹²) are the result of conspiracies against him related to his
27 patent ideas and child custody issues, and not due to any mental health condition.
28

29 Dr. Conti believes that the currently undiagnosed condition that is causing Dr.
30 Beckmann’s mental health symptoms is, most likely, progressive. This is supported by the fact
31 that in 2008, Dr. Deitch observed no evidence of psychosis in Dr. Beckmann; in 2010, evaluator
32 Maynard noted that Dr. Beckmann had difficulty in recognizing social cues and maintaining
33 effective interpersonal relationships;¹³ and in 2013, Dr. Conti observed that Dr. Beckmann had
34 “readily evident” psychosis. Testimony of Dr. Conti; *see* Exhibits A8 at 4, A10 at 5-8, A7.
35

36 Dr. Conti believes that Dr. Beckmann’s paranoia may impact his professional judgment,
37 particularly if, for example, one of Dr. Beckmann’s patients resembled someone of whom Dr.
38

39
40 ¹² For example, Dr. Beckmann testified that he gets more “attention” than is normal from police, and that
41 he got pulled over for traffic violations four times within a four-day period by the same police officer in
42 Keizer, Oregon. He went on to testify that his ex-wife and former employer have numerous police
43 connections, and he insinuated that his traffic stops were related to those connections. (Test. of Dr.
44 Beckmann.)

45 ¹³ Odd behavior and social dysfunction are common in the prodromal (*i.e.* precursory) phase of a
46 psychotic illness. (Test. of Dr. Conti.)

1 Beckmann is paranoid. And, as Dr. Beckmann's condition and associated symptoms continue to
2 progress, it is Dr. Conti's belief that the increased paranoia may lead Dr. Beckmann to conclude
3 that violence is justified.¹⁴ Dr. Conti finds the evolution of Dr. Beckmann's pathology
4 "extremely worrisome." Testimony of Dr. Conti.
5

6 In Dr. Conti's expert opinion, Dr. Beckmann currently poses too great a risk to the public
7 to practice podiatric medicine without further evaluation. Dr. Beckmann did not provide
8 persuasive evidence to rebut that opinion, and Dr. Conti's opinion is supported by the record as a
9 whole. The Board has therefore established, more likely than not, that Dr. Beckmann's
10 continued practice of podiatric medicine would pose an immediate danger to the public.
11

12 The ALJ concluded in the Proposed Order, and the Board now concludes, that the
13 Board's Emergency Order of Suspension is affirmed. See ORS 677.205(3); OAR 137-003-
14 0560(6), (7).
15

16 FINAL ORDER

17
18 The Oregon Medical Board issues the following order:
19

20 As provided in the August 1, 2013 Order of Emergency Suspension, the license to
21 practice podiatric medicine held by Brooke Robert Beckmann, D.P.M., is immediately
22 suspended and he is ordered to immediately cease the practice of podiatric medicine until
23 otherwise ordered by the Board.
24

25 DATED this 3rd day of October, 2013.
26

27 OREGON MEDICAL BOARD
28 State of Oregon
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30  Signature Redacted
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32 ROGER M. MCKIMMY, MD
33 Board Chair
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43 APPEAL OF FINAL ORDER

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46 ¹⁴ During the July 25, 2013 evaluation, Dr. Beckmann told Dr. Conti that he believed violence could be justified against his father, if his father continued to damage his life. (Ex. A7 at 1-3.)

1 You have the right to appeal this Final Order to the Oregon Court of Appeals, pursuant to
2 ORS 183.482. To appeal, you must file a petition for review with the Oregon Court of Appeals
3 within 60 days from the day the Final Order is served upon you. If the Final Order is personally
4 delivered to you, the date of service is the date you receive the Final Order. If the Final Order is
5 mailed to you, the date of service is the date it is *mailed*, not the date you receive it. If you do
6 not file a petition for judicial review within the 60-day time period, you will lose your right to
7 appeal.
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CERTIFICATE OF MAILING

On October 9, 2013, I mailed the foregoing FINAL ORDER regarding Brooke Robert Beckmann, DPM, to the following parties:

By: First Class and Certified Mail
Certified Mail Receipt #

Brooke Robert Beckmann, DPM
c/o Portland Rescue Mission
PO Box 3713
Portland, OR 97208-3713

E-mail Address: beckmannbrooke@yahoo.com

By: First Class Mail

Warren Foote
Senior Assistant Attorney General
Department of Justice
1162 Court St NE
Salem OR 97301

Jennifer Rackstraw
Office of Administrative Hearings
7995 SW Mohawk Street
Tualatin, OR 97062

Beverly Loder
Investigative Assistant

3.

The Board agrees to terminate the October 11, 2012, Stipulated Order and enter into this Corrective Action Agreement. This Agreement is a public document, however, it is not a disciplinary action. This document is reportable to the National Data Bank.

4.

Licensee and the Board agree to the following terms and conditions

4.1 Licensee must not work more than a total of 40 hours per week. After six months of full compliance with the terms of this Agreement, and contingent on the endorsement of her supervising mentor, Licensee may submit a written request to modify this limitation.

4.2 Licensee must practice at a site pre-approved by the Board's Medical Director, under a supervising mentor that is pre-approved by the Board's Medical Director.

4.3 After six months of full compliance with the terms of this Agreement, Licensee may submit a written request to the Board, accompanied by an endorsement from the practice mentor(s), to modify the requirement that she practice under the supervision of a pre-approved mentor.

4.4 The October 11, 2012, Stipulated Order is terminated upon the approval of this Order by the Board.

4.5 Any violation of the terms of this Order constitutes grounds for immediate suspension and other disciplinary action under ORS 677.190(17).

5.

This Order becomes effective when it is signed by the Board Chair.

IT IS SO STIPULATED THIS 30 day of September 2013.

SIGNATURE REDACTED

DAWN ELIZABETH BOST, MD

IT IS SO ORDERED THIS 2nd day of March 2013.

SIGNATURE REDACTED

ROGER M. MCKIMMY, MD
Board Chair

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BEFORE THE
OREGON MEDICAL BOARD
STATE OF OREGON

In the Matter of)
SUNG JIN CHEON, LAc) ORDER TERMINATING
LICENSE NO. AC01102) CORRECTIVE ACTION AGREEMENT
)

1.

On January 13, 2011, Sung Jin Cheon, LAc, (Licensee) entered into a Corrective Action Agreement with the Oregon Medical Board (Board). This Agreement placed conditions on Licensee's Oregon license. On June 25, 2013, Licensee submitted documentation that he has successfully completed all terms of this Agreement and requested that this Agreement be terminated.

2.

The Board has reviewed the documentation submitted by Licensee and has determined that Licensee has successfully complied with all of the terms of this Agreement. The Board terminates the January 13, 2011, Corrective Action Agreement, effective the date this Order is signed by the Board Chair.

IT IS SO ORDERED this 3rd day of October, 2013.

OREGON MEDICAL BOARD
State of Oregon

SIGNATURE REDACTED

ROGER M. MCKIMMY, MD
Board Chair

4.

At the conclusion of the Board's investigation, Licensee's status will be reviewed in an expeditious manner. Following that review, if the Board determines that Licensee shall not be permitted to return to the practice of medicine, Licensee may request a hearing to contest that decision.

5.

This Order is issued by the Board pursuant to ORS 677.265(1) and (2) for the purpose of protecting the public, and making a complete investigation in order to fully inform itself with respect to the performance or conduct of the Licensee and Licensee's ability to safely and competently practice medicine. Pursuant to ORS 677.425, Board investigative materials are confidential and shall not be subject to public disclosure. However, as a stipulation this Order is a public document and is reportable to the national Data Bank and the Federation of State Medical Boards.

6.

This Order becomes effective the date it is signed by the Licensee.

IT IS SO STIPULATED THIS 4th day of October, 2013.

SIGNATURE REDACTED

LORNE MAX CROSS, MD

IT IS SO ORDERED THIS 4th day of October, 2013.

State of Oregon
MEDICAL BOARD

SIGNATURE REDACTED

JOSEPH THALER, MD
MEDICAL DIRECTOR

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BEFORE THE
OREGON MEDICAL BOARD
STATE OF OREGON

In the Matter of)
)
JACKSON TYLER DEMPSEY, MD) STIPULATED ORDER
LICENSE NO. MD15946)
)

1.

The Oregon Medical Board (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including physicians, in the state of Oregon. Jackson Tyler Dempsey, MD (Licensee) holds an active license to practice medicine in the state of Oregon.

2.

On August 6, 2013, the Board issued a Complaint and Notice of Proposed Disciplinary Action in which the Board proposed taking disciplinary action by imposing up to the maximum range of potential sanctions identified in ORS 677.205(2), by imposing up to the maximum range of potential sanctions identified in ORS 677.205(2), to include the revocation of license, a \$10,000 fine, and assessment of costs, pursuant to ORS 677.205 against Licensee for violations of the Medical Practice Act, to wit: ORS 677.190(1)(a) unprofessional or dishonorable conduct, as defined by ORS 677.188(4)(a).

3.

Licensee is a psychiatrist, and was formerly employed at the Jackson County Mental Health Department. Licensee's acts and conduct that violated the Medical Practice Act are:

3.1 Licensee was arrested on July 22, 2012, for misdemeanor charges of Assault IV, Criminal Mischief III, and Disorderly Conduct II, after Licensee admitted to a Federal Forest Service Ranger that he had strung nylon cord across public trails in the Mt. Ashland watershed area, strewn U-shaped fencing nails onto the trails, and placed vegetation and deadfall onto the

1 trails to obstruct public use of the trails. Licensee placed the nylon cords across the trails, which
2 caused mountain bikers to strike the cords while riding on the trails. Licensee placed these
3 obstructions on the trails over the course of about 6 weeks during the summer of 2012. As a
4 result of his conduct, three mountain bikers reportedly sustained injuries while riding their bikes
5 on a public trail in the Ashland watershed area by hitting a nylon cord or vegetation and deadfall
6 that Licensee placed on or across the trails. On August 20, 2012, Licensee was charged with
7 misdemeanors of one count of Assault in the 4th degree and three counts of Recklessly
8 Endangering Another Person by the Jackson County District Attorney's Office. On May 1,
9 2013, Licensee pleaded no contest to Assault in the 4th degree, and to two counts of Recklessly
10 Endangering Another Person. Licensee was sentenced to 30 days in jail, mandated to pay \$2,400
11 in restitution, and ordered to stay off the trail system in the Mt. Ashland watershed for two years
12 while he is on bench probation. The court granted Licensee's petition to serve his jail sentence as
13 30-days of house arrest.

14 3.2 The Principles of Medical Ethics promulgated by the American Medical
15 Association state in part: "A physician shall recognize a responsibility to participate in activities
16 contributing to the improvement of the community and the betterment of public health."
17 Licensee's conduct for which he was convicted was detrimental to the community, endangered
18 the health and safety of the public, and caused injury to several persons using mountain bikes on
19 the public trails where he placed obstructing nylon cords, fencing nails, vegetation, and deadfall.
20 Licensee's conduct was both unprofessional and dishonorable.

21 4.

22 Licensee and the Board desire to settle this matter by entry of this Stipulated Order.
23 Licensee understands that he has the right to a contested case hearing under the Administrative
24 Procedures Act (chapter 183), Oregon Revised Statutes. Licensee fully and finally waives the
25 right to a contested case hearing and any appeal therefrom by the signing of and entry of this
26 Order in the Board's records. Licensee admits that he engaged in conduct that violated ORS
27 677.190(1)(a) unprofessional or dishonorable conduct, as defined by ORS 677.188(4)(a).

1 Licensee understands that this Order is a public record and is a disciplinary action that is
2 reportable to the National Data Bank and the Federation of State Medical Boards.

3 4.

4 Licensee and the Board agree to resolve this matter by the entry of this Stipulated Order
5 subject to the following sanctions and terms:

6 4.1 Licensee is reprimanded.

7 4.2 Licensee must be followed by a licensed health care provider (pre-approved by
8 the Board's Medical Director) who will provide quarterly written reports to the Board.

9 4.3 Licensee stipulates and agrees that this Order becomes effective the date it is
10 signed by the Board Chair.

11 4.4 Licensee must obey all federal and Oregon state laws and regulations pertaining
12 to the practice of medicine.

13 4.5 Licensee stipulates and agrees that any violation of the terms of this Order shall
14 be grounds for further disciplinary action under ORS 677.190(17).

15
16 IT IS SO STIPULATED THIS 4 day of September, 2013.

17
18 SIGNATURES REDACTED

19 JACKSON TYLER DEMPSEY, MD
20

21 IT IS SO ORDERED THIS 3rd day of October, 2013.

22 OREGON MEDICAL BOARD
23 State of Oregon

24 SIGNATURES REDACTED

25 ROGER MCKIMMY, MD
26 BOARD CHAIR
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BEFORE THE
OREGON MEDICAL BOARD
STATE OF OREGON

In the Matter of)
CLYDE ALAN FARRIS, MD)
LICENSE NO. MD11437) ORDER TERMINATING
CORRECTIVE ACTION AGREEMENT)

1.

On October 11, 2012, Clyde Alan Farris, MD (Licensee) entered into a Corrective Action Agreement with the Oregon Medical Board (Board). This Agreement placed conditions on Licensee's Oregon license. On July 8, 2013, Licensee submitted documentation that he has successfully completed all terms of this Agreement and requested that this Agreement be terminated.

2.

The Board has reviewed the documentation submitted by Licensee and has determined that Licensee has successfully complied with all of the terms of this Agreement. The Board terminates the October 11, 2012, Corrective Action Agreement, effective the date this Order is signed by the Board Chair.

IT IS SO ORDERED this 3rd day of October, 2013.

OREGON MEDICAL BOARD
State of Oregon

SIGNATURE REDACTED

ROGER M. MCKIMMY, MD
Board Chair

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ISSUES

1. Whether the Board may deny Dr. Mozena's application for a license to practice as a podiatric physician in Oregon based on unprofessional or dishonorable conduct. ORS 677.190(1)(a), 677.188(4)(a).

2. Whether the Board may deny Dr. Mozena's application for a license to practice as a podiatric physician in Oregon based on impairment. ORS 677.190(7), 676.303(1)(b).

3. Whether the Board may assess the costs of the proceeding against Dr. Mozena. ORS 677.265(2).

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EVIDENTIARY RULINGS

The Board offered Exhibits A1 through A5. Dr. Mozena offered Exhibits R1 through R52. All exhibits were admitted into the record without objection. In addition, the Board's Pleadings P1 through P11 were made a part of the record.

FINDINGS OF FACT

1. In 1983, Dr. Mozena received a degree in podiatric medicine from the California College of Podiatric Medicine. In 1984, he completed a residency in podiatric medicine and surgery. From 1985 to 1987, he was a private practitioner of podiatric medicine and surgery in California. (Exs. R1, A2 at 2-6, A4 at 12; test. of Dr. Mozena.)

2. For approximately three weeks (in two separate time periods) in 1986, and for two weeks in 1987, Dr. Mozena was hospitalized in California for mental health issues, including suicidal ideation. (Ex. A5 at 4, 6.)

3. In 1987, Dr. Mozena moved to Oregon and began assisting his brother, John Mozena, a practicing podiatrist in Oregon, with surgery.² In approximately 1988, Dr. Mozena started practicing podiatric medicine and surgery in Portland. (Exs. R1, A4 at 12, A5 at 4; test. of Dr. Mozena.) In 1997, he decided to stop practicing because it was too "stressful and difficult for him."³ At the time, he did not intend to ever practice podiatry again. (Test. of Dr. Mozena.) From April 13 to May 3, 1997, he was hospitalized at Providence Portland Medical Center (Providence Portland) and diagnosed with Major Depression with psychotic features. (Ex. A5 at 6.) He has not practiced podiatric medicine since 1997. (Test. of Dr. Mozena; Ex. A2 at 3.)

4. From 1998 to 2001, Dr. Mozena performed property maintenance for his mother and stepfather. (Test. of Dr. Mozena; Exs. R1, A2 at 5.) In the meantime, Dr. Mozena's Oregon

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² At the time of the hearing, John Mozena continued to practice podiatric medicine in Oregon. (Test. of Dr. Mozena.)

³ During a Board-ordered mental health evaluation on May 31, 2012, Dr. Mozena told the evaluator that he had become obsessive about being perfect in his practice, that he would cry at night, and that he came closer to attempting suicide in 1997 than at any other time in his life. (Ex. A5 at 4.)

1 podiatric medicine license lapsed. (Ex. A5 at 4; *see* Ex. A1 at 1.) From July 6 to August 21,
2 1998, he was hospitalized at Providence Portland and diagnosed with Major Depression with
3 psychotic features. (Ex. A5 at 6.)
4

5 5. On May 18, 2000, Dr. Mozena submitted an application to reactivate his Oregon
6 podiatric license. On the application, Dr. Mozena indicated that he had not completed the
7 mandatory 50 hours of continuing medical education and that he had not practiced for more than
8 one year because of “personal problems, emotional and mental.” (Ex. A1 at 1.) On March 28,
9 2001, Dr. Mozena was scheduled to appear before the Board to explain his year-long absence
10 from practice. However, he was unable to appear on that date because he was hospitalized. (*Id.*,
11 Ex. A5 at 6.)
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13 6. On March 23, 2001, Dr. Mozena was admitted to Portland Adventist Hospital (after
14 being initially evaluated at Providence Portland). He was hospitalized from March 23 to 28,
15 2001. He was then readmitted from March 29 to April 25, 2001. Both hospital admissions were
16 initiated on an involuntary basis using a hospital hold,⁴ and he was civilly committed on the
17 second admission.⁵ He had stopped taking his psychiatric medications and he presented with
18 religious delusions, agitation, suicidal thoughts, confusion, disorganization of thought, and ideas
19 of reference and persecution. He was determined to lack capacity regarding psychotropic
20 medications and he was reluctant to take them. He was diagnosed with Psychotic Disorder NOS
21 (not otherwise specified). After being treated with the medication Olanzapine, he improved.
22 (Ex. A5 at 9- 10.)
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24 7. On October 19, 2001, the Board ordered that Dr. Mozena undergo an evaluation to
25 determine his ability to safely and competently practice podiatric medicine. On or about
26 December 20 and 21, 2001, psychiatrist Mary McCarthy evaluated Dr. Mozena. She diagnosed
27 him with Schizoaffective Disorder, and recommended that he not practice podiatry and instead
28 find a less stressful job. (Ex. A5 at 4, 9.) Based on the evaluation, the Board had “serious
29 concerns” with regard to Dr. Mozena’s practice abilities. (Ex. A1 at 1-2.) In a Stipulated Order
30 dated April 18, 2002, Dr. Mozena surrendered his license in lieu of further Board investigation.
31 (*Id.* at 1-3.)
32

33 8. In 2001, and continuing until September 2002, Dr. Mozena received mental health
34 treatment through Cascadia Behavioral Healthcare. He was diagnosed with Schizoaffective
35 Disorder and treated with the medication Zyprexa. Treatment notes indicate that Dr. Mozena
36 was not functioning well at that time, that he had little social contact, that he had poor insight,
37 that he took his medications inconsistently, and that he had expressed suspicions that the
38 medications made him mentally ill. (Ex. A5 at 10.)
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42 _____
43 ⁴ A hospital hold is the first stage of the civil commitment process, and it requires that a person be
44 demonstrably mentally ill and a danger to self or others. (Test. of Reichlin.)

45 ⁵ Peter Mozena testified at hearing that the Mozena family took steps to get Dr. Mozena civilly committed
46 because they believed it was the only way Dr. Mozena would receive the treatment he needed at that time.
47 (Test. of P. Mozena.)

1 9. In July 2002, Dr. Mozena was hospitalized at the Veteran's Administration (VA)
2 Hospital in Portland. He received several provisional diagnoses at that time, including Paranoid
3 Schizophrenia, Mania, and Psychotic Depression. In approximately September 2002, Dr.
4 Mozena began treating with VA psychiatrist Erick H. Turner, MD. Dr. Turner's primary role
5 with Dr. Mozena has been as a medication prescriber. Dr. Turner's focus has been on treating
6 Dr. Mozena's depression. (Ex. A5 at 5, 6, 10.)
7

8 10. Initially, Dr. Mozena saw Dr. Turner every two weeks. Those visits subsequently
9 tapered off to between two and four times per year. The visits have generally consisted of Dr.
10 Mozena completing a "bipolar scale" so that Dr. Turner can assess whether Dr. Mozena is, for
11 example, depressed or elated. (Test. of Dr. Mozena.) Then the visit focuses on the
12 medication(s) Dr. Mozena is taking and whether he is experiencing any complications from the
13 medication. (*Id.*; test. of Reichlin.) As of July 2012, Dr. Turner was prescribing 100 milligrams
14 (mg) of Sertraline once per day and 40 mg of Ziprasidone twice per day for Dr. Mozena. (Ex.
15 A5 at 5, 6, 10.) At the time of the hearing, Dr. Mozena was taking only Ziprasidone and seeing
16 Dr. Turner approximately every six months. (Test. of Dr. Mozena; *see* Ex. R48 at 1.) If Dr.
17 Mozena were to stop taking this medication, or if he changed the dose, for more than a few days,
18 he would be at risk for a manic or psychotic episode. (Test. of Reichlin.)
19

20 11. In 2003, Dr. Mozena began performing work at the VA hospital in Portland. That
21 year, he also became certified in pedorthics. From 2003 to 2004, he performed vocational
22 rehabilitation in pedorthics at the VA. From 2004 to 2008, he was a contracting pedorthist at the
23 VA. On June 8, 2008, the VA hired him as a full-time pedorthist. (Exs. R1, R2, A2 at 5, A5 at
24 4.) His primary duties as a pedorthist at the VA included making orthotics and dispensing
25 custom shoes.⁶ He also did "history and physicals" on patients, as well as padding, orthodigita,
26 and taping. (Test. of Dr. Mozena.) While working at the VA, he developed a passion for
27 preventing amputation in diabetic patients. (*Id.*)
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31 ⁶ The VA referred to Dr. Mozena as a "pedorthotist." (Test. of Dr. Mozena.) In an April 2013 job
32 posting, the VA described the duties of an orthotist/fitter as follows:

33 The Orthotist (Fitter) will be responsible for the design, fabrication, and fitting of
34 orthotic/prosthetic devices for common disability levels. These are achieved
35 through consultation with physician, caregiver, therapist and/or senior
36 Orthotist/Prosthetist staff members, which enables incumbent to become
37 proficient in essential occupational tasks and understand the prescription for
38 orthotic and prosthetic devices for the more common disability levels.
39 Communicates with the patient to explain the procedure, solicit cooperation and
40 reduce anxiety. The incumbent will prepare molds and/or tracings to be used in
41 the fabrication of the device. Assemble components to create a finished device.
42 Performs preliminary alignment and fitting of the device. Incumbent will attend
43 professional and manufacturer's training seminars to expand knowledge,
44 maintain competency and become familiar with new techniques and emerging
45 technologies.

46 (Ex. R5 at 1-2.)
47

1 12. Dr. Mozena stopped taking his psychiatric medications in December 2008. (Ex. A5
2 at 11.) From April 15 to 18, 2009, he was hospitalized at the VA hospital in Seattle,
3 Washington. (*Id.* at 6.) He was involuntarily committed. At the time, he was suicidal, he
4 appeared agitated, and he required seclusion for some period of time. (*Id.* at 11.) He described
5 that hospitalization during a May 31, 2012 mental health evaluation as follows:
6

7 I checked into psych because I was getting sick . . . thought it was a heart
8 attack. Went to ER, they didn't do anything, I walked around the hospital,
9 wanted to come in and they admitted me. Then I checked out a few days
10 later. [In response to the question: In what way sick?] Sick . . . not only
11 chest pain but really sick at the time. Stress . . . I thought I checked
12 myself in, problems, walking halls, not knowing what to do, crying.⁷
13

14 (*Id.* at 6.)
15

16 13. In 2009 and 2010, Dr. Mozena was admitted to emergency rooms in Florida,
17 Washington (Harrison Medical Center and VA – Puget Sound), and Oregon (Legacy Emanuel
18 and Providence Portland). (Test. of Dr. Mozena; Ex. A2 at 4.) He was, for example,
19 hospitalized from July 4 to August 3, 2009.⁸ In approximately September 2009, he once again
20 stopped taking his psychiatric medications. (Ex. A5 at 11.)
21

22 14. Dr. Mozena testified at hearing that he went to the Legacy Emanuel emergency room
23 because he was having “heart trouble” and “chest pain.” (Test. of Dr. Mozena.) He testified that
24 he went to the emergency room at Providence Portland for abdominal pain and possibly for
25 “some mental health issues.” (*Id.*) He testified that he went to the emergency room at the VA
26 hospital in Puget Sound because of “chest pain.” (*Id.*) Dr. Mozena does not have any known
27 heart condition. (*Id.*)
28

29 15. In approximately 2010, Dr. Mozena went to Tallahassee, Florida to visit his then-
30 fiancée. The visit did not go well, and Dr. Mozena ultimately ended up in an emergency room.
31 (Test. of Mozena.) At hearing, he gave the following explanation for that hospital visit:
32

33 [I] had no place to go, so I wound up in the emergency room.
34

35 * * * * *

36 I had no money, and so I thought I'd go to the emergency room and ask
37 for some help. So then they said no. And so I walked and sat at the
38 Catholic church and talked to the priest to see if he could help me and he
39 said no. And so I just walked to the airport and called my stepfather and
40 he flew me home.
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44 ⁷ The evaluator noted that, “After this explanation [Dr. Mozena] denied to me that he was suicidal or
45 psychotic at the time.” (Ex. A5 at 6.)
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47 ⁸ The record does not establish where this hospitalization occurred.

1 (*Id.*) At hearing, Dr. Mozena denied that he visited the emergency room in Tallahassee because
2 of any emergent health condition he was experiencing at the time. (*Id.*)
3

4 16. In January 2010, at the direction of Dr. Turner, Dr. Mozena began seeing "talk"
5 therapist Charley Urlwyler. (Test. of Dr. Mozena; Ex. A5 at 11.) At the time of the hearing, Dr.
6 Mozena was seeing Mr. Urlwyler every six months or so. (Test. of Dr. Mozena.)
7

8 17. On June 7, 2010, the VA terminated Dr. Mozena's employment. (Test. of Mozena;
9 see Exs. R2 at 1, A5 at 4.) At hearing, Dr. Mozena gave the following explanation for why he
10 stopped working at the VA:
11

12 [I] was getting physically sick. I was going to the hospital and they were
13 giving me sick leave, and my supervisor said that I had so many sick days
14 that she wanted a doctor's excuse to go back to work. So my physician
15 wrote me an excuse to go back to work but then said I had to have a
16 psychiatric evaluation to go back to work. Then my psychiatrist wrote a
17 letter and said it might be embarrassing if I prayed in front of a patient and
18 so my supervisor said we can't have that, so she let me go.
19

20 (Test. of Dr. Mozena.)
21

22 18. Dr. Mozena was ultimately issued a citation and required to pay \$75 after he refused
23 to leave the VA premises after his termination. (Test. of Mozena; Ex. A2 at 3.) At hearing, Dr.
24 Mozena gave the following explanation of those events:
25

26 [I] went in. I was very ill at the time, and I thought I wanted the doctors to
27 respect Jesus. I was very confused and they asked me to leave. I said,
28 "NO." And so they put me in a cell in the VA and said, "Are you ready to
29 go now?" And I said, "Yes."
30

31 * * * * *

32 [I] was just confused, you know, as part of my mental illness. I realize
33 that I can get things pretty mixed up.
34

35 (Test. of Dr. Mozena.)
36
37

38 19. Bipolar disorder primarily affects the emotions. A person with bipolar disorder who
39 experiences a manic episode is in a state of emotional upheaval. The upheaval typically involves
40 either elation or irritability, with irritability being more common. A person's judgment is
41 profoundly affected during a manic episode, and the person may become easily aroused
42 emotionally. (Test. of Reichlin.)
43

44 20. Dr. Mozena's bipolar disorder has psychotic features, which in his case are typically
45 expressed by significant paranoia and hyperreligious conceptualizations. His manic episodes
46 have resulted in at least eight hospitalizations. Given the length of Dr. Mozena's illness, Dr.
47

1 Reichlin considers Dr. Mozena's manic episodes to be "fairly" infrequent. (Test. of Reichlin.)
2 When Dr. Mozena experiences a mental health crisis, he typically becomes depressed,
3 withdrawn, and reclusive. (Test. of P. Mozena.)
4

5 21. Dr. Mozena has stopped taking his psychiatric medications, or changed the dosage of
6 his medication, without discussing those actions with his treating psychiatrist at least four times.
7 (See Ex. A5 at 9-11; test. of Reichlin, Dr. Mozena.) Stopping his medication or altering the
8 dosage has a direct effect on Dr. Mozena's mental health stability because Dr. Mozena requires
9 medication to remain free of his psychotic symptoms. Taking such significant actions, without
10 consulting his treating psychiatrist, is indicative of Dr. Mozena's lack of insight into his mental
11 illness. (Test. of Reichlin.)
12

13 22. Because he has a serious mental illness, it is important that Dr. Mozena maintain an
14 understanding of his emotional life and the way his emotions change from moment to moment,
15 and day to day. It is important that he understand what kinds of things cause him problems and
16 what can be done about those problems. To date, Dr. Mozena has shown very limited ability in
17 this regard, and Dr. Reichlin opines that this fact makes Dr. Mozena "unreliable." (Test. of
18 Reichlin.) Frequent psychotherapy that explores Dr. Mozena's emotional life, his emotional
19 changes, and the things that have proven problematic to his emotional state would be beneficial
20 to him if he were able and willing to fully engage in such treatment.⁹ (*Id.*)
21

22 23. Working at the VA gave Dr. Mozena the confidence to seek his podiatric medicine
23 license. He would like to work primarily as a pedorthist, but he wants his podiatric medicine
24 license because he believes having "Dr." in front of his name will result in his patients placing
25 greater trust in his care and opinions.¹⁰ (Test. of Mozena.) If he obtains his license, he will seek
26 the assistance of a VA employment specialist to find work. He hopes to work 40 hours per
27 week. (*Id.*)
28

29 24. On May 19, 2011, Dr. Mozena submitted to the Board an application to practice
30 podiatric medicine in Oregon. (Ex. A2.) On November 23, 2011, the Board ordered that Dr.
31 Mozena submit to a comprehensive evaluation to determine his ability to safely and competently
32 practice podiatric medicine. (Ex. A3.)
33

34 25. On February 29 and March 1, 2012, Dr. Mozena underwent an evaluation by the
35 Center for Personalized Education for Physicians (CPEP), an independent reviewing
36 organization that evaluates medical competence and knowledge. (Ex. A4; test. of Brown.) The
37 evaluation included three clinical interviews by board-certified podiatrists, three simulated
38 patient encounters, and a simulated patient documentation exercise. (Ex. A4 at 5.) The resulting
39 CPEP Assessment Report stated, in part:
40
41

42
43 ⁹ At hearing, Dr. Reichlin expressed doubt that Dr. Mozena has the ability to fully engage in such
44 treatment. (Test. of Reichlin.)
45

46 ¹⁰ At hearing, Dr. Mozena testified that if he obtains his podiatric license, he would also like to clip nails
47 for his patients. (Test. of Dr. Mozena.)

1 Dr. Mozena demonstrated a broad knowledge base of podiatric medicine
2 that was superficial in several areas and out of date in others. His clinical
3 judgment and reasoning were inadequate. Dr. Mozena's communication
4 skills were marginally adequate with need for improvement with
5 simulated patients (SPs), and adequate with peers. His documentation for
6 the SP encounters was poor.

7 (*Id.* at 2.)
8

9 26. CPEP made the following "Assessment Findings" with regard to Dr.
10 Mozena's medical knowledge:
11

12 Dr. Mozena did well in some areas of podiatric medicine. During
13 discussion of a woman with a progressively painful toe joint, he was able
14 to identify the diagnosis as a non-healing stress fracture, as well as suggest
15 a reasonable management plan. During a discussion of a child with an
16 infected ingrown toenail, Dr. Mozena explained appropriate initial
17 management options. In addition, his described physical exam of the foot
18 was adequate. When asked to interpret X-ray images during the
19 interviews, Dr. Mozena demonstrated acceptable ability.
20

21 However, Dr. Mozena's conveyed knowledge was inadequate in several
22 areas. For example, he was not accurate regarding the signs and
23 symptoms of plantar fasciitis[,] nor was he able to discuss current
24 treatment options. Dr. Mozena did not demonstrate thorough knowledge
25 of management for patients with paresthesias. Dr. Mozena did not
26 demonstrate the ability to adequately interpret lab findings when presented
27 with a hypothetical patient with multiple lab abnormalities. Additionally,
28 he was not current regarding the indications for imaging modalities. He
29 did not provide an appropriate discussion regarding the care of a patient
30 with a diabetic foot infection.
31

32 Dr. Mozena was also out of date in the area of pharmacology. * * *. He
33 was not aware of antibiotic options for diabetic foot infection treatment[.]
34

35 Some of the medical knowledge needs identified by the consultants also
36 had implications related to clinical judgment[.]
37

38 (Ex. A4 at 5-6.)
39

40 27. CPEP made the following "Assessment Findings" with regard to Dr. Mozena's
41 clinical judgment and reasoning:
42

43 [D]r. Mozena demonstrated clinical judgment and reasoning that was
44 inadequate. This may be due to an overlap regarding the above described
45 knowledge deficits[.]
46

47 ///

1 Dr. Mozena demonstrated variable clinical judgment and reasoning in
2 certain areas. * * *. While he did recognize his limitations and
3 appropriately considered use of consultants, he did so in areas of expected
4 knowledge for the practicing podiatrist. * * *. He displayed variable
5 judgment regarding his information gathering skills. * * * [For example,]
6 when discussing bunions, important information was omitted during Dr.
7 Mozena's data acquisition.
8

9 The consultants opined that Dr. Mozena required significant prompting to
10 allow him to provide adequate responses to scenarios. This could be due
11 to his time out of practice. He lacked the ability to appropriately
12 formulate structured differential diagnosis. In addition, he was not able to
13 adequately recognize the acuity of an illness and develop appropriate
14 plans. For example, he did not recognize the patient discussed above with
15 a diabetic foot infection was seriously ill and required hospitalization[.]
16

17 (Ex. A4 at 7.)
18

19 28. CPEP recommended that Dr. Mozena undergo a comprehensive health evaluation
20 with a psychiatrist experienced in dealing with healthcare providers. The purpose of such an
21 evaluation would be to determine his readiness to return to practice and to appropriately monitor
22 any conditions that might affect his ability to practice or remediate his deficits. (*Id.*)
23

24 29. CPEP made the following educational recommendations:
25

26 Dr. Mozena demonstrated a significant number of educational needs[,]
27 particularly in the inpatient and surgical settings. It is CPEP's opinion that
28 an attempt at supervised remedial education would be appropriate within
29 the limited scope of an outpatient setting. However, it is CPEP's opinion
30 that Dr. Mozena requires retraining in a post graduate program were he to
31 pursue inpatient and/or surgical podiatry. * * *.
32

33 The following educational recommendations provide the foundation for
34 the Educational Intervention in the outpatient setting. * * *.
35

- 36 • Point of Care (PoC) Experience: Dr. Mozena should participate in a
37 clinical experience to provide the necessary support and supervision
38 required as he addresses the areas of demonstrated need:
 - 39 ○ In the outpatient setting, Dr. Mozena should *initially* precept all
40 patients with an onsite preceptor, prior to directing the disposition
41 of the patient (prior to treatment, transfer, or discharge) to discuss
42 data collection, diagnostic considerations and conclusions, and
43 management:
 - 44 ■ For outpatient procedures, Dr. Mozena should initially have
45 direct supervision.

46 ///
47

- 1 • Educational Preceptor: Dr. Mozena should establish a relationship with
2 an experienced educational preceptor in podiatry. This involves regularly
3 scheduled meetings to review cases and documentation, discuss decisions
4 related to those cases, review specific topics, and make plans for future
5 learning. The preceptor serves as an educator and is not intended to
6 function as a practice monitor.
7
- 8 • Continuing Education and Self-Study: Dr. Mozena should engage in
9 course and self-study which include, but are not limited to, the topics
10 indicated in areas of demonstrated need:
 - 11 ○ Complete a comprehensive course review in podiatry, including
12 pharmacology and imaging, prior to beginning direct patient care
13 activities.
14
- 15 • Documentation course.
- 17 • Communications coaching from a preceptor or communication
18 professional.
19

20 (Ex. A4 at 2-3; emphasis in original.)
21

22 30. On May 31, 2012, forensic psychiatrist Scott Reichlin, MD, evaluated Dr. Mozena at
23 the Board's request. The evaluation consisted of a four-hour interview with Dr. Mozena, a
24 review of treatment records and other documentation,¹¹ and telephone conferences with Dr.
25 Turner and Mr. Urlwyler. (Ex. A5; test. of Reichlin.)
26

27 31. In a telephone conference on July 5, 2012, Dr. Turner informed Dr. Reichlin that,
28 with respect to Dr. Turner's June 20, 2011 progress note, he [Dr. Turner] believed that Dr.
29 Mozena was capable of practicing as he had done for the past approximately 10 years. Dr.
30 Turner admitted to Dr. Reichlin that he did not know much about podiatry, that he did not really
31 understand the distinction between pedorthics and podiatry, and that he had "conflated" the two
32 professions in his mind. (Ex. A5 at 9-11; test. of Reichlin.) When discussing Dr. Mozena's
33 treatment records, Dr. Reichlin perceived that Dr. Turner had either forgotten about or was not
34 aware of some significant events, such as Dr. Mozena stopping his medications in December
35 2008, Dr. Mozena being hospitalized in Seattle in 2009, and Dr. Mozena stopping his
36 medications in September 2009. (Test. of Reichlin.)
37

38 32. On July 6, 2012, Dr. Reichlin had a telephone conference with Mr. Urlwyler. (Ex.
39 A5 at 9, 11.) Dr. Reichlin's notes with regard to that conference state, in part:
40

41 [I]nitially Dr. Mozena said he wanted to discuss his relationship issues.
42 However, it became apparent that he was not interested in any kind of
43 psychotherapy, in that he did not want to talk about his feelings or
44 thoughts, and the therapist began to see this treatment as "case
45

46 ¹¹ See Exhibit A5 at pages 8 and 9 for a full list of the records, notes, reports, and correspondence Dr.
47 Reichlin reviewed.

1 management” in concert with the work of the psychiatrist. In that capacity
2 the meetings are the same frequency as with the doctor, about once every
3 three to six months, and the subjects discussed are concrete life goals and
4 not mental health symptoms or other psychological topics. * * * Dr.
5 Mozena doesn’t talk about his mental symptoms even when he is
6 emotionally stable. He’s interested in going along with a “plan,” such as
7 taking medications and seeing the doctor, but he does not respond to
8 probing questions. * * * * *

9
10 (*Id.* at 11; test. of Dr. Reichlin.)

11
12 33. In a written report dated July 9, 2012, Dr. Reichlin noted the following with respect
13 to his interview with Dr. Mozena:

14
15 Whenever our conversation turned to his mental health needs and concerns
16 he was scarcely able to provide an accurate account. He understood
17 globally that the [B]oard wanted him to be competent to practice and
18 wants the public to be protected, and that in his case he had been
19 hospitalized in psychiatric hospitals in Portland and that the problem has
20 been “stress.” * * *.

21
22 When I asked him to explain the mental problem that might concern the
23 Board his answer started with a summary of his professional interest and
24 education, and ended with, “then, in 1997 I got stressed out, made a poor
25 decision, and [it] has been [like that] ever since.” With prompting he
26 added that he had “lots of suicidal thoughts through the years.”

27
28 I asked many more questions about his mental history; usually he started
29 talking about his work, or something else. Asked about what symptoms
30 he has experienced, he said, “Stressed out. Anxiety, maybe, some
31 paranoia in the past, some sadness, when I quit the second practice I was
32 quite sad.” I asked him specifically about paranoia, and he talked about a
33 man selling marionettes who “spooked” him. He said he became afraid
34 the man was watching him, but then he denied being afraid.

35
36 He acknowledged having “lots of suicidal thought through the years.”
37 However, he did not link his suicide risk to his mental state and strove to
38 downplay its seriousness[.]

39
40 * * * * *

41
42 He said he felt that currently his mental condition is stable. Asked what to
43 do if something went wrong he said he would call his doctor or “Charley”
44 (his social worker). I asked what message he would give them, and he
45 said “too much stress.” I asked him if he had a plan to deal with stress; he
46 ///
47

1 said he wants to have a “balanced life, a limited work day with set hours,
2 let it go to ER, my time to have a life. Maybe get married again.” * * *
3

4 (Ex. A5 at 5-6.)
5

6 34. At the time of the evaluation, Dr. Mozena informed Dr. Reichlin that he was taking
7 Sertraline, 100 mg, twice per day, and an unknown dose of Ziprasidone once a day. Dr. Turner
8 confirmed to Dr. Reichlin, in July 2012, that Dr. Mozena was in fact taking 100 mg of Sertraline
9 once per day and 40 mg of Ziprasidone twice per day. (Ex. A5 at 7.)
10

11 35. Dr. Reichlin diagnosed Dr. Mozena with Bipolar I Disorder, severe with psychotic
12 features, in partial remission. Dr. Reichlin noted in his written report that Dr. Mozena also has
13 avoidant and dependent personality traits. (Ex. A5 at 1; test. of Reichlin.) Personality traits
14 affect how a person copes with problems and how that person tends to run his or her life. When
15 a psychiatrist speaks of avoidance, the psychiatrist is typically referring to a person avoiding “a
16 full understanding of [his or her] own emotional issues * * *—basically, avoiding emotional
17 pain.” (Test. of Reichlin.) Dr. Reichlin opines that Dr. Mozena’s avoidant tendencies interact
18 with his Bipolar I disorder and contribute to Dr. Mozena’s lack of awareness regarding, and poor
19 insight into, his mental condition. (*Id.*)
20

21 36. At the time of the evaluation, Dr. Reichlin assessed Dr. Mozena’s insight into his
22 mental illness as “quite superficial, significantly superficial, to the extent that I think it would
23 constitute a problem in his ability to maintain emotional stability.” (Test. of Dr. Reichlin.)
24

25 37. In his report, Dr. Reichlin made the following conclusions:
26

27 Dr. Mozena has a serious, chronic mental disorder that has recurrent
28 episodes. When he becomes symptomatic there is a danger, based on his
29 history, that he can be psychotic, actively disturbed (seriously depressed
30 and possibly manic), and behaviorally agitated. In the past he has been
31 hyperreligious, suicidal, and paranoid, and these symptoms affect his
32 judgment.
33

34 In the past he has been well stabilized using psychiatric medications for
35 periods of time, and at the time of this evaluation he was stable. However,
36 without consulting with doctors he has frequently made changes in his
37 medications, either by changing doses or discontinuing medications
38 altogether.
39

40 There is a consistent pattern over the course of his psychiatric contact,
41 during the last 15 or more years, that he maintains woefully inadequate
42 insight about his mental illness. This has caused him to make poor
43 decisions about his mental health care and to disregard the advice he
44 receives from his doctors. These problems contribute to his relatively low
45 social and occupational functioning.
46

47 ///

1 Largely as a result of his poor insight, the next time his mental health
2 deteriorates there will not likely be a safety net or an adequate plan to
3 avoid dangerous pitfalls. He has no realistic plan to deal with stress in the
4 future.

5
6 Other than a relatively stable period from 1988 to 1996, his professional
7 history suggests that working as a podiatrist has been stressful enough for
8 him to suffer mental decompensations as a result.

9
10 Taking into account his age,¹² length of illness, personality, and history of
11 contacts with many mental health professionals, the likelihood is low that
12 he will gain insight into his mental illness to the extent that it will improve
13 his ability to absorb a deterioration without severe functional
14 consequences.

15
16 (Ex. A5 at 2.)

17
18 38. In his written report, Dr. Reichlin made the following recommendations for
19 monitoring:

20
21 As a practicing podiatrist [Dr. Mozena] would have to work as an
22 independent professional and keep adequate trac[k] of his mental health
23 condition to prevent a deterioration that might injure patients. It is
24 unlikely he could do this, and there is no external monitoring that can
25 realistically make up for his failings in this area.

26
27 (Ex. A5 at 2-3.)

28
29 39. There is a general expectation that a licensed physician, of any type, possesses a
30 certain level of judgment. Physicians are entrusted to employ this judgment when providing care
31 to patients. When a person with a mental illness becomes symptomatic, or begins to become
32 symptomatic, the person's judgment is likely to become faulty. Dr. Reichlin has serious
33 concerns about Dr. Mozena's current ability to practice medicine safely because of the risk of
34 Dr. Mozena becoming symptomatic—perhaps unpredictably and without Dr. Mozena or anyone
35 else being aware of it. When Dr. Mozena has become symptomatic in the past, he has at times
36 become manic as well as psychotic. Dr. Reichlin opines that the unreliability that comes with
37 being in a manic and/or psychotic state would make practicing medicine "quite difficult" for Dr.
38 Mozena. (Test. of Reichlin.)

39
40 40. If Dr. Mozena obtains his podiatry license, his patients would include elderly and
41 diabetic patients. Some patients are unaware that they have diabetes, and Dr. Mozena would,
42 among other things, need to be capable of diagnosing that condition. There is a risk of harm to
43 patients if a condition such as diabetes goes untreated or is misdiagnosed. A diabetic patient
44 who does not receive a timely diagnosis could, for example, lose a foot. With a diabetic patient,
45

46
47 ¹² Dr. Mozena was 61 years old at the time of the evaluation. (Ex. A5 at 1.)

1 “clipping a little toenail can affect the whole body because * * * [if they bleed and] it gets
2 infected, they can lose their leg.” (Test. of Dr. Mozena.)
3

4 41. In a Progress Note Addendum dated June 20, 2011, Dr. Turner wrote, in part:
5

6 This addendum is to address [Mr. Mozena’s] request for a letter to [the]
7 Oregon Medical Board regarding his fitness to practice podiatry.
8

9 I have examined and evaluated Mr. Mozena today, and at the present time,
10 he indeed appears fit to practice podiatry.

11 (Ex. R51.)
12

13 42. Jon T. Fitzgerald, DPM, of the Lake Oswego Foot Clinic, has agreed to serve as a
14 mentor for Dr. Mozena during Dr. Mozena’s “application and credentialing process with the
15 Oregon Medical Board.” (Ex. R3.) In a letter dated August 8, 2012, Dr. Fitzgerald stated, in
16 part:
17

18 During this process I will be available to Dr[.] Mozena for discussion and
19 recommendations of medical issues as they relate to patient care as well as
20 issues relating to medical practice. My practice will be available to Dr[.]
21 Mozena as a resource should he need the access to a physical location with
22 an equipped office and staff.
23

24 Dr[.] Mozena is encouraged to call at any time for a second opinion or
25 assistance as needed. This may relate to patient care including general
26 medical problems or surgical considerations.
27

28 (*Id.*)
29

30 43. In February and March 2013, Dr. Mozena completed approximately 30 hours of
31 continuing education instructional media activities through the Ohio College of Podiatric
32 Medicine, Office of Institutional Advancement.¹³ (Exs. A6 through A47.) He looks forward to
33 continuing his studies in podiatry. (Test. of Dr. Mozena.)
34

35 44. On April 10, 2013, Dr. Mozena had a 25-minute office visit with Dr. Turner. (Ex.
36 R52.) In a Progress Note dated April 10, 2013, Dr. Turner wrote, in part:
37

38 [Mr. Mozena’s] [continued] mood stability and overall well-being would
39 be well-served by his being able to return to his chosen line of work in
40 ///
41
42

43 ¹³ Examples of topics include Foot Pathology – Specific Orthotics, Gait Analysis, The Basic
44 Biomechanical Exam, Triceps Surae Lengthening, Podiatric Dermatology, Biopsy Techniques,
45 Diagnosing Skin Cancer, Advanced Technology in Healing the Diabetic Foot Wound, Nutrition and
46 Diabetes, Strategies in Preventing Diabetic Amputations, and Imaging & Calcaneal Fracture Treatment.
47 (Exs. A6 through A43.)

1 podiatry. I have seen no evidence over the past 2+ years of any
2 difficulties that would interfere [with] his performing that kind of work.

3
4 (*Id.* at 2.)

5
6 45. In a written declaration dated April 15, 2013, Dr. Fitzgerald stated, in part:

7
8 I am willing and able to act as a professional mentor for Dr. Mozena. This
9 would include being available to him on a regular basis to answer any
10 podiatric-related questions he may have; to consult with him on patient
11 care; to guide him in the process of running a medical clinic; and/or to
12 refer him to other professional resources.

13
14 (Ex. R49.) Dr. Mozena does not plan to work in Dr. Fitzgerald's office. (Test. of Dr. Mozena.)
15 If Dr. Mozena obtains his podiatric license and begins practicing, he has the following plan in
16 place for procedures:

17
18 [*I*] thought that if I did something that was a procedure * * * like an
19 ingrown toenail, cut that out, I'd bring the patient to his office and have
20 him supervise.

21
22 (*Id.*)

23
24 46. Dr. Mozena actively participates in a Food Addicts 12-step program. As a member,
25 he is required to engage in three phone calls each day with other members, and to attend one
26 meeting each week. In the past year, he has lost approximately 122 pounds. (Test. of Dr.
27 Mozena.)

28
29 47. Dr. Mozena has a large, supportive family that includes his mother and seven
30 brothers and sisters. He talks daily with one or more family members. His brother, John, has
31 been a practicing podiatrist in Oregon for at least 20 years. (Test. of Dr. Mozena, P. Mozena.)

32
33 48. At hearing, in response to a question regarding whether and when he realized that he
34 needed to take his psychiatric medications as prescribed, Dr. Mozena stated:

35
36 I first came to the conclusion that I had to do what my doctor told me to
37 do. And that was my first conclusion. And then now as I start to reflect
38 on my life more and more, I'm starting to appreciate having a bipolar
39 illness that I'm going to have for a long time. It's just I don't think it's
40 going to go away, so I'm not going to stop taking my medicine.

41
42 (Test. of Dr. Mozena.) Despite Dr. Mozena's hearing testimony, Dr. Reichlin still believes that
43 Dr. Mozena has poor insight into his mental illness. In Dr. Reichlin's psychiatry practice, he has
44 heard "lots and lots of people" give answers similar to Dr. Mozena's (referenced above). Dr.
45 Reichlin believes that demonstrated change in a person's behavior and/or abilities is a more
46 reliable indicator of mental health insight than mere statements. (Test. of Reichlin.)

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CONCLUSIONS OF LAW

1. The Board may deny Dr. Mozena’s application for a license to practice as a podiatric physician in Oregon based on unprofessional or dishonorable conduct.

2. The Board may deny Dr. Mozena’s application for a license to practice as a podiatric physician in Oregon based on impairment.

3. The Board may assess the costs of the proceeding against Dr. Mozena.

OPINION

Denial of application for licensure

Under ORS 677.015, the Board is charged with protecting the public from the practice of medicine by unauthorized or unqualified persons.¹⁴ ORS 677.190 allows the Board to refuse to grant a license to practice in Oregon for any of several delineated reasons. The Board has proposed denying Dr. Mozena’s application for a license to practice as a podiatric physician based on the following provisions in ORS 677.190:

(1)(a) Unprofessional or dishonorable conduct.

* * * * *

(7) Impairment as defined in ORS 676.303.

As the proponent of the position that Dr. Mozena’s application should be denied, the Board has the burden of coming forward with reliable, probative, and substantial evidence to support its position. ORS 183.450(2) (“The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position”). If the Board meets its burden, then the burden shifts to Dr. Mozena to present reliable, probative, and substantial rebutting evidence. If he does so, then all credible evidence, and all reasonable and permissible inferences drawn from that evidence, are weighed to determine which propositions are more probably true than false. *See Metcalf v. AFSD*, 65 Or App 761, 765 (1983) (in the absence of legislation specifying a different standard, the standard of proof in an administrative hearing is preponderance of the evidence); *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987) (proof by a preponderance of the evidence means the fact finder is persuaded the facts asserted are more likely than not true).

¹⁴ ORS 677.015 provides:

Recognizing that to practice medicine is not a natural right of any person but is a privilege granted by legislative authority, it is necessary in the interests of the health, safety and welfare of the people of this state to provide for the granting of that privilege and the regulation of its use, to the end that the public is protected from the practice of medicine by unauthorized or unqualified persons and from unprofessional conduct by persons licensed to practice under this chapter.

1 1. *Alleged deficiencies in medical knowledge and clinical judgment*

2
3 ORS 677.190(1)(a) allows the Board to deny an application for licensure for
4 “unprofessional or dishonorable conduct.” With respect to the practice of podiatry, ORS
5 677.188(4)(a) states, in part, that “unprofessional or dishonorable conduct” includes:

6
7 [A]ny conduct or practice which does or might constitute a danger to the
8 health or safety of a patient or the public or any conduct, practice or
9 condition which does or might adversely affect a * * * podiatric physician
10 and surgeon’s ability safely and skillfully to practice * * * podiatry[.]

11
12 The Board contends that Dr. Mozena has “serious gaps in his medical knowledge and
13 judgment” and that he cannot therefore currently practice podiatric medicine safely and
14 skillfully. Board’s Final Closing Argument at 7. The Board relies on Dr. Mozena’s absence
15 from podiatric practice for the past 16 years and the deficiencies identified in the CPEP Report to
16 support its contention.

17
18 Dr. Mozena contends that his podiatric skills are either “adequate or readily achievable
19 through remediation.” Respondent’s Post-Hearing Brief at 1. To that end, he asserts that
20 “[n]othing in the record supports a conclusion that remedial education would not be sufficient to
21 address and resolve the Board’s concerns about [his] lack of current training.” *Id.* at 4. If
22 granted a license, Dr. Mozena intends to practice only outpatient podiatry, with no surgical
23 privileges.¹⁵ He contends that he plans to essentially continue the pedorthic work he capably
24 performed from 2003 to 2010 at the VA, with some additional outpatient podiatric procedures
25 (e.g. trimming nails, cutting out ingrown toenails).

26
27 First, the record establishes that Dr. Mozena has not practiced podiatry since 1997.
28 While his hearing testimony suggests that his work at the VA may have included some aspects of
29 podiatry, to the extent that his taking patient histories and conducting foot examinations at the
30 VA constituted the practice of podiatric medicine,¹⁶ such practice was unlicensed and may not

31
32 _____
33 ¹⁵ ORS 677.132(1) allows the Board to issue a “limited license” on a temporary basis under certain
34 circumstances, and provides, in part:

35 When a need exists, the Oregon Medical Board may issue a limited license for a
36 specified period to an applicant who possesses the qualifications prescribed by
37 the rules of the board. The board shall supervise the activities of the holder of a
38 limited license and impose such restrictions as it finds necessary. Each person
39 holding a limited license must obtain an unlimited license at the earliest time
40 possible. After such time the board shall refuse to renew a limited license at the
41 end of a specified period if it determines that the holder thereof is not pursuing
42 diligently an attempt to become qualified for a license.

43 Neither the Board nor Dr. Mozena referenced ORS 677.132, and there is no evidence that Dr. Mozena has
44 sought limited licensure under this particular provision.

45
46 ¹⁶ ORS 677.085(4) states that a person practices medicine if he or she “offer[s] or undertake[s] to
47 diagnose, cure or treat in any manner, or by any means, methods, devices or instrumentalities, any

1 now be counted as “experience” in assessing his current ability to safely and skillfully practice
2 podiatric medicine.
3

4 Second, the record establishes that an independent organization, CPEP, evaluated Dr.
5 Mozena to assess his medical competence and determined that he had “inadequate” clinical
6 judgment and reasoning and that his knowledge was “superficial in several areas and out of date
7 in others.” Exhibit A4 at 2. CPEP noted the following:
8

9 [H]e was not accurate regarding the signs and symptoms of plantar
10 fasciitis[,] nor was he able to discuss current treatment options. Dr.
11 Mozena did not demonstrate thorough knowledge of management for
12 patients with paresthesias. Dr. Mozena did not demonstrate the ability to
13 adequately interpret lab findings when presented with a hypothetical
14 patient with multiple lab abnormalities. Additionally, he was not current
15 regarding the indications for imaging modalities. He did not provide an
16 appropriate discussion regarding the care of a patient with a diabetic foot
17 infection.
18

19 Dr. Mozena was also out of date in the area of pharmacology. * * *. He
20 was not aware of antibiotic options for diabetic foot infection treatment[.]
21

22 Some of the medical knowledge needs identified by the consultants also
23 had implications related to clinical judgment[.]
24

25 * * * * *

26
27 Dr. Mozena demonstrated variable clinical judgment and reasoning in
28 certain areas. * * *. While he did recognize his limitations and
29 appropriately considered use of consultants, he did so in areas of expected
30 knowledge for the practicing podiatrist. * * *. He displayed variable
31 judgment regarding his information gathering skills. * * * [For example,]
32 when discussing bunions, important information was omitted during Dr.
33 Mozena’s data acquisition.
34

35 * * * * *. He lacked the ability to appropriately formulate structured
36 differential diagnosis. In addition, he was not able to adequately
37 recognize the acuity of an illness and develop appropriate plans. For
38 example, he did not recognize the patient discussed above with a diabetic
39 foot infection was seriously ill and required hospitalization[.]
40

41 *Id.* at 5-7.
42

43 With regard to practicing in the outpatient podiatric setting, CPEP recommended that Dr.
44 Mozena undertake supervised remedial education, which would initially include an *onsite*
45

46 disease, illness, pain, wound, fracture, infirmity, deformity, defect or abnormal physical or mental
47 condition of any person.”

1 preceptor (“Dr. Mozena should initially precept all patients with an onsite preceptor, prior to
2 directing the disposition of the patient * * * to discuss data collection, diagnostic considerations
3 and conclusions, and management.”) Exhibit A4 at 2-3; emphasis omitted. For outpatient
4 procedures, CPEP recommended that Dr. Mozena initially have direct supervision, and that he
5 have an educational preceptor (different from a practice monitor) to regularly review cases and
6 documentation, discuss specific topics, and plan for future learning. CPEP also recommended
7 that he engage in continuing education and self-study.
8

9 Dr. Mozena demonstrated through his testimony, as well as through Exhibits A6 through
10 A47, that he is ready and willing to pursue educational coursework relating to the practice of
11 podiatry. In addition, Dr. Mozena has enlisted an established podiatrist, Dr. Fitzgerald, to serve
12 as a practice mentor to him in the event the Board grants Dr. Mozena’s request for licensure. Dr.
13 Fitzgerald would be regularly available to Dr. Mozena to discuss medical issues, patient care,
14 and medical clinic matters, but Dr. Fitzgerald would not be onsite to directly supervise Dr.
15 Mozena’s patient interactions. However, Dr. Mozena would have Dr. Fitzgerald directly
16 supervise any medical procedures Dr. Mozena performs (such as cutting out an ingrown toenail).
17 Dr. Mozena’s brother, John, a practicing Oregon podiatrist, is also an available podiatric
18 resource to Dr. Mozena.
19

20 Even given Dr. Mozena’s enthusiasm for practicing podiatric medicine, his willingness to
21 engage in remedial education, his procurement of a podiatric mentor, and his assertions that he
22 wants to continue performing essentially pedorthic work, the evidence nonetheless establishes,
23 more likely than not, that Dr. Mozena’s prolonged absence from the podiatry field and his
24 demonstrated deficiencies in medical knowledge, judgment, and reasoning render him *currently*
25 unable to safely and skillfully practice podiatry, even in a restricted capacity. That Dr. Mozena
26 might *at some future time* be able to remedy some or all of the deficiencies that he currently has
27 is not sufficient to establish that he is presently qualified and therefore able to safely and
28 skillfully practice podiatry. Thus, under ORS 677.190(1)(a) and ORS 677.188(4)(a), the Board
29 may deny his application for licensure.
30

31 2. *Alleged impairment*

32

33 ORS 677.190(7) allows the Board to deny an application for licensure for “impairment.”
34 ORS 676.303(1)(b) defines “impairment,” in part, as “an inability to practice with reasonable
35 competence and safety due to * * * a mental health condition.”
36

37 The record establishes that Dr. Mozena has a serious mental illness—bipolar disorder—
38 and that between 1986 and 2010, he was hospitalized for mental health issues, or he at least
39 presented to an emergency room with mental health symptoms, 11 times.¹⁷ He currently takes
40 Ziprasidone to manage the symptoms of his illness.
41

42
43
44 ¹⁷ This includes two occasions in 1986, once in 1987, once in 1997, once in 1998, twice in 2001 (both
45 admissions were involuntary, with the second admission resulting in civil commitment), once in 2002,
46 twice in 2009 (one admission was involuntarily), and once in approximately 2010. (See Exs. A2, A5;
47 test. of Dr. Mozena.)

1 The Board contends that Dr. Mozena cannot practice podiatric medicine with reasonable
2 competence and safety because he lacks insight into his bipolar disorder and he “has not
3 participated in the type of therapy that would help him gain that insight.” Final Closing
4 Argument at 7. To support its contention, the Board relies primarily on Dr. Reichlin’s evaluation
5 and opinions.
6

7 Dr. Mozena argues that the Board may not deny him licensure, pursuant to ORS
8 677.190(7), based on an “unsupported fear that he may one day do something to endanger a
9 patient.” Respondent’s Post-Hearing Brief at 9. He argues that, even when symptomatic, he has
10 never posed a danger to his patients or to the public and the Board has no evidence that he would
11 do so in the future. He further argues that he now recognizes his mental illness and the fact that
12 he must take his medications to remain symptom-free. To support his arguments, he relies on the
13 opinion of his treating psychiatrist, Dr. Turner, the testimony of his brother, Peter Mozena, and
14 the fact that he (Dr. Mozena) has not had a mental health crisis since 2010.
15

16 Whether Dr. Mozena lacks insight into his mental illness is significant in determining
17 whether he lacks the ability to practice podiatric medicine with reasonable competence and
18 safety. The record establishes that he has historically lacked insight into his condition, as
19 evidenced by his decisions on several occasions to stop taking his psychiatric medications, or to
20 change the dosage, without first discussing those actions with his psychiatrist. Moreover, Dr.
21 Mozena admitted at hearing that he previously failed to understand his illness, the fact that it was
22 not going to go away, and the fact that he needed medication to manage it.
23

24 As recently as May 2012, when Dr. Reichlin evaluated Dr. Mozena at the Board’s
25 request, Dr. Mozena failed to recognize or appreciate that he had been psychotic and suicidal
26 during a three-day involuntarily hospitalization in April 2009. When describing that
27 hospitalization to Dr. Reichlin, Dr. Mozena stated, in part:
28

29 I checked into psych because I was getting sick . . . thought it was a heart
30 attack. Went to ER, they didn’t do anything, I walked around the hospital,
31 wanted to come in and they admitted me. Then I checked out a few days
32 later. [In response to the question: In what way sick?] Sick . . . not only
33 chest pain but really sick at the time. Stress . . . I thought I checked
34 myself in, problems, walking halls, not knowing what to do, crying.
35

36 Exhibit A5 at 6. Following his explanation, Dr. Mozena denied to Dr. Reichlin that he was
37 psychotic or suicidal at the time, despite medical records stating that he was suicidal, and that he
38 required seclusion for some portion of his hospitalization. *See id.* at 11.
39

40 After conducting the independent mental health evaluation, Dr. Reichlin concluded that
41 Dr. Mozena had “woefully inadequate insight” regarding his mental illness. Exhibit A5 at 2. Dr.
42 Mozena further opined:
43

44 Largely as a result of his poor insight, the next time his mental health
45 deteriorates there will not likely be a safety net or an adequate plan to
46 ///
47

1 avoid dangerous pitfalls. He has no realistic plan to deal with stress in the
2 future.

3
4 * * * * *

5
6 Taking into account his age [of 61], length of illness, personality, and
7 history of contacts with many mental health professionals, the likelihood
8 is low that he will gain insight into his mental illness to the extent that it
9 will improve his ability to absorb a deterioration without severe functional
10 consequences.

11 *Id.*

12
13
14 At hearing, Dr. Mozena testified that he now recognizes that he has bipolar disorder and
15 that his illness is not going to go away. He further testified that, given these considerations, he
16 will not stop taking his medications. However, when testifying at hearing about past
17 hospitalizations or emergency room visits (which were more likely than not related to mental
18 health issues), Dr. Mozena tended to speak in generalities about “health issues,” being “sick,” or
19 having “stress,” and he sometimes cited to physical complaints as the basis for the visits (*e.g.*
20 heart trouble, chest pain, abdominal pain). In addition, with regard to an emergency room visit
21 in Tallahassee, Florida in approximately 2010, he testified that he went to the emergency room
22 because he had no money and nowhere else to go. He neither suggested nor admitted at hearing
23 that the visit was related to mental health issues. The record, however, supports the conclusion
24 that he was experiencing a mental health crisis at the time.

25
26 Despite Dr. Mozena’s hearing testimony, Dr. Reichlin’s believes that Dr. Mozena
27 continues to lack insight into his mental illness. Dr. Reichlin asserts that Dr. Mozena’s use of
28 “buzz words” at hearing such as “sick,” “ill” or “stressed” when discussing his mental health
29 history demonstrates that Dr. Mozena continues to view his mental health issues in a global way.
30 Dr. Reichlin opines that Dr. Mozena’s avoidant tendencies interact with his bipolar disorder and
31 contribute to his lack of awareness and insight. Dr. Reichlin describes Dr. Mozena’s current
32 level of insight as “quite superficial, significantly superficial, to the extent that I think it would
33 constitute a problem in his ability to maintain emotional stability.” Testimony of Reichlin.

34
35 The record establishes that bipolar disorder primarily affects the emotions. Dr. Reichlin
36 opines that Dr. Mozena’s emotional stability would be more reliably maintained if he engaged in
37 frequent psychotherapy that explored his emotional life, his emotional changes, and the things
38 that have historically proven problematic to his emotional state. However, Dr. Mozena has thus
39 far shown an inability and/or an unwillingness to fully engage in such therapy. Since 2010, he
40 has shown little interest in engaging in psychotherapy, or in talking about his feelings and
41 thoughts, with therapist Urlwyler. His infrequent sessions with Urlwyler are little more than
42 “case management” sessions that augment medication management performed by psychiatrist
43 Turner.

44
45 Dr. Turner has provided no opinion on the specific issue of whether Dr. Mozena
46 possesses insight into his mental illness. Dr. Turner has, however, twice provided opinions on
47

1 Dr. Mozena's general mental fitness to practice podiatry. In a Progress Note Addendum dated
2 June 20, 2011, Dr. Turner wrote, in part, "I have examined and evaluated Mr. Mozena today, and
3 at the present time, he indeed appears fit to practice podiatry." Exhibit R51. In a Progress Note
4 dated April 10, 2013, Dr. Turner wrote, in part, that Dr. Mozena's "[continued] mood stability
5 and overall well-being would be well-served by his being able to return to his chosen line of
6 work in podiatry. I have seen no evidence over the past 2+ years of any difficulties that would
7 interfere [with] his performing that kind of work." Exhibit R52 at 2. As Dr. Mozena's treating
8 psychiatrist for more than 10 years, Dr. Turner's opinions as to Dr. Mozena's work fitness might
9 be entitled to more weight than Dr. Reichlin's opinions if Dr. Turner's opinions were based on
10 reliable information and if they were well-explained and well-reasoned.
11

12 However, the record does not demonstrate that Dr. Turner's opinions should be accorded
13 greater weight than Dr. Reichlin's. First, the record establishes that for some time now, Dr.
14 Mozena has seen Dr. Turner no more than four times per year. Second, the visits do not involve
15 "talk" therapy, but rather they focus on the management of Dr. Mozena's medication (including
16 clarification of symptoms, discussion of any medication side effects). Third, when rendering his
17 opinions, Dr. Turner did not understand the difference between podiatry and pedorthics, and he
18 conflated the work Dr. Mozena had been doing at the VA with the practice of podiatry. Fourth,
19 more likely than not, Dr. Turner did not remember (or was not aware of) Dr. Mozena stopping
20 his medications in 2008, becoming hospitalized in Seattle in 2009, and stopping his medications
21 in September 2009 when he rendered his opinions on Dr. Mozena's fitness to practice podiatry.
22 Fifth, Dr. Turner's opinions are not well-explained or well-reasoned. The June 20, 2011
23 progress note addendum simply states, in conclusory fashion, that Dr. Turner examined Dr.
24 Mozena and that Dr. Mozena appears fit to practice podiatry. While the April 10, 2013 progress
25 note contains slightly more information, it still does not explain what type of evaluation Dr.
26 Turner conducted on April 10, 2013 to reach his conclusion (or, indeed, whether he conducted
27 any sort of evaluation at all). For these reasons, Dr. Turner's opinions regarding Dr. Mozena's
28 ability to perform podiatric medicine is not accorded significant weight, and certainly not greater
29 weight than Dr. Reichlin's opinions.
30

31 Based on the medical documentation in the record, Dr. Mozena's hearing testimony, and
32 the well-explained and well-reasoned opinions of Dr. Reichlin, the Board concludes, more likely
33 than not, that Dr. Mozena lacks insight into his bipolar disorder. This, combined with his lack of
34 engagement in meaningful psychotherapy and the recurrent nature of his illness, puts him at
35 significant risk of experiencing a future mental health deterioration, perhaps unpredictably and
36 without him or anyone else being immediately aware of it.¹⁸
37

38 While there is no evidence that Dr. Mozena has ever become violent or a danger to others
39 when experiencing a manic episode or other mental health deterioration, his past symptoms
40 include depression, mania, psychosis, hyperreligious fixation, suicidal ideation, and paranoia—
41 all symptoms that may profoundly compromise his judgment. The practice of medicine and the
42 provision of patient care rely heavily on professional judgment, and the lack thereof poses a
43 danger to patients. As Dr. Mozena himself testified at hearing, "clipping a little toenail can
44

45 ¹⁸ While the record establishes that Dr. Mozena engages in a 12-step food addiction program and that he
46 has a large, supportive family with whom he frequently communicates, such support is nonetheless
47 insufficient to negate the significant risk of Dr. Mozena experiencing a future mental health deterioration.

1 affect the whole body” of a diabetic patient because of the risk that one cut could lead to an
2 infection, and subsequently to the loss of the foot. Testimony of Dr. Mozena.

3
4 Given the above, the ALJ concluded in the Proposed Order, and the Board now
5 concludes, that the record has established by a preponderance of the evidence that Dr. Mozena is
6 unable to safely practice podiatric medicine with reasonable competence and safety due to his
7 bipolar disorder. The Board may therefore deny his application for licensure pursuant to ORS
8 677.190(7) and 676.303(1)(b).

9
10 **Costs of Proceedings**

11
12 Under ORS 677.265, the Board may, in addition to denying an application for licensure,
13 assess the costs of proceedings to the applicant. ORS 677.265 provides, in part:

14 [T]he Oregon Medical Board may:

15 * * * * *

16
17
18 (2) Issue, deny, suspend and revoke licenses and limited licenses, assess
19 costs of proceedings and fines and place licensees on probation as
20 provided in this chapter.
21

22
23 The Board has established sufficient grounds for denial of Dr. Mozena’s application for
24 licensure. Pursuant to ORS 677.265(2), it is within the scope of the Board’s authority to assess
25 the costs of the proceeding.

26
27 **FINAL ORDER**

28
29 The Oregon Medical Board issues the following order:

30
31 Joseph Michael Mozena’s application for a license to practice as a podiatric physician in
32 Oregon is denied. In addition, Dr. Mozena is assessed the costs of this hearing, as set forth in the
33 Addendum to Final Order – Bill of Costs. Costs shall be due within 90 days from the date the
34 Board issues its Bill of Costs.

35
36
37 DATED this 3rd day of October, 2013.

38
39 OREGON MEDICAL BOARD
40 State of Oregon

41
42 SIGNATURE REDACTED

43
44 ROGER M. MCKIMMY, MD
45 Board Chair
46
47

APPEAL

If you wish to appeal the final order, you must file a petition for review with the Oregon Court of Appeals within 60 days after the final order is served upon you. *See* ORS 183.480 et seq.

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CERTIFICATE OF MAILING

On October 8, 2013 I mailed the foregoing Final Order regarding Joseph Michael Mozena, DPM, to the following parties:

By: First Class and Certified Mail

Certified Mail Receipt # 7013 1090 0001 2845 3651

Joseph Mozena, DPM
PO Box 86034
Portland, OR 97286

By: First Class and Certified Mail

Certified Mail Receipt # 7013 1090 0001 2845 3644

Andrea Coit
Attorney at Law
Harrang Long Gary Rudnick PC
360 E 10th Ave Ste 300
Eugene OR 97401

By: First Class Mail

Warren Foote
Senior Assistant Attorney General
Department of Justice
1162 Court St NE
Salem OR 97301

Beverly Loder
Investigative Assistant

BEFORE THE
OREGON MEDICAL BOARD
STATE OF OREGON

In the Matter of:)
)
JOSEPH MICHAEL MOZENA, DPM) ADDENDUM TO FINAL
License No. DP00154) ORDER - BILL OF COSTS
)

1.

On October 3, 2013, the Oregon Medical Board issued a Final Order in the matter of Joseph Michael Mozena, DPM. In this Order, Dr. Mozena was assessed the costs related to his Contested Case Hearing held on April 24, 2013. This payment is due within 90-days from the date this Bill of Costs is signed by the Board's Executive Director.

2.

The state of Oregon, by and through the Oregon Medical Board, claims costs related to the April 24, 2013, Contested Case Hearing in the above-captioned case as follows:

Total Department of Justice costs:		\$4,343.80
AAG hours - 25.40 hrs @ \$143/hr	3,432.00	
AAG hours - 1.4 hrs @ \$159/hr	222.60	
Paralegal - 8.2 hrs @ \$79.00/hr	647.80	
Motor Pool	41.40	
Total Office of Administrative Hearings (OAH) costs:		\$6,690.87
OAH Direct charges	3,708.28	
OAH Administrative charges	2,982.59	
Security		\$ 200.00
Court Reporter Appearance - Synergy Corporation		<u>\$ 696.40</u>
TOTAL COSTS DUE:		\$11,931.07

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BEFORE THE
OREGON MEDICAL BOARD
STATE OF OREGON

In the Matter of)
JAE OK PARK, MD) INTERIM STIPULATED ORDER
LICENSE NO. MD13752)
)

1.

The Oregon Medical Board (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including physicians, in the state of Oregon. Jae Ok Park, MD (Licensee) is a licensed physician in the state of Oregon and holds an active medical license.

2.

The Board received credible information regarding Licensee that resulted in the Board initiating an investigation. The results of the Board's investigation to date have raised concerns to the extent that the Board believes it necessary that Licensee agree to certain terms until the investigation is completed.

3.

In order to address the Board's concern, Licensee and the Board agree to the entry of this Interim Stipulated Order, which will remain in effect while this matter remains under investigation, and provides that Licensee shall comply with the following conditions:

3.1 Licensee must immediately cease the prescribing of all scheduled controlled substances.

3.2 For a period not to exceed 30 days from the signing of this order, Licensee may authorize one (1) refill prescription for pain medication for existing patients for no more than 30 days of such medication. Licensee may not increase the dosage of controlled substances or issue any new prescriptions of controlled substances for existing patients.

1 as evidence in any judicial proceeding. However, as a stipulation this Order is a public document
2 and is reportable to the National Databank and the Federation of State Medical Boards.
3

4 IT IS SO STIPULATED THIS 23rd day of September, 2013.
5

6 **SIGNATURES REDACTED**

7 _____
JAE OK PARK, MD

8 IT IS SO ORDERED THIS 23rd day of September, 2013.
9

10 OREGON MEDICAL BOARD
11 State of Oregon

12 **SIGNATURES REDACTED**

13 _____
14 KATHLEEN HALEY, JD
EXECUTIVE DIRECTOR

1 medication and/or Suboxone for existing patients for no more than thirty (30) days of such
 2 medications. Licensee may not increase the dosage of controlled substances for existing patients
 3 during the transition to new care providers.

4 3.3 Licensee understands that violating any term of this Order will be grounds for
 5 disciplinary action under ORS 677.190(17).

6 3.4 Licensee understands this Order becomes effective at 5:00 pm on the date that he
 7 signs this Order.

8 4.

9 At the conclusion of the Board's investigation, the Board will decide whether to close the
 10 case or to proceed to some form of disciplinary action. If the Board determines, following that
 11 review, not to lift the requirements of this Order, Licensee may request a hearing to contest that
 12 decision.

13 5.

14 This order is issued by the Board pursuant to ORS 677.410, which grants the Board the
 15 authority to attach conditions to the license of Licensee to practice medicine. These conditions
 16 will remain in effect while the Board conducts a complete investigation in order to fully inform
 17 itself with respect to the conduct of Licensee. Pursuant to ORS 677.425, Board investigative
 18 materials are confidential and shall not be subject to public disclosure, nor shall they be admissible

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1 as evidence in any judicial proceeding. However, as a stipulation this Order is a public document
2 and is reportable to the National Databank and the Federation of State Medical Boards.

3 IT IS SO STIPULATED THIS 24 day of SEPTEMBER, 2013.

4
5 SIGNATURES REDACTED

6 THOMAS JOHN PURTZER, MD

7 IT IS SO ORDERED THIS 25th day of September, 2013.

8
9 OREGON MEDICAL BOARD
10 State of Oregon

11 SIGNATURES REDACTED

12
13 KATHLEEN BALET, JD
EXECUTIVE DIRECTOR

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BEFORE THE
OREGON MEDICAL BOARD
STATE OF OREGON

In the Matter of)
MICHAEL TRUMAN ROBINSON, DO) ORDER TERMINATING
LICENSE NO. DO10555) CORRECTIVE ACTION AGREEMENT
)

1.

On July 12, 2012, Michael Truman Robinson, DO (Licensee) entered into a Corrective Action Agreement with the Oregon Medical Board (Board). This Agreement placed conditions on Licensee's Oregon license. On July 31, 2013, Licensee submitted documentation that he has successfully completed all terms of this Agreement and requested that this Agreement be terminated.

2.

The Board has reviewed the documentation submitted by Licensee and has determined that Licensee has successfully complied with all of the terms of this Agreement. The Board terminates the July 12, 2012, Corrective Action Agreement, effective the date this Order is signed by the Board Chair.

IT IS SO ORDERED this 3rd day of October, 2013.

OREGON MEDICAL BOARD
State of Oregon

SIGNATURE REDACTED

ROGER M. MCKIMMY, MD
Board Chair

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BEFORE THE
OREGON MEDICAL BOARD
STATE OF OREGON

In the Matter of)
ELIZABETH VANDERVEER, MD) STIPULATED ORDER
LICENSE NO. MD23287)

1.

The Oregon Medical Board (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including physicians, in the state of Oregon. Elizabeth VanderVeer, MD (Licensee) holds an active license to practice medicine in the state of Oregon

2.

On August 8, 2013, the Board issued a Complaint and Notice of Proposed Disciplinary Action in which the Board proposed taking disciplinary action by imposing up to the maximum range of potential sanctions identified in ORS 677.205(2), to include the revocation of license, a \$10,000 fine, and assessment of costs, pursuant to ORS 677.205 against Licensee for violations of the Medical Practice Act, to wit: ORS 677.190(1)(a) unprofessional or dishonorable conduct, as defined by ORS 677.188(4)(a), (b) and (c); ORS 677.190(9) making statements that the licensee knows, or with the exercise of reasonable care should know, are false or misleading regarding skill or efficacy or value of the medicine, treatment or remedy prescribed or administered; and ORS 677.190(13) gross or repeated negligence.

3.

Licensee is an internist, and is the president and medical director of the VanderVeer Center, a cosmetic medical center in Portland. Licensee's acts and conduct that violated the Medical Practice Act are:

///

1 3.1 Licensee advertises a weight loss program at her clinic that uses human chorionic
2 gonadotropin (hCG)¹ in her trademarked weight loss program called "Detox Diet for Doers."
3 On and between the years 2010 - 2012, the Licensee's weight loss program consisted of a 500
4 calorie a day specific diet² and daily injections of hCG, with a standard dose of 150 IU, which
5 her patients self-administered over the course of a minimum of 21 to 23 consecutive days.
6 Patients came in for weigh-ins and measurement sessions on several occasions during the course
7 of the managed diet. Licensee's consent form stated in regard to risks: "There are relatively no
8 risks associated with Detox for Doers."

9 3.2 Numerous clinical trials have not shown hCG to be effective in producing weight
10 loss. A study published in 1995 found that "there is no scientific evidence that hCG causes weight
11 loss, a redistribution of fat, staves off hunger or induces a feeling of well-being." The Food and
12 Drug Administration (FDA) requires hCG to be labeled with additional information which states "
13 hCG has not been demonstrated to be effective adjunctive therapy in the treatment of obesity.
14 There is no substantial evidence that it increases weight loss beyond that resulting from caloric
15 restriction, that it causes a more attractive or normal distribution of fat, or that it decreases the
16 hunger and discomfort associated with the calorie-restricted diets." The information Licensee
17 provided to patients, to include her informed consent form, was not accurate regarding the benefits
18 as well as the risks and possible side effects associated with hCG, to include headache, fatigue,
19 depression, and gynecomastia in men. Licensee also failed to properly inform her patients of the
20 risks and side effects associated with a severe caloric diet of 500 calories a day, to include,
21 malnutrition, arrhythmias and death.

22 3.3 As part of the investigation, Licensee provided charts for Patients A - E to the
23 Board for review. These charts reveal that for the initial patient visit to her clinic, Licensee had
24 her patients fill out a health history form and a form in which they stated their treatment goals, to
25

26 ¹ HCG is a hormone produced from the human placenta, and is found in the urine of pregnant women. It is approved by the FDA as an injectable prescription drug for the treatment of some cases of female infertility. There are no FDA approved hCG drug products for weight loss.

² In 2013, in response to the Board's investigation, Licensee has increased the calorie intake to 750 calories per day. Patients are maintained on this diet regimen for either 23 or 40 days. The calorie intake is then increased to 1200, and then ultimately maintained at 1700 calories.

1 include the number of pounds they would like to lose. Licensee relies upon two naturopathic
2 physicians on her staff to evaluate her patients and to conduct follow-up. Licensee asserts that
3 they do this in accordance with her written protocols. Licensee's patients were weighed and
4 certain areas of the body were measured, vital signs taken, their body mass index calculated; and
5 laboratory testing ordered that included a full lipid panel, glucose level, thyroid panel,
6 BUN³/Creatinine⁴ level, a complete blood count (CBC) and comprehensive metabolic panel
7 (CMP); and patients were screened for disqualifying medical conditions. Many of the patients
8 reported that they had lost weight under other diet plans, but regained the weight after the diet
9 plan was discontinued. Patients were also provided with a form entitled "Patient Consent for
10 Treatment." The form stated that in regard to hCG, "the goal and possible benefits of this therapy
11 are to prevent, reduce, or control dysfunctional dieting and food associations, and to reset the
12 metabolism." Licensee's form also states: "There are relatively no risks associated with Detox
13 Diet for Doers." These statements are misleading and are not supported by medical science.
14 Licensee meets with each patient, explains how to inject themselves with hCG, and instructs
15 them on how to follow the diet plan. Patients are provided with syringes with hCG and
16 instructed to self-inject every morning. Patients are also given a diet food list and are instructed
17 to follow a specified 500 calorie diet for a minimum of 21 days. They are also encouraged to
18 consume 8 - 10 glasses of water a day. Some of the charts reveal that some patients also
19 received injections of vitamin B - 12 (without an established diagnosis of vitamin B-12
20 deficiency) and Zerona treatment, which is represented to be a "non-invasive, low energy laser
21 that helps the body absorb fat by creating a micro pore in the fat cell wall allowing the "fat"
22 components to seep into the interstitial space."

23 3.4 None of the charts document that Licensee conducts an adequate physical
24 examination that include recording of vital signs or additional screening for cardiovascular
25 disease and renal function during follow up visits in order to identify contra-indications for
26 participation in the diet plan. Follow-up visits did not include any consultation with a nutritionist

³ Blood urea nitrogen.

⁴ Creatinine level is an indicator of kidney function.

1 to ensure proper protein intake, nor does periodic safety check of electrolytes. Licensee did not
2 address patient health conditions that could be contraindications for the diet plan for Patient B
3 (high blood pressure, Crohn's disease, high triglycerides (461), and a cholesterol/HDL ratio of
4 7.5); Licensee did not address patient health conditions that could be contraindications for the
5 diet plan for Patient D (high blood pressure, high triglycerides (557), and a cholesterol/HDL ratio
6 of 5.3); and Licensee did not address patient health conditions that could be contraindications for
7 the diet plan for Patient E (high blood pressure, high triglycerides (217), and a cholesterol/HDL
8 ratio of 5.9). Licensee's implementation of a very low calorie diet without proper medical
9 screening and supervision of her patients was substandard and put patients at risk of harm.

10 4.

11 Licensee and the Board desire to settle this matter by entry of this Stipulated Order.
12 Licensee understands that she has the right to a contested case hearing under the Administrative
13 Procedures Act (chapter 183), Oregon Revised Statutes. Licensee fully and finally waives the
14 right to a contested case hearing and any appeal therefrom by the signing of and entry of this
15 Order in the Board's records. Licensee neither admits or denies but the Board finds that she
16 engaged in conduct that violated ORS 677.190(1)(a) unprofessional or dishonorable conduct, as
17 defined by ORS 677.188(4)(a), (b) and (c); ORS 677.190(9) making statements that the licensee
18 knows, or with the exercise of reasonable care should know, are false or misleading regarding
19 skill or efficacy or value of the medicine, treatment or remedy prescribed or administered; and
20 ORS 677.190(13) gross or repeated negligence. Licensee understands that this Order is a public
21 record and is a disciplinary action that is reportable to the National Data Bank and the Federation
22 of State Medical Boards.

23 5.

24 Licensee and the Board agree to resolve this matter by the entry of this Stipulated Order
25 subject to the following sanctions and terms:

26 5.1 Licensee is reprimanded.

1 5.2 Licensee is prohibited from offering or providing a low calorie diet plan to her
2 patients. "Low calorie" diet plan" is defined to mean a diet plan that calls for the participant to
3 intake 1200 calories or less a day, either with or without the administration of injections of
4 human chorionic gonadotropin (hCG). This prohibition applies to Licensee and any clinic where
5 she practices medicine.

6 5.3 Licensee is prohibited from prescribing hCG.

7 5.4 Within 180 days from the date the Board Chair signs this Order, Licensee must
8 successfully complete a medical course(s) on the treatment of obesity and diet plans that are pre-
9 approved by the Board's Medical Director.

10 5.5 The Board assesses a civil penalty that totals \$10,000, of which Licensee must
11 pay a civil penalty of \$2,500 within 90 days from the date the Board Chair signs this Order; and
12 \$2,500 within 180 days from the date the Board Chair signs this Order. The remaining civil
13 penalty of \$5,000 will be held in abeyance contingent on Licensee complying with all the terms
14 and conditions of this Order.

15 5.6 Licensee stipulates and agrees that this Order becomes effective the date it is
16 signed by the Board Chair.

17 5.7 Licensee must obey all federal and Oregon state laws and regulations pertaining
18 to the practice of medicine.

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1 3.3 Licensee understands this Order becomes effective September 19, 2013, at 5:00
2 p.m.

3 4.

4 At the conclusion of the Board's investigation, the Board will decide whether to close the
5 case or to proceed to some form of disciplinary action. If the Board determines, following that
6 review, not to lift the requirements of this Order, Licensee may request a hearing to contest that
7 decision.

8 5.

9 This order is issued by the Board pursuant to ORS 677.410, which grants the Board the
10 authority to attach conditions to the license of Licensee to practice medicine. These conditions
11 will remain in effect while the Board conducts a complete investigation in order to fully inform
12 itself with respect to the conduct of Licensee. Pursuant to ORS 677.425, Board investigative
13 materials are confidential and shall not be subject to public disclosure, nor shall they be admissible
14 as evidence in any judicial proceeding. However, as a stipulation this Order is a public document,
15 and is reportable to the National Databank and the Federation of State Medical Boards.

16 IT IS SO STIPULATED THIS 18 day of September, 2013.

17 SIGNATURE REDACTED

18 KENNETH JAY WELKER, MD

19
20 IT IS SO ORDERED THIS 20 day of September, 2013.

21
22 OREGON MEDICAL BOARD
23 State of Oregon

24 SIGNATURE REDACTED

24 KATHLEEN HALEY, JD
25 EXECUTIVE DIRECTOR