

Oregon Medical Board  
**BOARD ACTION REPORT**  
**May 15, 2011**

The information contained in this report summarizes new, interim, and final actions taken by the Oregon Medical Board between April 16, 2011 and May 15, 2011.

Scanned copies of Interim Stipulated Orders, Orders of Emergency Suspension, Stipulated Orders, 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 Corrective Action Agreements 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](#) 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.*

---

**\*Glover, Warren, Maywood, Jr., MD; MD16408; Springfield, OR**

The Board issued an Order Terminating Stipulated Order on May 5, 2011. This Order terminates Licensee's December 3, 2009 Stipulated Order.

**\*Kemple, Kip, Louis, MD; MD10387; Portland, OR**

The Board issued an Order Terminating Stipulated Order on May 5, 2011. This Order terminates Licensee's March 8, 2007 Stipulated Order.

**\*Lhundup, Karma, Jampa, LAc; AC00845; Portland, OR**

The Board issued an Order of License Suspension on May 5, 2011. This Order immediately suspends Licensee's Oregon acupuncture license for failure to comply with child support agreements pursuant to ORS 25.750 - ORS 25.783.

**\*Melnick, Jeffrey, Bruce, PA; PA00251; Portland, OR**

The Board issued a Final Order on May 5, 2011. This Order states that the allegations set forth in the May 19, 2010 Complaint and Notice of Proposed Disciplinary Action were not supported by a preponderance of the evidence.

**\* Pieniazek, John, Jan, MD; MD25241; Portland, OR**

The Board issued an Order Terminating Stipulated Order on May 5, 2011. This Order terminates Licensee's October 7, 2010 Stipulated Order.

**\* Rawcliffe, Lynn, DPM; DP00358; Ashland, OR**

Licensee entered into a Stipulated Order with the Board on May 5, 2011. In this Order Licensee surrendered his license while under investigation. Should Licensee re-apply for an Oregon license in the future, conditions shall be met prior to being considered for licensure.

**\* Stone, Mark, Kendall, LAc; AC00510; Florence, OR**

The Board issued an Order of License Suspension on May 5, 2011. This Order immediately suspends Licensee's Oregon acupuncture license for failure to enter into a child support agreement pursuant to ORS 25.750 - ORS 25.783.

**\* Tilley, Robert, John, MD; MD14698; Salem, OR**

Licensee entered into a Stipulated Order with the Board on May 5, 2011. This Order prohibits Licensee from providing mental health treatment, to include examination, performing procedures, or prescribing medications for mental health treatment, to any inmate for a minimum of three years. Licensee is also required to complete a course on psycho-pharmacy with 90 days.

**\* Yakimovsky, Yoram, MD; MD12635; Portland, OR**

The Board issued an Order Terminating Stipulated Order on May 5, 2011. This Order terminates Licensee's January 13, 2011 Stipulated Order.

---

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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

BEFORE THE  
OREGON MEDICAL BOARD  
STATE OF OREGON

In the Matter of )  
WARREN MAYWOOD GLOVER, JR., MD ) ORDER TERMINATING  
LICENSE NO. MD16408 ) STIPULATED ORDER  
)  
)

1.

On December 3, 2009, Warren M. Glover, Jr., MD (Licensee) entered into a Stipulated Order with the Oregon Medical Board (Board). This Order placed conditions on Licensee's Oregon medical license. On March 14, 2011, Licensee submitted a written request to terminate this Order.

2.

Having fully considered Licensee's request and his successful compliance with the terms of this Order, the Board does hereby order that the December 3, 2009, Stipulated Order be terminated effective the date this Order is signed by the Board Chair.

IT IS SO ORDERED this 5<sup>th</sup> day of May, 2011.

OREGON MEDICAL BOARD  
State of Oregon

SIGNATURE REDACTED

RALPH A. YATES/DO  
Board Chair

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

BEFORE THE  
OREGON MEDICAL BOARD  
STATE OF OREGON

In the Matter of )  
 )  
KIP LOUIS KEMPLE, MD ) ORDER TERMINATING  
LICENSE NO. MD10387 ) STIPULATED ORDER  
 )

1.

On March 8, 2007, Kip L. Kemple, MD (Licensee) entered into a Stipulated Order with the Oregon Medical Board (Board). This Order placed conditions on Licensee's Oregon medical license. On April 4, 2011, Licensee submitted a written request to terminate this Order.

2.

Having fully considered Licensee's request and his successful compliance with the terms of this Order, the Board does hereby order that the March 8, 2007, Stipulated Order be terminated effective the date this Order is signed by the Board Chair.

IT IS SO ORDERED this 5<sup>th</sup> day of May, 2011.

OREGON MEDICAL BOARD  
State of Oregon

SIGNATURE REDACTED

~~\_\_\_\_\_  
RALPH A. YATES, DO  
Board Chair~~



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16

BEFORE THE  
OREGON MEDICAL BOARD  
STATE OF OREGON

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

IN THE MATTER OF:                    )  
  )  
JEFFREY B. MELNICK, PA            ) FINAL ORDER  
LICENSE NO. PA00251                )  
  )

28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43

**HISTORY OF THE CASE**

On May 19, 2010, the Oregon Medical Board (the Board) issued a Complaint and Notice of Proposed Disciplinary Action to Jeffrey Bruce Melnick, PA. On May 28, 2010, Mr. Melnick filed an Answer to Complaint and Notice of Proposed Disciplinary Action and Request for Contested Case Hearing with the Board.

On June 8, 2010, the Board referred the hearing request to the Office of Administrative Hearings (OAH). Senior Administrative Law Judge (ALJ) John Mann was assigned to preside at hearing. ALJ Mann held telephone prehearing conferences on August 4 and October 21, 2010. Mr. Melnick was represented by his attorney, Eric Neiman. The Board was represented by Senior Attorney General Warren Foote.

A hearing was held on November 17 and 18, 2010, at the Board's offices in Portland, Oregon. Mr. Melnick appeared and was represented Mr. Neiman. The Board was represented by Mr. Foote. Mr. Melnick testified on his own behalf and as a witness for the Board. The Board also presented testimony from Patient B, Patient B's husband, Patient A, Theresa Curran, PA, Kathleen Haley (Board Executive Director), and Gary Stafford (Board Chief Investigator). Mr. Melnick presented testimony from Steven Penner, MD, Jeffrey Weeks, MD, Michael Young, MD, David Artherton, MA, Alison Johnson, MA, and Mei Mei Wang (Board Investigator).

The record was held open for receipt of the written transcript of the proceedings. The first volume of the transcript was provided to ALJ Mann on December 15, 2010, and the record initially closed. Through an oversight, the second volume was not provided to ALJ Mann until January 13, 2011, at which time the record was reopened for receipt of that volume. The record then closed on January 13, 2011.

44  
45  
46  
47  
48

**ISSUES**

1. Whether Mr. Melnick violated ORS 677.190(1)(a), unprofessional or dishonorable conduct, as defined by ORS 677.188(4)(a) or ORS 677.190(13) gross of repeated negligence on June 13, 2003, by touching a patient's breasts and nipples in a sexual manner.



1           3. On June 11, 2003, Patient B went to the Woodburn Family Medical Clinic for follow-  
2 up care. Because Patient B's primary physician, Steven Penner, MD, was not in the office,  
3 Patient B was examined by Mr. Melnick. Mr. Melnick had treated Patient B on one prior  
4 occasion several months earlier. (Tr. at 90-91.)  
5

6           4. Prior to examining Patient B on June 11, 2003, Mr. Melnick reviewed her medical  
7 records, including handwritten notes from the Silverton Hospital Emergency Room. When he  
8 entered the exam room, Mr. Melnick introduced himself to Patient B, explained that he had  
9 reviewed the hospital records, and told her that he would need to examine the wound and that he  
10 would need to push near the area. Mr. Melnick explained that it would likely be painful, but that  
11 it would be necessary to determine the severity of the infection. During the examination, Mr.  
12 Melnick palpated the skin near the area of the boil, and later noticed that Emergency Room  
13 personnel had used a pen to mark the area of the infection. Mr. Melnick noted that the infection  
14 had spread slightly outside of the markings and lower on Patient B's left breast. Mr. Melnick  
15 pushed and palpated on the left breast to try to determine whether there could be an abscess  
16 underneath the skin. He also examined Patient B's right breast to compare the consistency to the  
17 left breast. After Mr. Melnick completed his initial examination, Patient B complained that she  
18 was experiencing sharp pain in her left nipple as though someone was sticking something in it.  
19 Mr. Melnick then examined the nipple by squeezing it with his thumb and forefinger to see if  
20 there was any abnormality or discharge. Mr. Melnick did not discover any significant problems.  
21 After Mr. Melnick finished the examination, Patient B again complained of sharp nipple pain.  
22 Mr. Melnick again examined the nipple, using the same technique, and again found no  
23 significant problems. Mr. Melnick finished the examination and prescribed an injection of  
24 antibiotics and a course of oral antibiotics. (Tr. at 510-515; Ex. R3 at 5-6.)  
25

26           5. Following his examination, Mr. Melnick instructed staff to re-pack Patient B's infection  
27 site and to administer the prescribed antibiotics. (Tr. at 59, 95.) Patient B did not tell the staff  
28 members, or anyone else at the clinic, that anything improper had occurred. (Tr. at 96.)  
29

30           6 Mr. Melnick did not believe that Patient B appeared offended or upset by the  
31 examination. (Tr. at 515.) The examination, as described by Mr. Melnick, was medically  
32 appropriate. (Tr. at 179-80.)  
33

34           7. On January 12, 2003, Patient B's husband called the Woodburn Family Medical Clinic  
35 and left a message for Michael Grady, M.D., the clinic's Medical Director. Dr. Grady returned  
36 the call and spoke with both Patient B and her husband. Patient B told Dr. Grady that when Mr.  
37 Melnick entered the exam room, he put his hand in her gown and began "playing" with her  
38 nipples. (Ex. R10 at 1.)  
39

40           8. On June 13, 2003, Patient B and her husband went Woodburn Family Medical Clinic  
41 where she was examined by Dr. Grady. Dr. Grady's chart note refers to Patient B's allegation of  
42 "improper touching" by Mr. Melnick, but states that Patient B did not want to discuss it at that  
43 time. (Ex. R3 at 9.)  
44

45           9. Also on June 13, 2003, Patient B reported her allegations against Mr. Melnick to Officer  
46 Araiza of the Woodburn Police Department. Patient B told Officer Araiza that Mr. Melnick had  
47 "tweaked" her nipples for approximately 30 seconds and then began lifting and rolling her  
48 breasts as if he was "playing with them." (Ex. R5 at 2.) Patient B told the officer that she had

1 spoken with Dr. Grady, called the Oregon Medical Board, and had contacted an attorney that  
2 morning (June 13, 2003).  
3

4 10. On June 17, 2003, the Board received a written complaint from Patient B about Mr.  
5 Melnick. Patient B wrote that Mr. Melnick had "sexually assaulted" her during the June 11,  
6 2003, exam. (Ex. A2.) Patient B wrote that Mr. Melnick entered the exam room, said hello, then  
7 approached her, spread open her gown and began fondling her nipples in a sexual manner. She  
8 claimed that Mr. Melnick then asked her to lie down as he "continued to touch my breasts and  
9 move them around like no other breast exam I have ever had." (*Id.*)  
10

11 11. Woodburn Police Officer R. Rodriguez interviewed Mr. Melnick on July 3, 2003. Mr.  
12 Melnick denied any inappropriate touching, but admitted that he had examined Patient B's left  
13 nipple after she complained of pain. (Ex. R5 at 5.) The District Attorney later concluded that  
14 there was no basis to pursue the case as a criminal matter. (Ex. R11.)  
15

16 12. Board Investigator Mei Mei Wang investigated Patient B's complaint. On June 18,  
17 2003, Ms. Wang mailed a letter to Mr. Melnick advising him of Patient B's complaint and asked  
18 that he provide a written summary of his examination along with Patient B's medical records.  
19 The letter included a section labeled "General Outline of the Investigative Process" which  
20 included the following summary:  
21

22 If the Board does not identify a violation of the Medical Practice Act, the case  
23 will be closed with no action and the licensee will be notified by one of two  
24 letters:  
25

- 26 • No Violation: This letter states that no violation was found and the case is  
27 closed.  
28
- 29 • Letter of Concern: This letter outlines important concerns expressed by the  
30 Board during the investigation. This letter closes the case, but may be referred to  
31 in the future if additional cases are opened.  
32

33 (Ex. R6 at 2.)  
34

35 13. On June 26, 2003, Mr. Melnick mailed a five-page summary report of his treatment of  
36 Patient B. He described his examination of Patient B's infection, and his need to examine her  
37 right breast for consistency in order to determine if there was an abscess in the left breast. He  
38 also wrote that he twice examined Patient B's left nipple after she complained of pain. Mr.  
39 Melnick wrote that Patient B did not have any questions or concerns at the end of the  
40 examination. (Ex. R7.)  
41

42 14. Ms. Wang interviewed Patient B, at Patient B's home, on July 16, 2003. Patient B stated  
43 that when she was in the exam room on June 11, 2003, Mr. Melnick entered and was reviewing  
44 her chart while she told him about her pain and symptoms. She stated that Mr. Melnick listened,  
45 but did not say anything. Patient B told Ms. Wang that Mr. Melnick approached her and used  
46 one leg to part open her legs as she sat on the exam table. She stated that Mr. Melnick then  
47 opened her gown and used both hands to "tweak" both of Patient B's nipples for approximately  
48 30 to 40 seconds. (Ex. R8 at 2.) Patient B reported that Mr. Melnick then had her lie down on

1 the table and then began massaging her right breast. Next, Patient B stated, Mr. Melnick began  
2 massaging the left breast, but did not look at the area of the infection. (*Id.*)  
3

4 15. Patient B stated that after Mr. Melnick massaged her breasts, he looked at the boil, but  
5 did not say anything. Next, he turned his back to Patient B and reviewed her chart. Patient B  
6 told Ms. Wang that she then told Mr. Melnick that she had shooting pain in her breast and nipple.  
7 Patient B stated that Mr. Melnick had his back turned to her as she spoke. Mr. Melnick then  
8 ordered an antibiotic injection and left the room. Patient B stated that medical assistants then  
9 packed a new bandage on the boil. Patient B stated that she did not say anything to clinic staff  
10 because she was “upset and confused” about what had happened. (Ex. R8 at 3.)  
11

12 16. Patient B told Ms. Wang that she left the clinic in tears. She stated that her husband was  
13 asleep in their car in the parking lot and that she told him immediately what had occurred.  
14 Patient B also told Ms. Wang that she had conferred with an attorney in Lake Oswego. Patient B  
15 stated that she had to close her daycare business due to debilitating panic attacks that rendered  
16 her unconscious. (Ex. R8 at 3-4.)  
17

18 17. On July 30, 2003, Ms. Wang mailed a letter to Dr. Grady asking for information related  
19 to Patient B’s complaint. (Ex. R9.) Dr. Grady responded by letter dated August 16, 2003. He  
20 stated that he had examined Patient B, with her husband present, on June 13, 2003. He wrote  
21 that he offered to discuss the matter, but that Patient B and her husband stated that they “had  
22 been advised not to discuss it.” (Ex. R10 at 1.) Dr. Grady also wrote that he had spoken to Mr.  
23 Melnick who explained his examination and the need to examine both breasts. Mr. Melnick also  
24 stated that he did not examine the right nipple. Dr. Grady wrote that he also examined both  
25 breasts, for comparison, during his examination of Patient B on June 13, 2003. Dr. Grady wrote  
26 that Mr. Melnick’s description of the examination was reasonable. (*Id.* at 1-2.)  
27

28 18. At a November 6, 2003, meeting, the Board’s Investigative Committee determined that  
29 there was “no basis for a violation of the Medical Practice Act” and recommended that Mr.  
30 Melnick be issued a closure letter that encouraged the use of chaperones. (Ex. A28 at 3.) The  
31 Board approved that recommendation. (Tr. at 283-84.)  
32

33 19. On December 4, 2003, the Board’s Medical Director, Phillip F. Parshley, M.D., wrote to  
34 Mr. Melnick to advise him that the Board found no evidence to establish a violation of the  
35 Medical Practice Act. The letter does not state that the case might be reopened in the future. Dr.  
36 Parshley wrote that the Board recommended the use of chaperones for examinations of the  
37 breasts, the breast area, and for pelvic/rectal exams. In addition, Dr. Parshley recommended that  
38 a chaperone be offered to all female patients for any kind of exam. (Ex. R13.)  
39

40 20. On November 5, 2009, Patient A went to the Providence Scholls Immediate Care Center  
41 (Providence Scholls) because she believed that she had a head cold. (Tr. at 240.) Patient B, who  
42 was pregnant, had strained a muscle in her lower abdomen and thought that it could be related to  
43 sneezing. (Tr. at 255.) Patient A’s obstetrician advised her that he could not prescribe anything  
44 for her sneezing, and that she would need to see another doctor for that purpose. (Tr. at 240.)  
45

46 21. David Artherton, a medical assistant at Providence Scholls met with Patient A in the  
47 exam room. He took her vital signs and asked her about her symptoms. Patient A reported that  
48 she had nasal pressure, sinus congestion and pressure, sneezing, and right side rib pain. Mr.

1 Artherton asked her a number of questions concerning common cold symptoms. Patient A did  
2 not state that she had a cough. (Tr. at 470-75.) Mr. Artherton wrote Patient A's reported  
3 symptoms down, including the complaint of right side rib pain, then placed the notes on a  
4 clipboard for the next available provider. (Tr. at 421, 477, 524-25.)  
5

6 22. Mr. Melnick picked up Patient A's chart and reviewed Mr. Artherton's notes. He then  
7 went into the exam room and spoke with Patient A about her symptoms. Patient A stated that  
8 she had a cough, but mostly at night time. Patient A also stated that she had a pain in her right  
9 flank (the area between the rib cage and the hip.) Mr. Melnick believed that it was possible that  
10 Patient A had strained a muscle from coughing or sneezing. He also believed that the flank pain  
11 could potentially be a sign of kidney damage. Mr. Melnick decided to listen to Patient A's chest  
12 with a stethoscope for signs of congestion. Mr. Melnick may have moved Patient A's bra strap  
13 in order to place his stethoscope, but he cannot remember if he did so. If he had to do so, he  
14 likely would have asked permission from Patient A. Mr. Melnick believed it was appropriate to  
15 examine her right side, by palpation, to try to diagnose the flank pain. However, that  
16 examination of the side was inconclusive. Mr. Melnick asked Patient A if she had back pain  
17 because he believed that pain from the back could have radiated to the side causing her flank  
18 pain. Patient A acknowledged that she had back pain. Mr. Melnick then examined Patient A's  
19 back, palpating from the top to the bottom of the spine near the top of Patient A's buttocks. (Tr.  
20 at 525-534.)  
21

22 23. Mr. Melnick did not believe that Patient A was upset at the end of the examination. She  
23 did not tell Mr. Melnick that she thought that anything inappropriate occurred. (Tr. at 534.)  
24

25 24. It is medically appropriate for a Physician Assistant to follow up with reports of rib, side,  
26 and back pain. An examination of the back may include examination to the sciatic notch near the  
27 buttocks. (Tr. at 202-04; 215-16.)  
28

29 25. On November 10, 2009, the Board received a complaint form from Patient A. Patient A  
30 wrote that she went to Providence Scholls on November 5, 2009, "due to the amount of sneezing  
31 and coughing [she] had been experiencing." (Ex. A8 at 2.) Patient A wrote that her obstetrician  
32 told her that she had likely "strained a muscle in [her] lower stomach" from coughing and  
33 sneezing. (*Id.*) Patient A noted that she had conveyed this information the medical assistant who  
34 first saw her at Providence Scholls. (*Id.*)  
35

36 26. In her complaint, Patient A described Mr. Melnick's examination as follows:  
37

38 When the Physician Assistant examined me, he listened to my lungs from the  
39 back which I again didn't think was out of line but then he moved to my front to  
40 apparently listen to my heart.  
41

42 He did feel around my stomach and ribs and kept saying that I had complained of  
43 rib pain. I never once said I had rib pain, to the MA or the PA. The PA listened  
44 to my heart and then started to remove my bra strap from my right shoulder which  
45 I found extremely odd and inappropriate.  
46

47 The PA then lifted my right breast for unknown reasons. The PA asked if he was  
48 "embarrassing" me. The gown was nearly at my waist at this point which I was

1 trying to hold up to cover myself and the PA continued to push down the gown,  
2 presumably in an effort to better listen to my heart.  
3

4 After the exam on the table was over, the PA then sat down and asked me to stand  
5 in front of him where he then prodded and then lifted my buttocks.

6 (Ex. A8 at 2.)  
7

8 27. Board Investigator Wang interviewed Patient A on December 16, 2009. Patient A  
9 reported that she “felt the movement of [her] breasts” when Mr. Melnick was listening to her  
10 chest with a stethoscope. (Ex. A11 at 7.) When asked how Mr. Melnick had moved her breast,  
11 Patient A stated:  
12

13 [P]robably the way that I remember it was with the stethoscope but his hand at  
14 that point, but I don’t - it’s not like he ever cupped my breast with his hand – but  
15 he was moving the stethoscope. \* \* \* ” And it was his hand that – you know –  
16 like his hand holding the stethoscope that was moving my breast.”  
17

18 (*Id.* at 15.) Patient A stated that Mr. Melnick did not use his fingers to touch her breast, but  
19 bumped it with his hand as he held the stethoscope. (*Id.* at 15 - 16.)  
20

21 28. Browne also told Ms. Wang that Mr. Melnick examined her for rib pain, although she had  
22 not reported that condition. Patient A told the investigator:  
23

24 I said I never – I mean if – even if you would see the paper that they fill out when  
25 you came – why you came in – I never once said anything about my body, never  
26 once. And so I said I never said I had rib pain.  
27

28 (*Id.* at 7.) Patient A stated that Mr. Melnick asked her if she had back pain and that she told him  
29 that she did. However, Patient A believed that he was asking her this question so that he could  
30 touch her more. (*Id.* at 17.) Patient A stated that Mr. Melnick stood behind her and pushed both  
31 sides of her hips with his thumbs to check for back pains. She stated that she did not remember  
32 him touching her spine, but that he placed his hands on her jeans and “kind of lifted both of my  
33 butt cheeks.” (*Id.* at 21.) Ms. Wang then questioned Patient A for more details:  
34

35 Mei Mei: So his hands kind of roved down?

36 Patient A: Yeah.

37 Mei Mei: And was like – um – making a silhouette of your buttocks?

38 Patient A: Yeah.

39 Mei Mei: So, it wasn’t like he just lifted his hands up and the next thing you  
40 knew he was butt – he was like – he was kind of –

41 Patient A: Yes.

42 Mei Mei: Moving it down.

43 Patient A: Yes – moved them down.

44 Mei Mei: And then you still had your jeans on?

45 Patient A: Yes.

46 Mei Mei: Okay – so the next thing you knew his hands were actually cupping  
47 your buttocks?

48 Patient A: Yes.

1 Mei Mei: Each buttock cheek?  
2 Patient A: Yes.  
3 Mei Mei: With each hand?  
4 Patient A: Like lifted both of them.

5 (Id.)

6 **CONCLUSIONS OF LAW**

7  
8 Having considered the ALJ's findings and the record, the Board concludes that there is  
9 insufficient evidence to conclude that Mr. Melnick either touched a patient's breasts and nipples  
10 in a sexual manner on June 11, 2003, or touched a patient's breast and buttocks in a sexual  
11 manner on November 5, 2009.

12  
13 The Board finds that the evidence presented at the hearing failed to establish by a  
14 preponderance of the evidence that Mr. Melnick violated ORS 677.190(1)(a) or (13). Therefore,  
15 the Board will not impose a sanction.

16  
17 **OPINION**

18  
19 Pursuant to ORS 677.190, the Board may suspend or revoke a physician assistant's  
20 license to practice for a variety of reasons. In this case, the Board contends that Mr. Melnick's  
21 license should be suspended based on alleged unprofessional or dishonorable conduct and gross  
22 or repeated negligence. The Board has the burden to prove these allegations by a preponderance  
23 of the evidence. ORS 183.450(2) ("The burden of presenting evidence to support a fact or  
24 position in a contested case rests on the proponent of the fact or position"); *Harris v. SAIF*, 292  
25 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on  
26 the proponent of the fact or position); *Metcalf v. AFSD*, 65 Or App 761, 765 (1983) (in the  
27 absence of legislation specifying a different standard, the standard of proof in an administrative  
28 hearing is preponderance of the evidence). Proof by a preponderance of the evidence means that  
29 the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill*  
30 *General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

31  
32 The Board has alleged that Mr. Melnick violated ORS 677.190, which provides, in  
33 relevant part:

34  
35 The Oregon Medical Board may refuse to grant, or may suspend or revoke a  
36 license to practice for any of the following reasons:

37  
38 (1)(a) Unprofessional or dishonorable conduct.

39  
40 \* \* \* \* \*

41  
42 (13) Gross negligence or repeated negligence in the practice of medicine[.]

43  
44 ORS 677.190.

45  
46 ORS 677.188(4) defines "unprofessional or dishonorable conduct," as used in ORS  
47 677.190, as follows:

1           “Unprofessional or dishonorable conduct” means conduct unbecoming a  
2 person licensed to practice medicine \* \* \*, or detrimental to the best  
3 interests of the public, and includes:  
4

5           (a) Any conduct or practice contrary to recognized standards of ethics of  
6 the medical \* \* \* profession or any conduct or practice which does or  
7 might constitute a danger to the health or safety of a patient or the public  
8 or any conduct, practice or condition which does or might impair a  
9 physician’s \* \* \* ability safely and skillfully to practice medicine[.]  
10

11           The Board alleged that Mr. Melnick violated ORS 677.190 on two occasions, once in  
12 June 2003 and again in November 2009, by inappropriately touching two female patients during  
13 the course of medical examinations. Each allegation is addressed separately below.  
14

15           **1. June 2003 Incident**  
16

17           On June 10, 2003, Patient B was treated at the Emergency Room of the Silverton  
18 Hospital for an infected boil on her chest. The treatment included incision and drainage of the  
19 infected site. The Emergency Room doctor advised Patient B to go to her primary care physician  
20 for follow-up care the next day. Patient B’s husband did so. However, because Patient B’s  
21 normal physician, Dr. Penner, was out of the office that day, Mr. Melnick performed the  
22 examination.  
23

24           In its Notice, the Board alleged that Mr. Melnick, in the course of examining Patient B,  
25 fondled Patient B’s nipples “in a sexual manner.” The Board presented testimony from Patient B  
26 to support that allegation. Patient B testified that Mr. Melnick entered the examination room,  
27 looked over some paperwork, then, without saying a word, spread open her legs with his hands,  
28 opened her gown to expose her breasts, then immediately began rolling her nipples with his  
29 thumbs and index fingers.  
30

31           Mr. Melnick’s testimony differed sharply. Mr. Melnick asserted that he introduced  
32 himself to Patient B as he entered the room, reviewed Patient B’s medical records, and explained  
33 the purpose and scope of his examination. He admitted that he palpated both of Patient B’s  
34 breasts in an effort to determine their consistency so that he could determine if there was an  
35 infection within the tissue of the left breast. He also admitted that he examined Patient B’s left  
36 nipple, using his thumb and index finger, after Patient B complained of sharp pain in the nipple.  
37 Mr. Melnick did not use sterile gloves.  
38

39           The Board’s expert, Theresa Curran, PA, testified that if the examination happened the  
40 way that Patient B described, it would be inappropriate. However, if the examination happened  
41 the way that Mr. Melnick described it, Ms. Curran believed that the examination was medically  
42 appropriate. Thus, whether Mr. Melnick committed the violation requires an evaluation of the  
43 reliability of the conflicting evidence.  
44

45           Mr. Melnick provided consistent and plausible testimony concerning the examination.  
46 He described a medically appropriate examination of a patient with a potentially significant  
47 breast infection. Patient B’s version of events, while possible, was less plausible. Ms. Curran  
48 described the account as not just inappropriate, but as “surprising.” Tr. at 215. I concur in that

1 assessment. It makes little sense for *any* person, much less a medical professional, to simply  
2 enter a room, not say a word, and immediately begin manipulating another person's nipples.  
3 Given that Mr. Melnick knew that he was going to be examining Patient B's chest, if he had  
4 wanted to engage in inappropriate contact, he more likely would have done so in the course of  
5 his examination, rather than to simply engage in a direct sexual assault.  
6

7 Furthermore, Patient B's testimony was inconsistent with regard to statements that she  
8 made in 2003. For example, in 2003, Patient B told investigators that Mr. Melnick parted her  
9 legs with his own legs. At the hearing in 2010, Patient B asserted that Mr. Melnick used his  
10 hands to part her legs, and demonstrated that action with her own hands. Also, in 2003 Patient B  
11 told investigators that her husband was asleep in the parking lot during her examination. At the  
12 hearing, both Patient B and her husband testified that he was at work during the exam. In  
13 addition, in 2003, Patient B told Board investigators and the police that she had consulted an  
14 attorney about the issue. At the hearing in 2010, Patient B testified that she spoke to an attorney  
15 through a pre-paid legal services program concerning a personal business issue. Patient B was  
16 not able to explain why she would have told investigators about the attorney if the legal advice  
17 was unrelated to Patient B's husband.  
18

19 Given the passage of time, it is understandable that Patient B's recollection of events  
20 might change. However, those changes also bear on the issue of whether Patient B's current  
21 account is reliable.  
22

23 It is also significant that the Board investigated Patient B's claim in 2003 and concluded  
24 that the evidence was insufficient to establish that Mr. Melnick violated the Medical Practice  
25 Act. Following that investigation, the Board sent a letter to Mr. Melnick stating that the case was  
26 closed. Nothing in the letter stated that the case might be reopened at a later time. Mr. Melnick  
27 argued that the Board was precluded from reopening the case because it failed to issue a "Letter  
28 of Concern" specifically stating that the case might be reopened in the future. The Board's  
29 practice in 2003 was to issue a Letter of Concern in cases where the Board believed that it was  
30 possible that the case would be reopened and a Letter of Closure in cases where the Board did  
31 not believe that reopening was likely. However, this practice is not codified in any statutes or in  
32 the Board's rules.  
33

34 Mr. Melnick provided no authority for the proposition that the Board is precluded from  
35 reopening a case based upon a previous Letter of Closure. Principles of collateral estoppel and  
36 claim preclusion do not apply in the absence of a prior formal adjudication. That did not occur  
37 in this case. Given what has transpired in this case, it would have been preferable for the Board  
38 to issue a Letter of Concern. However, its failure to do so did not preclude the Board from  
39 reopening the investigation.  
40

41 Nevertheless, in 2003 the Board concluded that there was insufficient evidence that Mr.  
42 Melnick violated the Medical Practice Act. That was a reasonable conclusion given the lack of  
43 any evidence to corroborate Patient B's allegations and Mr. Melnick's plausible denial. Since  
44 that time, there has been *no* additional evidence produced with regard to Mr. Melnick's  
45 examination of Patient B. The only possible rationale for reconsidering the prior decision was  
46 the 2009 complaint of inappropriate touching filed by Patient A. However, Patient A's  
47 allegations varied significantly from Patient B's and did not lend any credibility to Patient B's  
48 claims.

1  
2 Because the Board has the burden of proof in this case, the Board had to provide  
3 evidence to establish that Patient B's version of events was more probably true than was Mr.  
4 Melnick's. The ALJ found that the evidence presented at hearing did not meet that burden.  
5 While it is possible that Mr. Melnick acted exactly as described by Patient B, the Board is not  
6 convinced by a preponderance of the evidence that a violation of the Medical Practice Act was  
7 established. Therefore, the Board will not disturb this finding.  
8

## 9 2. November 2009 Incident

10  
11 On November 5, 2009, Patient A went to the Providence Scholls Immediate Care Center  
12 (Providence Scholls) for medical care. Patient A's primary concern was sneezing. However, she  
13 also told a medical assistant that she had sinus congestion and pressure and right side rib pain.  
14 She later told Mr. Melnick that she had been coughing at night and, in response to Mr. Melnick's  
15 questioning, stated that she had back pain.  
16

17 Within a few days after the examination, Patient A filed complaint with the Board. She  
18 wrote that she had gone to Mr. Melnick's clinic due to sneezing, coughing, and rib pain. Patient  
19 A alleged that during the examination Mr. Melnick "lifted" her right breast and, after the exam  
20 was over, "prodded and then lifted [her] buttocks." Ex. A8 at 2.  
21

22 A Board investigator interviewed Patient A on December 6, 2009. Patient A told the  
23 investigator that Mr. Melnick lowered her bra strap on the right side and, as she was holding her  
24 gown, she "felt the movement of [her] breasts." Ex. A11 at 7. She also told the investigator that  
25 she had never reported having rib pain. *Id.* Patient A stated that Mr. Melnick asked if she had  
26 back pain. Patient A stated that she told Mr. Melnick that she did have back pain and that Mr.  
27 Melnick then asked her to stand in front of him and then began feeling her waist and then  
28 "reached down and kind of lifted both of my buttocks." *Id.* Patient A told the investigator that  
29 after Mr. Melnick "lifted them both" he ended the appointment. *Id.* In response to extensive  
30 questioning, Patient A was very clear that Mr. Melnick had grabbed both of her buttocks.  
31

32 Mr. Melnick denied any improper conduct. He confirmed that he performed a thorough  
33 exam of Patient A and was very concerned with the reported rib pain. During the examination,  
34 Patient A explained that she had been coughing at night and had pain in her right flank. Mr.  
35 Melnick was concerned that flank pain could be the result of coughing or sneezing, or could be a  
36 sign of a kidney infection. Given those concerns, Mr. Melnick concluded that it was necessary  
37 to listen to Patient A's lungs for signs of congestion and to examine her right side for signs of  
38 tenderness. When those examinations proved inconclusive, Mr. Melnick conducted a more  
39 thorough examination of Patient A's entire back. Mr. Melnick denied lifting Patient A's breast  
40 and buttocks.  
41

42 This incident also turns on the reliability of conflicting evidence. Ms. Curran testified  
43 that the examination described by Mr. Melnick was medically appropriate given the reported  
44 symptoms. Although Ms. Curran faulted Mr. Melnick for not including a reference to the back  
45 examination in Patient A's chart, she agreed that the back examination that he described was  
46 proper. If, however, Mr. Melnick performed the exam in the manner described by Patient A, Ms.  
47 Curran opined that it was not appropriate.  
48

1 Mr. Melnick and Patient A both offered plausible testimony concerning the events of  
2 November 5, 2009. However, there were inconsistencies in Patient A's statements that call into  
3 question whether she has accurately reported what occurred. For example, in her written  
4 complaint, Patient A stated that she told the medical assistant at the clinic that she had strained a  
5 muscle in her lower stomach. The medical assistant's contemporaneous records show that  
6 Patient A reported right side rib pain. Mr. Melnick testified that during his examination, Patient  
7 A reported having right flank pain. At the hearing, Patient A confirmed that she had told the  
8 medical assistant that she had rib pain. Tr. at 250. However, during her interview with the  
9 Board investigator Patient A adamantly denied reporting rib pain stating "I never once said  
10 anything about my body, never once. And so I said I never said I had rib pain." Ex. A11 at 7.  
11

12 In addition, in her statement to the Board investigator, Patient A twice stated that Mr.  
13 Melnick lifted "both" of her buttocks. When Ms. Wang asked detailed questions about the  
14 incident, Patient A repeatedly affirmed that Mr. Melnick lifted both sides of her buttocks with his  
15 hands. At the hearing, however, Patient A testified that Mr. Melnick lifted "one of my butt  
16 cheeks." Tr. at 242. If Mr. Melnick had lifted only one side of Patient A's buttocks, it is  
17 unlikely that she would have so clearly reported that he lifted both of them. Conversely, if he  
18 had lifted both, it is unlikely that she would have forgotten that detail when she gave her  
19 testimony.  
20

21 Similarly, when she spoke to the Board investigator she stated that she felt her breasts  
22 move as Mr. Melnick listened to her chest. She did not affirmatively state that Mr. Melnick  
23 actually lifted the breast. Rather, she asserted that Mr. Melnick touched the bottom part of her  
24 right breast with the same hand in which he was holding the stethoscope. She specifically denied  
25 that Mr. Melnick grabbed her breasts with his hands or fingers. However, in her initial written  
26 complaint, and in her testimony, she was quite clear that Mr. Melnick intentionally lifted her  
27 breast. She contended that Mr. Melnick lifted her right breast in order to listen to her heart. She  
28 described this as being "felt up" and contrasted this with Mr. Melnick's inadvertent glancing  
29 touch of her left breast. Tr. at 248, 257.  
30

31 Patient A also reported that Mr. Melnick moved her bra strap and attempted to lower her  
32 gown. Mr. Melnick did not recall moving the bra strap, but conceded that he may have had to do  
33 that in order to listen to Patient A's chest. Patient A's description of the event to the Board  
34 investigator suggested that she was concerned that her gown and bra might fall off during the  
35 examination and that she was focused on keeping them up. Mr. Melnick, apparently sensing  
36 Patient A's discomfort, asked her if she was embarrassed. Patient A testified that she felt  
37 "horrified" and had never been more "humiliated" in her life. Despite these reported strong  
38 feelings, Patient A testified that she was not sure how she responded to Mr. Melnick's question.  
39

40 Given the timing of her report the Board it is likely that Patient A felt uncomfortable as a  
41 result of Mr. Melnick's examination. However, the evidence did not establish, more likely than  
42 not, that Mr. Melnick intentionally lifted or touched Patient A's breast or buttocks.  
43

44 Given the scope of his examination, it is likely that Mr. Melnick made some incidental  
45 contact with Patient A's lower back and, perhaps, her upper buttocks in the course of examining  
46 her back. It is also possible that Mr. Melnick had some inadvertent contact with Patient A's  
47 breasts while listening to her chest. But the evidence did not establish that such contact was  
48 intentional or done with a sexual motive. Because Patient A was concerned primarily with her

1 sneezing, she was likely surprised at how thoroughly Mr. Melnick examined her. However,  
2 despite Patient A's chief concern, the Board's expert agreed that Mr. Melnick could not  
3 reasonably be expected to ignore other symptoms that might suggest a more serious medical  
4 condition.  
5

6 Mr. Melnick gave plausible, consistent testimony concerning his examination of Patient  
7 A. That examination was medically appropriate given the reported symptoms. The evidence  
8 failed to establish that Mr. Melnick's actions during that examination constituted unprofessional  
9 or dishonorable conduct or amounted to negligence. The evidence, therefore, failed to establish  
10 that Mr. Melnick violated ORS 677.190 as alleged.  
11

12 At the hearing, the Board's counsel suggested that Mr. Melnick may have violated ORS  
13 677.190(13) by failing to inform Patient B and Patient A of the scope of his examinations and his  
14 reasons for touching them. Mr. Melnick objected because the Notice contained no allegations  
15 regarding Mr. Melnick's failure to adequately inform the patients. ORS 183.415(3)(d) requires a  
16 contested case notice to include "A short and plain statement of the matters asserted or charged."  
17 The Notice in this case contains allegations concerning the nature of the examinations and  
18 allegations of improper touching. However, nothing in the Notice refers in any way to any  
19 communication between Mr. Melnick and Patient B. The only reference to Mr. Melnick's  
20 communication with Patient A is an allegation that he asked her for permission to remove her bra  
21 strap. At the hearing, Ms. Curran conceded that asking for such permission was appropriate.  
22 Thus, nothing in the notice apprised Mr. Melnick that he was subject to sanction for failing to  
23 adequately communicate with his patients. Thus, the issue of failing to communicate was not  
24 within the scope of the Notice. Nevertheless, even if the issue had been properly raised, the  
25 Board failed to produce sufficient evidence to establish that Mr. Melnick failed to adequately  
26 inform his patients prior to and during the examinations.  
27

28 The ALJ observed that cases involving allegations of improper touching can often place  
29 victims in a difficult position. As the only witness to the events, the case will often come down  
30 to a question of credibility. When the medical professional provides a plausible denial, it is  
31 extremely difficult to establish who is telling the truth. However, to prove a violation in such  
32 cases, the Board must provide evidence to demonstrate that the patient's version of events is  
33 more likely true. In this case, the evidence simply did not rise to that level. The evidence did  
34 not demonstrate, more likely than not, that Mr. Melnick violated the Medical Practice Act.  
35

36 In making these findings, the Board does not impugn the sincerity of the testimony or the  
37 perspective of Patients A and B. And the Board is troubled that Mr. Melnick did not offer a  
38 chaperone, or explain his purpose prior to conducting an examination that involved the breasts  
39 for both patients. It is very likely that both cases represent a breakdown of communication and  
40 lack of trust between the practitioner and the patients. In cases involving an examination of the  
41 breast or pelvic area of a patient, a wise practitioner would insist upon providing a chaperone,  
42 particularly after receiving a patient complaint on one occasion, and to clearly communicate the  
43 purpose and extent of such an examination prior to touching the patient. Patient fear and  
44 misperception can often be allayed by taking the time to make sure that the patient understands  
45 what is going to happen and to explain the medical purpose for the examination or procedure.  
46  
47  
48

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48

**ORDER**

The Oregon Medical Board issues the following order:

The allegations set forth in the May 19, 2010, Complaint and Notice of Proposed Disciplinary Action are not supported by a preponderance of the evidence.

DATED this 5<sup>th</sup> day of ~~April~~<sup>May</sup>, 2011.

OREGON MEDICAL BOARD  
State of Oregon

SIGNATURE REDACTED

RALPH A. YATES, DO  
Board Chair

**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.



APR 25 2011

BEFORE THE  
OREGON MEDICAL BOARD  
STATE OF OREGON

In the Matter of )  
LYNN RAWCLIFFE, DPM ) STIPULATED ORDER  
LICENSE NO. DP00358 )  
)

1.  
1.

The Oregon Medical Board (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including podiatrists, in the state of Oregon. Lynn Rawcliffe, DPM (Licensee) is a licensed podiatric physician in the state of Oregon.

2.

On November 4, 2010, the Board issued an Order for Evaluation that required Licensee undergo an evaluation at the Center for Personalized Education for Physicians (CPEP). Licensee has failed to comply with this Order. The Board has also received credible information regarding Licensee on three separate occasions involving allegations of sub-standard care of three patients. This information resulted in the Board initiating an investigation.

3.

Licensee and the Board desire to settle this matter by the entry of this Stipulated Order. Licensee understands that he has the right to a contested case hearing under the Administrative Procedures Act (chapter 183), Oregon Revised Statutes, and fully and finally waives the right to a contested case hearing and any appeal therefrom by the signing of and entry of this Order in the Board's records. Licensee admits that he engaged in the conduct described in paragraph 2, and that this conduct violated ORS 677.190(17) willfully violating a Board order. Licensee understands that this Order is a public record and is a disciplinary

1 action that is reportable to the National Practitioner Data Bank, Healthcare Integrity and  
2 Protection Data Bank and the Federation of State Medical Boards.

3 4.

4 In order to address the concerns of the Board, Licensee and the Board agree that the  
5 Board will close these investigations and resolve this matter by entry of this Stipulated Order,  
6 subject to the following conditions:

7 4.1 Licensee will surrender his Oregon medical license while under investigation  
8 and cease from practicing any form of medicine. Licensee will not practice any form of  
9 medicine, whether paid or volunteer, including writing prescriptions for patients and/or  
10 relatives and conducting examinations or chart reviews for administrative agencies.

11 4.2 Should Licensee re-apply for an Oregon license in the future, Licensee shall be  
12 required to obtain an evaluation from the Center for Personalized Education for Physicians  
13 (CPEP) and reestablish compliance with the terms of his May 1, 2010 Stipulated Order, prior  
14 to licensure being considered .

15 4.3 Licensee stipulates and agrees that any violation of the terms of this Order  
16 shall be grounds for further disciplinary action under ORS 677.190(17).

17 4.4 This Order becomes effective the date it is signed by the Board Chair.

18 IT IS SO STIPULATED THIS 21 day of April, 2011.  
19

20 SIGNATURE REDACTED

21 LYNN RAWCLIFFE, DPM  
22

23 IT IS SO ORDERED THIS 5 day of May, 2011.

24 OREGON MEDICAL BOARD  
25 State of Oregon

26 SIGNATURE REDACTED

RAI PH A YATES, DO  
BOARD CHAIR

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

BEFORE THE  
OREGON MEDICAL BOARD  
STATE OF OREGON

In the Matter of )  
MARK KENDALL STONE, LAc ) ORDER OF LICENSE SUSPENSION  
LICENSE NO. AC00510 )

1.

The Oregon Medical Board (Board) is the state agency responsible for licensing, regulating and disciplining certain health care providers, including acupuncturists, in the state of Oregon. Mark Kendall Stone, LAc (Licensee) is a licensed acupuncturist in the state of Oregon.

2.

On May 4, 2011, the Oregon Department of Justice Child Support Program informed the Board that Licensee has not entered into an agreement with the Child Support Program as required. As a result, Licensee's license to practice acupuncture is subject to suspension pursuant to ORS 25.750 – 25.783.

3.

The Board therefore suspends Licensee's license to practice acupuncture without further hearing, effective immediately, pursuant to ORS 25.750 – 25.783.

IT IS SO ORDERED this 5<sup>th</sup> day of May, 2011.

OREGON MEDICAL BOARD  
State of Oregon

SIGNATURE REDACTED

\_\_\_\_\_  
RALPH A. YATES, DO  
Board Chair

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

BEFORE THE  
OREGON MEDICAL BOARD  
STATE OF OREGON

In the Matter of )  
ROBERT JOHN TILLEY, MD ) STIPULATED ORDER  
LICENSE NO MD 14698 )

1.

The Oregon Medical Board (Board) is the state agency responsible for licensing, regulating and disciplining certain healthcare providers, including physicians, in the state of Oregon. Robert John Tilley, MD (Licensee) is a licensed physician in the state of Oregon.

2.

On May 13, 2010, the Board issued a Complaint and Notice of Proposed Disciplinary Action, and on March 24, 2011, the Board issued an Amended Complaint and Notice of Proposed Disciplinary Action, in which the Board proposed taking disciplinary action 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) and ORS 677.190(13) gross or repeated negligence in the practice of medicine.

3.

Licensee and the Board desire to settle this matter by the entry of this Stipulated Order. Licensee understands that he has the right to a contested case hearing under the Administrative Procedures Act (chapter 183). Licensee fully and finally waives the right to a contested case hearing and any appeal therefrom by the signing of and entry of this Order in the Board's records. Licensee denies but the Board finds that Licensee engaged in the conduct described in the Board's Amended Complaint and Notice referenced in paragraph 2 (above) and that this conduct violated ORS 677.190(1)(a) unprofessional or dishonorable conduct, as defined by ORS 677.188(4)(a), (b) and (c), and ORS 677.190(13) gross or repeated negligence in the practice of medicine. Licensee understands that this Order is a public record and is a disciplinary action that

1 is reportable to the National Practitioner Data Bank, Healthcare Integrity and Protection Data  
2 Bank and the Federation of State Medical Boards.

3 4.

4 Licensee and the Board agree that the Board will close this investigation and resolve this  
5 matter by entry of this Stipulated Order, subject to the following conditions and limitations on  
6 his license to practice medicine:

7 4.1 The Oregon state medical license of Licensee is limited to exclude Licensee for a  
8 minimum of three years from the date this Order is signed by the Board Chair from providing  
9 mental health care treatment to any inmate who is incarcerated in any correctional facility in the  
10 state of Oregon, to include any federal, state, county correctional facility or city jail or juvenile  
11 detention facility.

12 4.2 This limitation on the medical license of Licensee prohibits him from seeing any  
13 patient who is an inmate of any correctional or juvenile detention facility in Oregon for mental  
14 health treatment, to include conducting an examination, performing procedures, or prescribing  
15 medications for mental health treatment.

16 4.3 At the end of three years from the signing of this Order by the Board Chair,  
17 Licensee may apply to the Board to terminate this Stipulated Order. Licensee must demonstrate  
18 full compliance with the terms of this Order and must be able to demonstrate that he can safely  
19 and competently diagnose and treat mental health conditions to the same level of competence as  
20 a board certified psychiatrist.

21 4.4 Licensee must complete a course on psycho-pharmacy that is pre-approved by the  
22 Board's Medical Director within 90 days from the signing of this Order by the Board Chair.

23 4.5 Licensee stipulates and agrees that any violation of the terms of this Order shall  
24 be grounds for further disciplinary action under ORS 677.190(17).

25 ///

26 ///

27 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

5.

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

IT IS SO STIPULATED this 7<sup>th</sup> day of April 2011.

SIGNATURE REDACTED

~~ROBERT JOHN TILLEY, MD~~

IT IS SO ORDERED this 5<sup>th</sup> day of May 2011.

OREGON MEDICAL BOARD  
~~State of Oregon~~

SIGNATURE REDACTED

~~KALVIN K. IATIS, DO~~  
Board Chair

