

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

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

**MICHAEL E. GREER, MD**  
License No. MD00019765

Respondent.

**Docket No. 04-07-A-1022MD**

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

The Medical Quality Assurance Commission (Commission), by and through Michael L. Farrell, Department of Health Staff Attorney, and Michael E. Greer, MD, Respondent, represented by Brianna S. Clark, Attorney at Law, stipulate and agree to the following:

**Section 1: PROCEDURAL STIPULATIONS**

1.1 Michael E. Greer, MD, Respondent, is licensed to practice as a physician in the state of Washington.

1.2 In September 2004, the Commission issued a Statement of Charges against Respondent. In March 2005, the Commission issued a First Amended Statement of Charges against Respondent. The Commission also issued an Ex Parte Order of Summary Action summarily limiting Respondent's license.

1.3 In the First Amended Statement of Charges, the Commission alleges that Respondent violated RCW 18.130.180(4) and (9).

1.4 Respondent understands that the State is prepared to proceed to a hearing on the allegations in the First Amended Statement of Charges.

1.5 Respondent understands that if the allegations are proven at a hearing, the Commission has the authority to impose sanctions pursuant to RCW 18.130.160.

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

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

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

1.9 Respondent understands that this Agreed Order is not binding unless and until it is signed and accepted by the Commission.

1.10 If the Commission accepts this Agreed Order, it is subject to the federal reporting requirements pursuant to Section 1128E of the Social Security Act and 45 CFR Part 61, RCW 18.130.110 and any other applicable interstate/national reporting requirements.

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

## **Section 2: FINDINGS OF FACT**

The State and Respondent stipulate to the following. Respondent disagrees with these facts with the exception of 2.1, 2.2, 2.7, 2.14 and 2.20 but acknowledges that the evidence is sufficient for the Commission to justify the following findings:

2.1 Michael E. Greer, MD, Respondent, was issued a license to practice as a physician and surgeon by the state of Washington on March 9, 1982.

2.2 On July 9, 1998, Respondent entered into a Stipulation to Informal Disposition. Paragraph 2.1 of the Stipulation to Informal Disposition provided as follows:

Respondent shall not accept any new obstetrical patients in his own practice. However, he may assist in obstetrical surgery when requested by the primary surgeon. The Respondent may also provide "on-call" coverage, including deliveries where appropriate, for other obstetrician/gynecologists with whom he has a reciprocal relationship to provide gynecological "on-call" coverage for his patients.

On July 7, 2000, the Commission found that Respondent had complied with the July 9, 1998, Stipulation to Informal Disposition and released Respondent from its terms and conditions.

2.3 On or about October [REDACTED] 1999, Patient One, a [REDACTED]-year old pregnant female went to see Respondent. Respondent told Patient One that he was too busy to provide prenatal care, and that he would refer her to a midwife or another physician. Respondent told Patient One that he would be willing to have her transfer back to him for delivery of the baby. Respondent failed to inform Patient One that the July [REDACTED] 1998, Stipulation to Informal Disposition restricted him from accepting new obstetrical patients, and that he could deliver babies only while on call for other obstetrician-gynecologists with whom he had a reciprocal on-call relationship.

2.4 On or about October [REDACTED] 1999, Respondent referred Patient One to a mid-wife for prenatal care. The midwife provided prenatal care to Patient One from November [REDACTED], 1999, until April [REDACTED] 2000, when she referred Patient One back to Respondent.

2.5 Respondent saw Patient One and provided prenatal care on May [REDACTED] May [REDACTED] June [REDACTED] June [REDACTED] June [REDACTED] and June [REDACTED] 2000. Respondent's chart note of June [REDACTED] 2000, states that Patient One's cervix was soft and closed, and not favorable for induction. Respondent wrote that he planned for administration of 25 micrograms of vaginal Cytotec and induction for postdates of July 10, 2000.

2.6 By providing prenatal care to Patient One, and planning to perform the delivery, Respondent violated paragraph 2.1 of the July 9, 1998, Stipulation to Informal Disposition.

2.7 On July [REDACTED] 2000, Patient One was admitted to the hospital for monitoring and induction of labor.

2.8 In the early afternoon of the next day, Patient One began experiencing late decelerations indicating fetal distress. Respondent misinterpreted the fetal heart tracing and documented late decelerations as variable decelerations, and thus failed to recognize obvious fetal distress which worsened as the labor continued.

2.9 At approximately 7:10 PM, the fetal heart tracing strip became pre-terminal. Respondent failed to take immediate action, and delayed delivery until 7:45 PM. Respondent delivered the infant with forceps and vacuum extraction. The infant suffered severe perinatal asphyxia with resulting brain damage. He died on May ■ 2001.

2.10 Respondent failed to act in a reasonably prudent manner in his management of Patient One's labor and delivery.

2.11 Phentermine is a prescription medication used to treat obesity by suppressing appetite. Because it carries significant risks, it is indicated only for patients with a body mass index (BMI) of 30 or more, or with a BMI over 27 in the presence of co-morbidities, such as hypertension, diabetes or hyperlipidemia.

2.12 Xenical is a prescription medication used to treat obesity. Because the use of Xenical carries significant risks, it is to be used only for patients with a body mass index (BMI) of 30 or more, or with a BMI over 27 in the presence of co-morbidities.

2.13 T3 is a prescription medication used to treat thyroid dysfunction. T3 is not an appropriate medication for weight loss because it may produce serious and even life-threatening toxicity.

2.14 Between December 2002 and March 2004, Patient Two saw Respondent for weight loss. Patient Two had a history of binge eating, bulimia, migraine headaches, and depression. Patient Two was taking Celexa and Armour thyroid supplement, as prescribed by her internist. Patient Two reported increasing abdominal girth.

2.15 During the course of Respondent's treatment, Patient Two's BMI was no higher than 24. Respondent prescribed phentermine, Topamax and Xenical to Patient Two. On her fifth visit, Respondent prescribed T3 at 7.5mcg, and gradually increased the dosage to 60mcg in the morning and 45mcg in the afternoon. There was no medical justification for Respondent to prescribe phentermine, Xenical, Topamax or T3 to Patient Two.

2.16 Between October 2003 and January 2004, Patient Three saw Respondent for weight loss. During the course of treatment, Patient Three had a BMI no greater than 27 and had no co-morbidities. Respondent prescribed

phentermine, Xenical, Topamax and T3 to Patient Three. There was no medical justification for Respondent to prescribe phentermine, Xenical, Topamax and T3 to Patient Three.

2.17 Between October 2002 and December 2003, Patient Four saw Respondent for weight loss. Patient Four had a history of anorexia, bulimia, binge eating and depression. During the course of treatment, Patient Four had a BMI of no greater than 28 and had no co-morbidities. Respondent prescribed phentermine, Topamax and T3 to Patient Four. There was no medical justification for Respondent to prescribe phentermine, Topamax and T3 to Patient Four.

2.18 Between December 2003 and August 2004, Patient Five saw Respondent for weight loss. Respondent prescribed T3 to Patient Five without first performing a test for thyroid function or performing a physical examination pertinent to the thyroid. There was no medical justification for Respondent to prescribe T3 to Patient Five.

2.19 Between December 2003 and May 2004, Patient Six saw Respondent for weight loss. Respondent prescribed T3 to Patient Six without first performing a test for thyroid function or performing a physical examination pertinent to the thyroid. There was no medical justification for Respondent to prescribe T3 to Patient Six.

2.20 Respondent's license is currently on stayed suspension and probation for a minimum of three years pursuant to Stipulated Findings of Fact, Conclusions of Law and Agreed Order entered on December 13, 2001 (Agreed Order). The Agreed Order followed a Statement of Charges that alleged Respondent (1) administered a vaginal dose of Cytotec, a uterotonic drug, to a patient and gave the patient a supply of the drug to self-administer, while failing to document his care of this patient; and (2) began induction of labor without assuring physician backup for subsequent care. The Agreed Order provides, among other things, Respondent (1) cannot accept referrals from midwife practitioners; (2) cannot supply Cytotec, or recommend its use, to any midwife practitioner; (3) cannot dispense or otherwise administer Cytotec for outpatient use unless and until ACOG guidelines approve outpatient use for this drug; and (4) must research

the medical literature on the use of Cytotec in obstetrics and prepare a paper.  
Respondent is in full compliance with the December 13, 2001, Agreed Order.

### **Section 3: CONCLUSIONS OF LAW**

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

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

3.2 Respondent has committed unprofessional conduct in violation of RCW 18.130.180(4) and (9) which provide in part:

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed.

(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority.

3.3 The above violations provide grounds for the imposition of sanctions under RCW 18.130.160.

### **Section 4: AGREED ORDER**

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

4.1 Respondent's license to practice as a physician and surgeon in the state of Washington is suspended for a period of five years. The suspension is stayed, provided that Respondent complies with the following conditions of probation.

4.2 Respondent shall not provide obstetrical services to patients.

4.3 Respondent shall not perform office-based surgery that requires anything more than local infiltration.

4.4 Respondent shall not prescribe, administer, dispense or otherwise provide thyroid medication to patients without first establishing the diagnosis of

hypothyroidism through the use of appropriate laboratory tests which at a minimum must include a T4 and a TSH.

4.5 Respondent shall not prescribe, administer, dispense or otherwise provide Xenical or any other medication for weight-loss unless it is in strict accordance with the manufacturer's indications and guidelines in the Physician's Desk Reference (PDR). Currently, the PDR provides that Phentermine and Xenical are appropriate only with a body mass index (BMI) equal to or greater than 30.0, or with a BMI over 27 in the presence of co-morbidities, such as documented hypertension, diabetes or hyperlipidemia. Respondent shall not prescribe Topamax or similar medication unless it is in strict accordance with the manufacturer's indications and guidelines in the PDR.

4.6 Respondent shall successfully complete a course in medical record-keeping within one year of the effective date of this Agreed Order. Respondent shall receive pre-approval for the course from the Commission or its Medical Consultant. Proof of completion shall be submitted within thirteen (13) months of the effective date of this Order to the following address:

Compliance Officer  
Medical Quality Assurance Commission  
P.O. Box 47866  
Olympia, Washington 98504-7866.

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

4.8 Respondent shall document each patient visit with the SOAP charting format. Respondent shall ensure that his care and treatment of patients conforms to acceptable medical practices, including taking a history, providing a physical examination if appropriate, providing informed consent, keeping adequate records, and providing appropriate follow-up care.

4.9 Respondent shall not sell vitamins, herbs, supplements, drugs, or other products to patients out of his office without suggesting or recommending reasonable alternative sources for these products. Respondent shall have the patient sign a written statement attesting that Respondent has provided the patient

the names of alternative sources and shall place the signed written statement in the patient's medical record.

4.10 In order to monitor compliance with this Agreed Order Respondent agrees that a representative of the Commission may make unannounced semi-annual visits to Respondent's office. The representative will select random patient names from Respondent's appointment log and review patient records to ensure that Respondent is complying with this order. The representative will also interview Respondent and Respondent's employees.

4.11 Respondent shall comply with any and all requests by the Commission or its designee for information or records in a timely manner.

4.12 Pursuant to RCW 18.130.180(8), Respondent shall pay a fine in the amount of \$3,000 within ninety days of the effective date of this Agreed Order. The fine shall be payable to the State Treasurer and sent to the following address:

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

4.13 Respondent shall submit quarterly declarations stating whether he is complying with each and every term and condition of this Agreed Order.

Respondent shall submit the declarations on or before January 1, April 1, July 1 and October 1, to

Compliance Officer  
Department of Health  
Medical Quality Assurance Commission  
P.O. Box 47866  
Olympia, Washington 98504.

4.14 Respondent is responsible for all costs of complying with this Agreed Order.

4.15 Respondent shall appear before the Commission six months from the date this Agreed Order is signed by the Commission, or as soon thereafter as the Commission's schedule permits, and present proof that he is complying with this Order. After the first appearance, Respondent shall continue to make



compliance appearances every six months unless otherwise instructed in writing by the Commission or its representative, until the Commission releases Respondent from the terms and conditions of this Agreed Order.

4.16 Respondent shall inform the Commission and the Adjudicative Service Unit, in writing, of changes in Respondent's residential and/or business address within thirty (30) days of the change.

4.17 This Agreed Order is not binding on Respondent or the Commission unless accepted by the Commission.

4.18 This Agreed Order shall become effective ten (10) days from the date the Order is signed by the Commission chair, or upon service of the Order on the Respondent, whichever date is sooner.

4.19 This Agreed Order supersedes and replaces the July 9, 1998, Stipulation to Informal Disposition, and the December 13, 2001, Stipulated Findings of Fact, Conclusions of Law and Agreed Order.

4.20 Respondent may petition to modify this Agreed Order at any time.

## **Section 5: FAILURE TO COMPLY**

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

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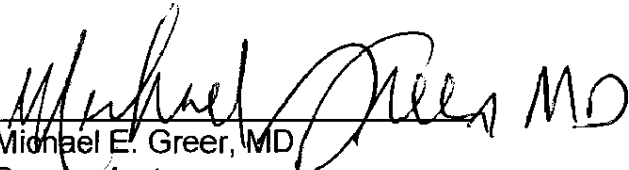
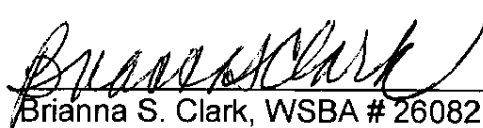
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### Section 6: ACCEPTANCE

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

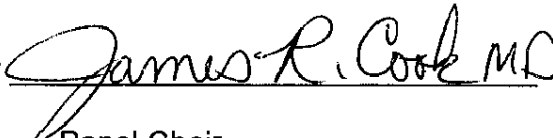
 Michael E. Greer, MD Respondent	 Brianna S. Clark, WSBA # 26082 Attorney for Respondent
<u>10/10/05</u> Date	<u>10/10/2005</u> Date

### Section 5: ORDER


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

DATED this 12<sup>th</sup> day of October 2005.

STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
MEDICAL QUALITY  
ASSURANCE COMMISSION

By   
Panel Chair

Presented by:

  
Michael L. Farrell WSBA # 16022  
Department of Health Staff Attorney

October 11, 2005  
Date

FOR INTERNAL USE ONLY. INTERNAL TRACKING NUMBERS: Program Nos. 2002-12-0058MD; 2004-03-0032MD