

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Petition for )  
Reconsideration filed by: )  
 )  
KHAJA NAJIBUDDIN CHISTY, M.D. )  
 )  
Physician's and Surgeon's )  
Certificate No. A115512 )  
 )  
Petitioner. )  
 )  
 )  
\_\_\_\_\_ )

Case No. 800-2016-028330

OAH No. 2018030287

**DENIAL BY OPERATION OF LAW  
PETITION FOR RECONSIDERATION**

No action having been taken on the petition for reconsideration, filed by Respondent KHAJA NAJIBUDDIN CHISTY, M.D., and the time for action having expired at 5 p.m. on December 27, 2018, the petition is deemed denied by operation of law.

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

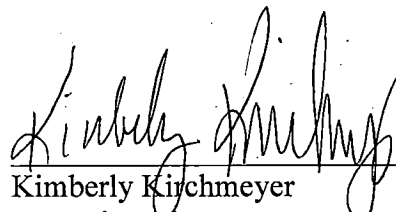
In the Matter of the First Amended Accusation	)	
Against:	)	MBC No. 800-2016-028330
	)	
KHAJA NAJIBUDDIN CHISTY, M.D.	)	
	)	
Physician's and Surgeon's	)	<b>ORDER GRANTING STAY</b>
Certificate No. A115512	)	
	)	(Government Code Section 11521)
	)	
<u>Respondent</u>	)	

Respondent, KHAJA NAJIBUDDIN CHISTY, M.D., has filed a Request for Stay of execution of the Decision in this matter with an effective date of December 21, 2018, at 5:00 p.m.

Execution is stayed until December 27, 2018.

This stay is granted solely for the purpose of allowing the Board to consider the Petition for Reconsideration.

DATED: December 17, 2018

  
Kimberly Kirchmeyer  
Executive Director  
Medical Board of California

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the First Amended  
Accusation Against:** )  
)  
)

**KHAJA NAJIBUDDIN CHISTY, M.D.** )

**Case No. 8002016028330**

**Physician's and Surgeon's  
Certificate No. A115512** )  
)

**OAH No. 2018030287**

**Respondent** )  
)  

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**DECISION**

**The attached Proposed Decision is hereby amended, pursuant to Government Code section 11517(c)(2)(c), to correct technical or minor changes that do not affect the factual or legal basis of the proposed decision. The proposed decision is amended as follows:**

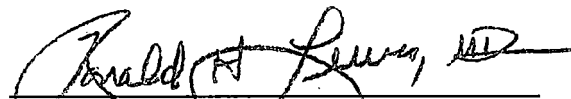
**Page 1, caption: "In the Matter of the Accusation Against:" is corrected to read "In the Matter of the First Amended Accusation Against:"**

**The attached Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on December 21, 2018.**

**IT IS SO ORDERED: November 21, 2018.**

**MEDICAL BOARD OF CALIFORNIA**

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**Ronald H. Lewis, M.D., Chair  
Panel A**

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KHAJA NAJIBUDDIN CHISTY, M.D.,

Physician's and Surgeon's Certificate  
No. A 115512

Respondent.

Case No. 800-2016-028330

OAH No. 2018030287

**PROPOSED DECISION**

Administrative Law Judge Diane Schneider, State of California, Office of Administrative Hearings, heard this matter on August 2, 2018, in Oakland, California.

Deputy Attorney General Alice W. Wong represented complainant Kimberly Kirchmeyer, Executive Director of the Medical Board of California, Department of Consumer Affairs.

Respondent Khaja Najibuddin Chisty, M.D., was present and was self-represented.

The record was left open until October 8, 2018, for respondent to submit additional evidence and for complainant to file an amended accusation. No additional evidence was received from respondent. Complainant filed a first amended accusation on September 17, 2018, which was marked for identification as Exhibit 8, and was received for jurisdictional purposes.

The record closed and the matter was submitted for decision on October 8, 2018.

**FACTUAL FINDINGS**

1. On January 21, 2011, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate No. A 115512 (Certificate) to respondent Khaja Najibuddin Chisty, M.D. The Certificate was in full force and effect during the events set forth below, and will expire on April 30, 2020, unless renewed.

2. On January 31, 2018, complainant Kimberly Kirchmeyer, acting in her official capacity as Executive Director of the Board, issued an accusation against respondent. Respondent requested a hearing on the accusation, and this hearing followed. On September 17, 2018, complainant issued a first amended accusation against respondent. Complainant alleges that respondent's Certificate is subject to discipline because of actions taken by the Colorado Medical Board against respondent's license to practice medicine in Colorado.

*Action by the Colorado Medical Board*

3. The Colorado Medical Board (Colorado Board) issued to respondent a license to practice medicine (number DR-51265) on May 16, 2012.

4. On November 18, 2016, the Colorado Board summarily suspended respondent's license. On December 15, 2016, respondent entered into an Interim Cessation of Practice Agreement with the Colorado Board, in lieu of a summary suspension.

5. On April 23, 2018, respondent entered into a Stipulation and Final Agency Order (Order) with the Colorado Board, which resolved all pending charges against him. The Order was fully executed on April 26, 2018.

6. In the Order, respondent admitted to the facts set forth below in Factual Findings 7 through 12.

7. Respondent is a psychiatrist.

8. Respondent's misconduct occurred when he was physically absent from his office and out of the country during two extended periods of time, between October 2, 2015, and January 12, 2016.

9. Respondent did not provide his patients with advance notice that their appointments would be conducted remotely through telehealth technology while he was out of the country, and he did not obtain their consent for telehealth treatment in advance of their appointments. Patients who checked in with respondent's office on the day of their appointments were told they would be seen by respondent via telehealth technology. Respondent failed to document in patients' medical records that he had treated them via telehealth technology.

10. Respondent failed to perform a physical examination or a face-to-face evaluation of patients who were prescribed opioid therapy and who had appointments with him for an assessment, adjustment, or refill of their medications. Some patients were provided with prescriptions for controlled substances based upon a minimal consultation with respondent, and without a physical examination or a face-to-face evaluation. While respondent was away, some patients attempted to contact him, without success.

11. Respondent was evaluated from a medical and psychiatric perspective, and was found safe to monitor his patients' treatment with reasonable skill and safety.

12. Respondent admitted that his conduct was unprofessional in that he failed to meet accepted standards of medical practice and failed to make essential entries in patient records.

13. Pursuant to the Order, respondent's license was placed on probation for five years subject to the following terms and conditions. During the period of probation, respondent is prohibited from using telehealth technologies to practice medicine; he is prohibited from prescribing, possessing, or dispensing any controlled substance;<sup>1</sup> respondent must receive treatment, as deemed appropriate, by the Center for Personalized Education for Physicians (CPEP); respondent must receive a competence assessment from CPEP, and he must follow CPEP's recommendations for education and training; respondent's practice must be monitored by a practice monitor; and, he must enroll in and successfully complete a prescribing course, offered by the Vanderbilt University School of Medicine, within one year from the effective date of the Order.

*Respondent's evidence*

14. Respondent takes responsibility for his misconduct. In mitigation, he traveled to India unexpectedly in October 2015, to take care of his ailing grandmother, who had severe congestive heart failure and poor pulmonary function. His grandmother was hospitalized for five weeks, and spent three of those weeks in intensive care.

15. At the time of his misconduct, respondent practiced psychiatry at Happy Minds LLC, in Thornton, Colorado, and was the only provider who accepted Medicare for adults and children who required transcranial magnetic therapy. Respondent was inundated with patients since he opened his practice in January 2013. He only took three days off between January 2013 and October 1, 2015.

16. While respondent was attending to his grandmother, during two extended periods between October 2, 2015, and January 12, 2016,<sup>2</sup> he practiced telemedicine for follow up appointments with patients whom he had treated for years. Respondent did not evaluate any new patients during this period of time. Respondent tried, without success, to hire another doctor to take care of his patients during his absence. Because there was no

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<sup>1</sup> Respondent may petition the Colorado Board for modification or termination of the prescribing restriction after he completes educational requirements related to prescribing and submits a written report from the Center for Personalized Education for Physicians confirming that respondent is safe to practice medicine without a prescribing restriction.

<sup>2</sup> Respondent testified that he returned to Colorado for about one month, between about November 22 and December 24, 2015.

other doctor available to cover his practice, he used telemedicine technology to avoid abandoning patients or compromising their care.

17. Respondent attempted to have his staff contact every patient beforehand to notify them that their appointment would be conducted using telemedicine. He admits, however, that because staff did not provide advance notice to all patients, some patients did not learn that their appointments would be conducted via telemedicine until they arrived at the office. Respondent explained that shortly after he left for India, his office was less efficient than usual because his office manager, Larissa Orona, quit on October 3, 2015. Respondent tried his best to treat his clients while he was tending to his grandmother in India; due to the time difference, he had to do so in the middle of the night.

18. At the time of his misconduct, respondent believed that a patient's consent to telehealth, digitally signed at the time he provided such treatment, was sufficient. He later learned that a patient's consent to participate in a telehealth appointment must be provided at the time the telehealth appointment is made rather than when treatment is provided. Respondent also did not realize that he needed to make an explicit note in the patient's medical record that the visit was conducted by way of telehealth technology. He thought that fact was sufficiently clear by other indications in the chart.

19. Respondent has also learned other lessons from his misconduct. He realizes that he took on too many patients because he could not "say no" to them. Respondent plans to stop treating more than 15 patients per day. He also plans to utilize more midlevel practitioners such as physician's assistants, who can prescribe medication.

20. Respondent completed medical school in India in 2003 and received training in clinical practice and research in London, where he was a member of the Royal College of Psychiatry. He completed a three-year residency at the University of Tennessee and a fellowship in child and adult psychiatry in Tampa, Florida. He is Board-certified in adult psychiatry.

21. On January 1, 2015, the American Psychiatric Association elected respondent to be a fellow, based upon his significant contributions in the field of psychiatry.

22. Respondent was recognized by Rocky Vista University for his participation as a preceptor for osteopath students, between 2014 and 2016.

23. Respondent is married and has three children, who are four, five and eight years old. His wife is training to become an ophthalmologist. Following his misconduct, he resided in Florida, where he performed immigration physicals and disability evaluations. Respondent currently resides in California, but he is not practicing medicine. He explained that he has been unable to become "credentialed" by insurance companies because of the instant proceedings.

24. Respondent testified that he completed a three-day course in prescribing through the Vanderbilt University School of Medicine in June 2018. He also testified that he was evaluated by CPEP in July 2018, and expected the written results from the evaluation within 10 weeks. At the time of hearing, respondent was searching to find a practice monitor.

25. Respondent's testimony at hearing was forthright and credible in all respects. He impresses as a hard-working and dedicated physician. Respondent will cooperate with conditions of probation imposed upon him by the Board. He requested, however, that in order to avoid redundancy with the conditions imposed by the Colorado Board, he receive credit for completing the prescribing course at Vanderbilt University School of Medicine, and the CPEP evaluation.

### LEGAL CONCLUSIONS

1. The standard of proof applied in making the factual findings set forth above is clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.)

2. Business and Professions Code<sup>3</sup> section 141, subdivision (a), applies generally to licenses issued by agencies that are part of the Department of Consumer Affairs, such as the Board. It provides, in relevant part:

For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action by another state . . . for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board.

The Colorado Board's disciplinary action was based on acts substantially related to the practice of medicine. Cause exists under section 141 to take disciplinary action against respondent's certificate, by reason of the matters set forth in Findings 8 through 10.

3. Section 2305, which applies specifically to licenses issued by the Board, provides in relevant part as follows:

The revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice medicine issued by that state . . . that would have been grounds for discipline in California of a licensee under this

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<sup>3</sup> All references are to the Business and Professions Code unless otherwise indicated.



chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

The conduct to which respondent stipulated in the Colorado proceeding constitutes cause for disciplinary action in California under sections 2234 (general unprofessional conduct), 2242 (prescribing dangerous drugs without appropriate prior examination), and 2266 (failure to maintain adequate and accurate records). (Factual Findings 8 through 10.) Accordingly, cause exists under section 2305 to take disciplinary action against respondent's Certificate.

#### *Disciplinary considerations*

4. As cause for discipline has been established, the appropriate level of discipline must be determined. In exercising its licensing functions, protection of the public is the highest priority of the Board. The Board's Manual of Model Disciplinary Orders and Disciplinary Guidelines (Guidelines) (12th ed., 2016) recommends, at a minimum, stayed revocation and five years' probation, subject to appropriate terms and conditions, for respondent's misconduct under sections 2234, 2242, and 2266. The maximum discipline for each of these violations is license revocation.

5. In the instant case, respondent acted unprofessionally when he failed to notify his patients that he would be conducting their appointments through telehealth technology; he failed to timely obtain patients' consent to receive telehealth treatment; and he failed to indicate in patients' medical records that they had received telehealth treatment. Additionally, respondent failed to perform full physical examinations or face-to-face evaluations of patients who were being treated with opioid therapy; some patients received prescriptions for controlled substances with minimal consultation with respondent; and, others tried to reach him, without success.

Significant mitigation and rehabilitation evidence, however, exists in the instant case: Respondent left the country abruptly to attend to his grandmother, who suffered from severe congestive heart failure and poor pulmonary function, and who was in intensive care for three weeks. The day after he left for India, his office manager quit, leaving his office without sufficient support. Because he was unable to secure another physician to care for his patients during his absence, he used telehealth technology to treat his patients during the night time.

Respondent is a hard-working and dedicated physician and takes responsibility for his misconduct. Respondent testified credibly that he has learned from his errors. He realizes that he can better manage his practice by taking on fewer patients and hiring more staff. Respondent has also made progress in his rehabilitation by completing a prescribing course and an evaluation by CPEP. Under these circumstances, a deviation from the guidelines is appropriate to the extent that a stayed revocation with a 35-month period of probation is sufficient to protect the public. This period of probation allows respondent to seek early termination of probation after one year, pursuant to section 2307. Accordingly, respondent's

license will be placed on probation for 35 months subject to terms and conditions set forth below.

## ORDER

Physician's and Surgeon's Certificate No. A 115512, issued to respondent Khaja Najibudden Chisty, M.D., is revoked; however, revocation is stayed and respondent is placed on probation for 35 months under the following terms and conditions.

1. Prescribing Practices Course

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a course in prescribing practices approved in advance by the Board or its designee. Respondent shall provide the approved course provider with any information and documents that the approved course provider may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six months after respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one year of enrollment. The prescribing practices course shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A prescribing practices course taken after the acts that gave rise to the charges in the first amended accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision. Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 days after successfully completing the course, or not later than 15 days after the effective date of the Decision, which is later.

2. Professionalism Program (Ethics Course)

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a professionalism program that meets the requirements of California Code of Regulations, title 16, section 1358. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one year after attending the classroom component. The professionalism program shall be at respondent's expense and shall be in addition to the CME requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the first amended accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

3. Clinical Training Program

Within 60 calendar days of the effective date of this Decision, respondent shall enroll in a clinical training or educational program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six months after respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to respondent's current or intended area of practice. The program shall take into account data obtained from the pre-assessment, self-report forms and interview, and the Decision, first amended accusation, and any other information that the Board or its designee deems relevant. The program shall require respondent's on-site participation for a minimum of three and no more than five days as determined by the program for the assessment and clinical education evaluation. Respondent shall pay all expenses associated with the clinical competence assessment program.

A program taken after the acts that gave rise to the charges in the first amended accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

At the end of the evaluation, the program will submit a report to the Board or its designee which unequivocally states whether the respondent has demonstrated the ability to practice safely and independently. Based on respondent's performance on the clinical competence assessment, the program will advise the Board or its designee of its recommendation(s) for the scope

and length of any additional educational or clinical training, evaluation or treatment for any medical condition or psychological condition, or anything else affecting respondent's practice of medicine. Respondent shall comply with the program's recommendations.

Determination as to whether respondent successfully completed the clinical competence assessment program is solely within the program's jurisdiction.

Respondent shall not practice medicine until respondent has successfully completed the program and has been so notified by the Board or its designee in writing.

#### 4. Monitoring - Practice

Within 30 calendar days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval as a practice monitor, the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in respondent's field of practice, and must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision and first amended accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision, first amended accusation, and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision and first amended accusation, fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three

calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility. The monitor shall submit a quarterly written report to the Board or its designee which includes an evaluation of respondent's performance, indicating whether respondent's practices are within the standards of practice of medicine, and whether respondent is practicing medicine safely. It shall be the sole responsibility of respondent to ensure that the monitor submits the quarterly written reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, respondent shall, within five calendar days of such resignation or unavailability, submit to the Board or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60 calendar days of the resignation or unavailability of the monitor, respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

5. Prohibited Practice

During probation, respondent is prohibited from using telehealth technologies to practice medicine.

6. Notification

Within seven days of the effective date of this Decision, respondent shall provide a true copy of this Decision and first amended accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities, or insurance carrier.

7. Supervision of Physician Assistants

During probation, respondent is prohibited from supervising physician assistants and advance practice nurses.

8. Obey All Laws

Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10. Compliance with Probation Unit

Respondent shall comply with the Board's probation unit and all terms and conditions of this Decision.

11. Address Changes

Respondent shall, at all times, keep the Board informed of respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

12. Place of Practice

Respondent shall not engage in the practice of medicine in respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

13. License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's certificate.

14. Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

In the event respondent should leave the State of California to reside or to practice respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

15. Interview with the Board or its Designee

Respondent shall be available in person upon request for interviews either at respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

16. Non-practice While on Probation

Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine in California as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event respondent's period of non-practice while on probation exceeds 18 calendar months, respondent shall successfully complete a clinical training program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws and General Probation Requirements.

17. Completion of Probation

Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

18. Violation of Probation

Failure to fully comply with any term or condition of probation is a violation of probation. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

19. License Surrender

Following the effective date of this Decision, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request the voluntary surrender of Respondent's license. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet card and wall certificate to the Board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of respondent's license shall be deemed disciplinary action. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.



20. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

DATED: October 25, 2018

DocuSigned by:  
*Diane Schneider*  
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DIANE SCHNEIDER  
Administrative Law Judge  
Office of Administrative Hearings

1 XAVIER BECERRA  
Attorney General of California  
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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO *Sept. 12 20 18*  
BY *[Signature]* ANALYST

7  
8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation  
13 Against:

Case No. 800-2016-028330

14 **Khaja Najibuddin Chisty, M.D.**  
15 830 Stewart Drive, Ste. 151A  
16 Sunnyvale, CA 94085

**FIRST AMENDED ACCUSATION**

17 **Physician's and Surgeon's Certificate**  
18 **No. A 115512,**

Respondent.

19 Complainant alleges:

**PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs (Board).

23 2. On or about January 21, 2011, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number A 115512 to Khaja Najibuddin Chisty, M.D. (Respondent). The Physician's  
25 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on April 30, 2020, unless renewed.

**JURISDICTION**

1  
2       3.    This First Amended Accusation is brought before the Board, under the authority of  
3 the following laws. All section references are to the Business and Professions Code (Code)  
4 unless otherwise indicated.

5       4.    Section 2227 of the Code provides that a licensee who is found guilty under the  
6 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
7 one year, placed on probation and required to pay the costs of probation monitoring, or such other  
8 action taken in relation to discipline as the Board deems proper.

9       5.    Section 2305 of the Code states:

10       "The revocation, suspension, or other discipline, restriction or limitation imposed by  
11 another state upon a license or certificate to practice medicine issued by that state, or the  
12 revocation, suspension, or restriction of the authority to practice medicine by any agency of the  
13 federal government, that would have been grounds for discipline in California of a licensee under  
14 this chapter [Chapter 5, the Medical Practice Act] shall constitute grounds for disciplinary action  
15 for unprofessional conduct against the licensee in this state."

16       6.    Section 141 of the Code states:

17       "(a) For any licensee holding a license issued by a board under the jurisdiction of the  
18 department, a disciplinary action taken by another state, by any agency of the federal government,  
19 or by another country for any act substantially related to the practice regulated by the California  
20 license, may be a ground for disciplinary action by the respective state licensing board. A  
21 certified copy of the record of the disciplinary action taken against the licensee by another state,  
22 an agency of the federal government, or another country shall be conclusive evidence of the  
23 events related therein.

24       "(b) Nothing in this section shall preclude a board from applying a specific statutory  
25 provision in the licensing act administered by that board that provides for discipline based upon a  
26 disciplinary action taken against the licensee by another state, an agency of the federal  
27 government, or another country."

28

1 **CAUSE FOR DISCIPLINE**

2 **(Discipline, Restrictions, or Limitation Imposed by Another State)**

3 7. On or about November 18, 2016, the Colorado Medical Board, issued an Order of  
4 Suspension Pursuant to Section 24-4-104(4), whereby Respondent's license was suspended. The  
5 Order of Suspension was based on allegations of improper prescribing practices, failure to ensure  
6 continuity of care, and failure to obtain consent from patients scheduled for telehealth  
7 appointments when Respondent was out of the country and physically absent from his office  
8 during an extended period of time between October 2, 2015 and January 12, 2016. The Colorado  
9 Medical Board and Respondent entered into a Non-Disciplinary Interim Cessation of Practice  
10 Agreement (Interim Agreement) on December 15, 2016, restricting Respondent from the practice  
11 of medicine while the Interim Agreement was in effect.

12 A copy of the November 18, 2016 Order of Suspension and the December 15, 2016 Interim  
13 Agreement are attached as Exhibit A.

14 8. On or about April 26, 2018, the Colorado Medical Board issued a Stipulation and  
15 Final Agency Order (Final Agency Order) replacing the Interim Agreement. Respondent was  
16 placed on probation for five years, with terms and conditions including: (1) restriction from using  
17 telehealth technologies to practice medicine, (2) indefinite restriction from prescribing,  
18 possessing, maintaining a supply of, administering or dispensing any controlled substance, (3)  
19 treatment monitoring as determined to be appropriate by the Colorado Physician Health Program,  
20 (4) Practice Monitoring, (5) Center for Personalized Education for Physicians (CPEP) Education  
21 Program, and (6) Prescribing Course.

22 A copy of the April 26, 2018 Final Agency Order is attached as Exhibit B.

23 9. Respondent's conduct and the action of the Colorado Medical Board as set forth  
24 above, constitute cause for discipline pursuant to section 2305 and/or 141 of the Code.

25  
26 ///

27 ///

28 ///

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 115512, issued to Khaja Najibuddin Chisty, M.D.;
2. Revoking, suspending or denying approval of Khaja Najibuddin Chisty, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Khaja Najibuddin Chisty, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: September 12, 2018

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

First Amended Accusation\_with Board Edits.docx

**Exhibit A**

**Accusation No. 800-2016-028330**

BEFORE THE COLORADO MEDICAL BOARD  
STATE OF COLORADO

CASE NOS. 2015-4537-B; 2015-4674-B; 2015-5000-B; 2016-165-B; 2016-4960-B  
and 2016-5306-B



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**ORDER OF SUSPENSION PURSUANT TO SECTION 24-4-104(4), C.R.S.**

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IN THE MATTER OF THE LICENSE TO PRACTICE AS A PHYSICIAN IN THE  
STATE OF COLORADO OF KHAJA N. CHISTY, M.D., LICENSE NO. DR-51265,

Respondent.

---

TO: KHAJA N. CHISTY, M.D.  
1700 W. 100<sup>th</sup> Ave., Suite 101  
Thornton, CO 80260

Inquiry Panel B ("Panel") of the Colorado Medical Board (the "Colorado Board"), having reviewed this matter during its meeting of the Panel on November 18, 2016, hereby finds as follows:

1. Respondent was licensed to practice medicine in the state of Colorado on May 16, 2012, and was issued license number DR-51265, which Respondent has held continuously since that date.
2. On October 20, 2016, the Panel reviewed materials from case numbers 2015-4537-B; 2015-4674-B; 2015-5000-B and 2016-165-B and found that based upon the information reviewed, the Panel had reasonable grounds to believe that Respondent deliberately and willfully violated the Medical Practice Act and/or that the public health, safety, or welfare imperatively requires emergency action. The Panel reviewed information that Respondent was out of the country and physically absent from his office for extended periods of time during the period of October 2, 2015 and January 12, 2016. The Panel reviewed additional information that Respondent left post-dated, pre-signed prescriptions for certain patients and that Respondent may have left pre-signed blank prescriptions with his office staff to provide to other patients during his absence from the office. The Panel reviewed information that hundreds of prescriptions for controlled substances were filled by Respondent's patients while Respondent was out of the country. The Panel reviewed information that patients with whom Respondent did meet with via telehealth technologies did not know in advance that they would be seen via telehealth technologies, and were not given the opportunity to consent to such treatment method. The Panel also reviewed information that certain patients attempted to contact Respondent's office for treatment without success while Respondent was out of the

office for an extended period of time. The Panel expressed concerns regarding Respondent's conduct identified above, as well as regarding Respondent's failure to ensure continuity of care for his psychiatric patients while he was away from his office for extended periods of time. The Panel was also concerned that Respondent's medical records for patient encounters either did not document certain patient encounters, or did not document that the encounter occurred via telehealth technologies.

3. On October 21, 2016, the Panel issued its Notice of Right to Request Pre-Suspension Hearing, authorizing Respondent to appear for a pre-suspension hearing on November 18, 2016. Respondent did not appear for a hearing.

4. On November 18, 2016, the Panel reviewed materials relating to case numbers 2015-4537-B; 2015-4674-B; 2015-5000-B; 2016-165-B; 2016-4960-B and 2016-5306-B, and found that based upon the information reviewed, the Panel had reasonable grounds to believe that the public health, safety, or welfare imperatively requires emergency action and/or that Respondent was guilty of a deliberate and willful violation of the Medical Practice Act. In addition to the concerns that the Panel had identified at its prior meeting, the Panel also found that:

a. During his lengthy absence from the office, Respondent failed to adequately monitor patients who were prescribed certain controlled substances;

b. Respondent failed to appropriately transfer or terminate certain patients who were otherwise unable to obtain care from Respondent's office while he was out of the country; and

c. Respondent prescribed inappropriate combinations of benzodiazepines, stimulants and Suboxone to certain patients.

5. Based upon paragraphs 1-4, the Panel has objective and reasonable grounds to believe and finds that Respondent deliberately and willfully violated the Medical Practice Act and/or that the public health, safety, or welfare imperatively requires emergency action.

6. The Panel incorporates paragraphs 1 through 5 in its findings for this Order of Suspension from the practice of medicine.

7. The Panel is therefore authorized by Section 24-4-104(4), C.R.S. to suspend Respondent's license to practice medicine in this state pending proceedings for suspension or revocation.

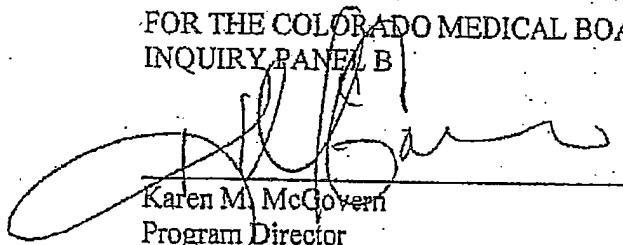


WHEREFORE, it is ordered that:

1. Respondent's license to practice medicine in this state is hereby suspended, effective at 5:00 p.m., Friday, November 18, 2016.
2. The suspension shall remain in effect until resolution of this matter.

ENTERED this 18th day of November, 2016.

FOR THE COLORADO MEDICAL BOARD  
INQUIRY PANEL B



Karen M. McGovern  
Program Director  
Colorado Medical Board  
1560 Broadway, Suite 1300  
Denver, Colorado 80202

*Delegated by Panel B to sign on its behalf*



BEFORE THE COLORADO MEDICAL BOARD  
STATE OF COLORADO

CASE NOS. 2015-4537-B; 2015-4674-B; 2015-5000-B and 2016-165-B

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**NON-DISCIPLINARY INTERIM CESSATION OF PRACTICE AGREEMENT**

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IN THE MATTER OF THE LICENSE TO PRACTICE AS A PHYSICIAN IN THE STATE  
OF COLORADO OF KHAJA N. CHISTY, M.D., LICENSE NO. DR-51265,

Respondent.

---

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel B ("Panel") of the Colorado Medical Board ("Board") and Khaja N. Chisty, M.D. ("Respondent") (collectively "the parties"), as follows:

1. Respondent was licensed to practice as a physician in the state of Colorado on May 16, 2012 and was issued license number DR-51265, which Respondent has held continuously since that date.
2. The Panel and the Board have jurisdiction over Respondent and over the subject matter of this proceeding.
3. On October 20, 2016, the Panel reviewed materials relating to case numbers 2015-4537-B; 2015-4674-B; 2015-5000-B and 2016-165-B. The Panel reviewed information that Respondent, a psychiatrist, was out of the country and physically absent from his office for extended periods of time during the period of October 2, 2015 and January 12, 2016. The Panel reviewed information that patients scheduled for appointments did not know that they would be seen by Respondent via telehealth technologies, and were not given the opportunity to consent to such treatment method. The Panel expressed concerns with Respondent's prescribing practices.
4. On November 18, 2016, the Panel suspended summarily Respondent's license to practice medicine. Respondent appeared and participated in a post-suspension hearing held on December 15, 2016, pursuant to Board Rule 280.
5. Respondent denies any and all allegations of a violation of the Medical Practice Act. Respondent voluntarily enters into this agreement to facilitate further evaluation of the issues related to Board case numbers 2015-4537-B; 2015-4674-B; 2015-5000-B and 2016-165-B.
6. Based upon the information and the totality of the circumstances, Respondent has offered to enter into an agreement for Respondent not to practice as a physician in the interim as



set forth in more detail below, and the Panel has authorized the parties to enter into an agreement for Respondent to limit his practice as a physician.

7. The parties have agreed to enter into this Non-Disciplinary Interim Cessation of Practice Agreement ("Interim Agreement") pending further evaluation and investigation of Respondent to determine what further actions, if any, are warranted. The summary suspension issued by the Panel, effective November 18, 2016, is terminated and replaced by this Interim Agreement.

8. Respondent agrees that he will not perform any act requiring a license issued by the Board while this Interim Agreement is in effect.

9. This Interim Agreement shall remain in effect until such time as the parties reach a final disposition of this case or, in the event summary suspension proceedings are initiated, an order for summary suspension enters.

10. The Panel agrees that it will not institute summary suspension proceedings while this Interim Agreement is in effect so long as the Respondent remains in compliance with this Interim Agreement and so long as the Panel does not learn of new information that would indicate that summary suspension is warranted.

11. Nothing in this Interim Agreement shall constitute disciplinary action, a finding that Respondent has engaged in unprofessional conduct, or any admission by Respondent of unprofessional conduct. There have been no final determinations regarding Respondent's professional competence or professional conduct. Nothing in this Interim Agreement shall constitute final actions as defined in section 24-4-102(1), C.R.S.

12. Nothing in this Interim Agreement shall preclude the Panel from initiating disciplinary action pursuant to section 12-36-118, C.R.S., or issuing a Final Agency Order while this Interim Agreement is in effect.

13. Respondent understands that Respondent has the right to be represented by counsel of Respondent's choice in this matter, and Respondent has chosen voluntarily to proceed without counsel.

14. The terms of this Interim Agreement were mutually negotiated and determined.

15. Both parties acknowledge that they understand the legal consequences of this Interim Agreement, both parties enter into this Interim Agreement voluntarily, and both parties agree that no term or condition of this Interim Agreement is unconscionable.

16. This Interim Agreement and all its terms constitute a valid board order for purposes of section 12-36-117(1)(u), C.R.S.

17. So that the Board may notify hospitals of this Interim Agreement, Respondent presently holds privileges at the following hospitals:

-None-

18. Invalidation of any portion of this Interim Agreement by judgment or court order shall in no way affect any other provision, which provision shall remain in full force and effect.

19. This Interim Agreement shall be effective upon signature by Respondent. Respondent acknowledges that the Panel may choose not to accept the terms of this Interim Agreement and that if the Interim Agreement is not approved by the Panel and signed by a Panel member or other authorized person, it is void.

20. This Interim Agreement constitutes the entire agreement between the parties, and there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Interim Agreement.

21. All costs and expenses incurred by Respondent to comply with this Interim Agreement shall be the sole responsibility of Respondent, and shall in no way be the obligation of the Board or Panel.

22. Upon becoming effective, this Interim Agreement shall be open to public inspection and shall be publicized pursuant to the Board's standard policies and procedures. While this Interim Agreement does not constitute discipline against Respondent's license, it may be reported to the Federation of State Medical Boards, the National Practitioner Data Bank and as otherwise required by law.

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*Khaja N. Chisty*  
KHAJA N. CHISTY, M.D.

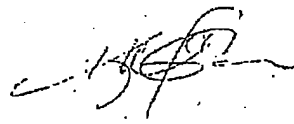
THE FOREGOING was acknowledged before me this 15 day of December, 2016, by  
Khaja N. Chisty, M.D., in the County of Adams, State of Colorado.

SEAN BRANHAM  
Notary Public - State of Colorado  
Notary ID 2003402585  
My Commission Expires Jun 28, 2020

*Sean Branham*  
NOTARY PUBLIC  
06/28/2020  
Commission expiration date

THE FOREGOING Non-Disciplinary Interim Cessation of Practice Agreement is effective upon signature by Respondent, above, and is approved this 15<sup>th</sup> day of December, 2016.

FOR THE COLORADO MEDICAL BOARD  
INQUIRY PANEL B



---

Karen M. McGovern, Program Director  
By delegated authority of Inquiry Panel B

APPROVED AS TO FORM:

FOR THE COLORADO MEDICAL BOARD

CYNTHIA H. COFFMAN  
Attorney General

A handwritten signature in cursive script, appearing to read "Ashley Moller Klein", written over a horizontal line.

ASHLEY MOLLER KLEIN, #29362  
Senior Assistant Attorney General  
Attorneys for the Colorado Medical Board,  
Inquiry Panel B  
Colorado Department of Law  
Ralph L. Carr Colorado Judicial Center  
Business & Licensing Section, Medical Unit  
1300 Broadway, 8<sup>th</sup> Floor  
Denver, Colorado 80203  
Telephone: (720) 508-6400  
\*Counsel of Record

**Exhibit B**

**Accusation No. 800-2016-028330**



BEFORE THE COLORADO MEDICAL BOARD  
STATE OF COLORADO

CASE NOS. 2015-4537-B; 2015-4674-B; 2015-5000-B; 2016-165-B; 2016-4960-B;  
2016-5225-B; 2016-5306-B; 2017-737-B

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STIPULATION AND FINAL AGENCY ORDER

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IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE  
LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF KHAJA  
N. CHISTY, M.D., LICENSE NUMBER DR-51265,

Respondent.

---

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel B  
("Panel") of the Colorado Medical Board ("Board") and Khaja N. Chisty, M.D.  
("Respondent") (collectively, the "Parties") as follows:

JURISDICTION AND CASE HISTORY

1. Respondent was licensed to practice medicine in the state of Colorado on May 16, 2012 and was issued license number DR- 51265, which Respondent has held continuously since that date.
2. Respondent's license expired on April 30, 2017; Respondent's renewal application is currently the subject of case number 2018-175-Licensing. This stipulation is not intended to resolve that case number.
3. The Panel and the Board have jurisdiction over Respondent and over the subject matter of this proceeding.
4. On or about November 18, 2016, the Panel summarily suspended Respondent's license.
5. On or about December 15, 2016, the Parties entered into an Interim Cessation of Practice Agreement ("Interim Agreement") in lieu of summary suspension pursuant to Section 24-4-104(4), C.R.S. This Interim Agreement remains in effect until such time as a Final Board Order becomes effective in this case.
6. On November 18, 2016, the Panel reviewed case numbers 2015-4537-B; 2015-4674-B; 2015-5000-B; 2016-165-B; 2016-4960-B; 2016-5225-B; and 2016-5306-

B and determined that further proceedings by formal complaint were warranted pursuant to Section 12-36-118(4)(c)(IV), C.R.S. The Panel thereupon referred the matters to the Attorney General pursuant to Section 12-36-118(4)(c)(IV), C.R.S.

7. On February 17, 2018, the Panel reviewed case number 2017-737-B and determined that further proceedings by formal complaint were warranted pursuant to Section 12-36-118(4)(c)(IV), C.R.S. The Panel thereupon referred the matter to the Attorney General pursuant to Section 12-36-118(4)(c)(IV), C.R.S.

8. It is the intent of the parties and the purpose of this Stipulation and Final Agency Order ("Order") to provide for a settlement of all matters set forth in case number 2015-4537-B; 2015-4674-B; 2015-5000-B; 2016-165-B; 2016-4960-B; 2016-5225-B; 2016-5306-B; and 2017-737-B, without the necessity of conducting a formal disciplinary hearing. This Order constitutes the entire agreement between the parties, and there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Order.

9. Respondent understands that:

a. Respondent has the right to be represented by an attorney of the Respondent's choice and Respondent is represented by counsel;

b. Respondent has the right to a formal complaint and disciplinary hearing pursuant to Sections 12-36-118(4)(c)(IV) and 12-36-118(5), C.R.S.;

c. By entering into this Order, Respondent is knowingly and voluntarily giving up the right to a formal complaint and disciplinary hearing, admits the facts contained in this Order, and relieves the Panel of its burden of proving such facts;

d. Respondent is knowingly and voluntarily giving up the right to present a defense by oral and documentary evidence and to cross-examine witnesses who would testify on behalf of the Panel; and

e. Respondent is knowingly and voluntarily waiving the right to seek judicial review of this Order.

#### FACTUAL BASIS

10. Respondent specifically admits and the Panel finds that:

a. Respondent is a psychiatrist.

b. Respondent was out of the country and physically absent from his office for two extended periods during the period of October 2, 2015 and January 12, 2016.

c. For the time Respondent was out of the country, Respondent failed to notify his patients that he would conduct the appointments remotely through telehealth technologies. Patients learned their appointments would not occur in person at the time they checked in with the office staff for their appointments. Patients with whom Respondent did meet with via telehealth technologies did not know in advance that they would be seen via telehealth technologies, and were not given the opportunity to consent to treatment by telehealth until they presented to the office for their appointments, which often involved chronic medication management.

d. Respondent did not document in the patient's medical record when he treated a patient via telehealth technology.

e. Respondent has multiple patients for whom he prescribes schedule II or III medications that require assessment and adjustment or refill at each appointment. Respondent failed to perform full physical examination or face to face evaluation of the patients while they were on chronic opioid therapy.

f. While Respondent was out of the country, certain patients attempted to contact Respondent's office for treatment without success. Other patients were provided with prescriptions for controlled substances after minimal consultation with Respondent, and without face to face evaluation or physical examination.

g. Following evaluation, Respondent was found from a medical/psychiatric perspective to be safe to practice with reasonable skill and safety to patients in the context of treatment monitoring.

11. Respondent admits and the Panel finds that the conduct set forth above constitutes unprofessional conduct as defined in Section 12-36-117, C.R.S., which states:

"Unprofessional conduct" as used in this article means:

**§ 12-36-117. Unprofessional conduct**

(1) "Unprofessional conduct" as used in this article means:

(p) Any act or omission which fails to meet generally accepted standards of medical practice;

(cc) Falsifying or repeatedly making incorrect essential entries or repeatedly failing to make essential entries on patient records.

12. Based upon the above, the parties stipulate that the terms of this Order are authorized by Section 12-36-118(5)(g)(III), C.R.S.

**PROBATIONARY TERMS**

13. Respondent's license to practice medicine is hereby placed on probation for five (5) years commencing on the effective date of this Order or the resolution of board case number 2018-175-Licensing through the grant of a license, whichever date occurs later. All terms of probation shall be effective throughout the probationary period and shall constitute terms of this Order.

14. During the probationary period, Respondent agrees to be bound by the terms and conditions set forth below.

**TELEHEALTH RESTRICTION**

15. Commencing on the effective date of this Order and for the duration of the probationary period set forth in paragraph 13 of this Order, Respondent shall not engage in the use of telehealth technologies to practice medicine.

**INDEFINITE PRESCRIBING RESTRICTION**

16. Commencing on the effective date of this Order, Respondent shall not prescribe, possess, maintain a supply of, administer or dispense any controlled substance.

17. On or after the date on which Respondent has successfully completed the Vanderbilt prescribing course set forth in paragraph 44 of this Order, together with all prescribing education that may be required pursuant to the CPEP Education Program set forth in paragraph 27 of this Order, Respondent may petition the Panel for modification or termination of the prescribing restrictions and conditions set forth in paragraph 16 above. Such written request must be accompanied by written documentation confirming successful

completion of the Vanderbilt prescribing course. Such written request also must contain confirmation from the Center for Personalized Education for Physicians that Respondent has successfully completed all education related to prescribing controlled substances required by any education program. If Respondent is assessed and does not require an education program through the Center for Personalized Education for Physicians, Respondent may submit the report reflecting no education program is necessary. In addition, Respondent shall submit a written report from CPHP confirming, from a medical and psychiatric perspective, that Respondent is safe to practice medicine with reasonable skill and safety without a prescribing restriction. Respondent agrees that if he petitions to modify or terminate the prescribing restrictions and conditions set forth in paragraph 16 above, the Panel may require Respondent to fulfill additional requirements that the Panel deems necessary, at that time, to protect the public health, safety, and welfare. These requirements may include, but are not limited to, other prescribing conditions and/or restrictions, submitting to a mental and/or physical examination and/or evaluation by physicians designated by the Board, a probationary period, treatment monitoring, an educational assessment, and practice monitoring. The parties agree that the Panel's decision regarding such modification or termination of the prescribing restrictions and conditions and additional requirements shall be made at the sole discretion of the Panel. Respondent waives the right to appeal the Panel decision on these issues.

#### TREATMENT MONITORING

18. During the probationary period, Respondent shall receive such treatment as is determined to be appropriate by the Colorado Physician Health Program ("CPHP"). All instructions and recommendations to Respondent by CPHP shall constitute terms of this Order, and Respondent must comply with any such instructions and recommendations. Failure to comply with such instructions and recommendations shall constitute a violation of this Order. CPHP shall also function as the "treatment monitor" as that term is used in this Order.

19. Within 30 days of the effective date of this Order, Respondent shall sign any and all releases necessary to allow CPHP to communicate with the Panel. Within 60 days of the effective date of this Order, Respondent shall provide the Panel with a copy of such releases. This information may include alcohol and drug abuse treatment program records that may be confidential under federal or state law. Respondent shall update any and all releases as often as may reasonably be required to allow the Panel access to Respondent's privileged or confidential information. Respondent shall not revoke such releases prior to successful completion of the probationary period as set forth in this Order. Any failure to execute such a release, failure to provide copies to the Panel, or any premature revocation of such a release shall constitute a violation of this Order. In the event Respondent revokes such release, CPHP may, because of confidentiality concerns, refuse to acknowledge Respondent's participation in CPHP. CPHP's refusal to

acknowledge Respondent's participation with that organization shall constitute a violation of this Order.

20. Respondent shall also complete any and all unrestricted releases as are necessary to permit CPHP to disclose to the Panel information generated by other sources. Respondent authorizes the Panel to re-disclose and make public, consistent with Board Policy 10-18, information obtained from CPHP necessary for the limited purposes of enforcing this Order, seeking sanctions for noncompliance with this Order, or other purposes authorized in the Medical Practice Act. Medical records shall not become public records by virtue of such use. Any failure to execute such a release, failure to provide copies to the Panel, or any premature revocation of such a release shall constitute a violation of this Order.

21. CPHP's treatment monitoring activities shall constitute ongoing examinations of Respondent for the purpose of Section 12-36-118(9)(a), C.R.S. Respondent's failure to comply with CPHP's instructions and recommendations shall have the full force and effect of a violation of an order pursuant to Section 12-36-118(9)(a), C.R.S. and subject Respondent to action pursuant to Sections 12-36-118(5)(g)(IV) and 12-36-118(9)(a), C.R.S.

22. Respondent shall ensure that CPHP submits quarterly written reports to the Panel. The reports shall briefly describe CPHP's ongoing examinations and treatment monitoring of Respondent. The reports shall also state whether Respondent is in compliance with this Order. If at any time CPHP has reasonable cause to believe that Respondent has violated the terms of this Order, is unable to practice with reasonable skill and with safety to patients or has committed unprofessional conduct as defined in Section 12-36-117(1), C.R.S., CPHP shall immediately inform the Panel.

23. CPHP's treatment monitoring instructions and recommendations shall constitute terms of this Order for so long as this Order remains in effect. Nothing in this agreement shall limit the ability of CPHP to impose any other instruction or recommendation as part of its treatment monitoring of Respondent.

24. If at any time, CPHP believes that any of the above terms are no longer necessary, CPHP may relax the terms as it deems appropriate and, at CPHP's direction, the Respondent may comply with this Order as determined by CPHP. CPHP shall inform the Panel of any such action relaxing the above terms in its quarterly report. All such reports shall be reviewed by the Board's staff and,

at the staff's discretion, may be reviewed by the Panel. Following receipt and review of such a quarterly report, the Panel reserves the right to reject and nullify CPHP's decision regarding the relaxing of such terms. If the Panel nullifies CPHP's decision regarding the relaxing of any of the above terms, the Respondent specifically agrees to comply with the Order as set forth above in accordance with the Panel's directions.

25. It is the responsibility of the Respondent to provide information to CPHP in a timely and complete manner and to assure that all CPHP written reports are timely transmitted to the Panel.

#### TERMINATION OF TREATMENT MONITORING

26. After successful completion of five (5) years of monitoring by CPHP, including any time CPHP has monitored Respondent prior to the effective date of this Order, Respondent may petition the panel to terminate the Treatment Monitoring terms set forth in this Order. With any request, Respondent must provide the Panel with a report from CPHP finding Respondent safe to practice with skill and safety to patients. The parties agree that the Panel's decision regarding such a petition shall be made at the sole discretion of the Panel. Respondent hereby waives any right to appeal the Panel's decision on this issue. The parties agree that any decision the Panel may make to terminate treatment monitoring will not also terminate the probationary period.

#### CPEP EDUCATION PROGRAM

27. Within 30 days of the effective date of this Order, Respondent shall contact the Center for Personalized Education for Physicians ("CPEP") to schedule a competence assessment ("CPEP Assessment"). Respondent shall complete and review the CPEP Assessment within 120 days of the effective date of this Order.

28. The CPEP Assessment will determine whether CPEP recommends that Respondent undergo any education intervention plan or other remedial education or training program. Hereinafter, the term "Education Program" shall refer to any education intervention plan or other remedial education or training program recommended by CPEP, including the "Post-Education Evaluation" component.

29. If the CPEP Assessment indicates Respondent should undergo an Education Program, Respondent shall enroll in the recommended Education Program within 180 days of the effective date of this Order. If the CPEP Assessment indicates that Respondent need not undergo any Education Program, Respondent shall be

deemed to have satisfied fully the CPEP Education Program requirement of this Order.

30. Respondent shall timely commence and successfully complete any CPEP recommended Education Program including the Post-Education Evaluation component, within the time required by CPEP. However, the Respondent shall have no more than two years from the effective date of this Order to complete the entire CPEP Education Program unless the Panel determines, in its discretion, that more time is necessary. Any delay in Respondent's completion of the recommended Education Program, including the post-education evaluation, will delay the Respondent's successful completion of the probationary period.

31. Respondent understands and acknowledges that in order to complete the Education Program successfully, the Respondent must demonstrate to CPEP and the Panel's satisfaction that the Respondent has satisfactorily accomplished all CPEP Education Program objectives and has integrated this learning into Respondent's medical practice.

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

33. Respondent shall provide or cause CPEP to provide a copy of the Assessment Report, Education Plan and any other reports regarding the Respondent's participation in the Education Program to the Panel within 30 days of the report's completion.

34. Respondent shall ensure that all reports from CPEP are complete and timely submitted to the Board. Respondent understands that the Board may accept a report, reject a report, refer the matter for additional disciplinary proceedings or take any further action authorized by law.

35. Respondent shall provide the Panel with written proof from CPEP upon successful completion of the recommended Education Program, including successful completion of the Post-Education Evaluation as defined above.

36. The Parties acknowledge that most CPEP Assessments include a computer-based cognitive function screening test. If CPEP determines that



Respondent's results on the cognitive function screen suggest the need for further neuropsychological testing, the Respondent shall directly notify or ensure that CPEP notifies, the Panel of such a determination. The Panel may, in its discretion, order Respondent to undergo a comprehensive neuropsychological examination with its peer assistance, or other delegated provider, pursuant to an Order or other written instruction of the Panel. The Respondent understands and agrees to undergo neuropsychological examination as directed by the Panel.

37. All CPEP recommendations and instructions shall constitute terms of this Order. Respondent shall comply with all CPEP recommendations and instructions within the time periods set out by CPEP and the Panel. Respondent's failure to comply with CPEP recommendations and instructions shall constitute a violation of this Order.

#### PRACTICE MONITORING

38. During the probationary period, a "practice monitor" shall monitor Respondent's practice. Within 30 days of the effective date of this Order, Respondent shall nominate, in writing, a proposed practice monitor for the Panel's approval. The nominee shall be a physician licensed by the Board and currently practicing in Colorado. The nominee shall have no financial interest in Respondent's practice. The nominee must be knowledgeable in Respondent's area of practice. If Respondent is board certified in an area of practice, it is preferred, but not required, that the nominee be board certified by that same board. If the Respondent has privileges at hospitals, it is preferred, but not required, that the nominee have privileges at as many of those same hospitals as possible. The Board shall not have disciplined the nominee.

39. Respondent's nomination for practice monitor shall set forth how the nominee meets the above criteria. With the written nomination, Respondent shall submit a letter signed by the nominee, as well as a current curriculum vitae of the nominee. The letter from the nominee shall contain a statement from the nominee indicating that the nominee has read this Order and understands and agrees to perform the obligations set forth herein. The nominee must also state that the nominee can be fair and impartial in the review of the Respondent's practice.

40. Upon approval by the Panel, the practice monitor shall perform the following:

a. Each month, the practice monitor shall visit all of the offices at which Respondent practices medicine and shall review a minimum of five patient charts maintained by Respondent. The practice monitor shall make

reasonable efforts to insure that Respondent has no notice of which charts will be selected for review. The practice monitor is authorized to review such other medical records maintained by Respondent as the practice monitor deems appropriate.

b. Each month, the practice monitor shall review a minimum of five hospital charts of patients whom Respondent has admitted to, evaluated at, or treated at hospitals. If Respondent has admitted, evaluated, or treated fewer than five patients, the practice monitor shall review all the patients so admitted, evaluated, or treated, if any. The practice monitor shall make reasonable efforts to insure that Respondent has no notice of which charts will be selected for review. The practice monitor is authorized to review such other hospital charts as the practice monitor deems appropriate.

c. The practice monitor shall submit quarterly written reports to the Panel.

d. The practice monitor's reports shall include the following:

i. a description of each of the cases reviewed; and

ii. as to each case reviewed, the practice monitor's opinion whether Respondent is practicing medicine in accordance with generally accepted standards of medical practice.

41. Respondent shall ensure that all reports by the practice monitor are complete and timely submitted to the Board. In the event that a practice monitor finds Respondent's care falls below generally accepted standards of medical practice, the Panel shall review the report and determine whether Respondent's action constitutes a violation of this Order and Section 12-36-117(1), C.R.S. If the Panel determines that such a violation occurred, it shall take any additional disciplinary action against Respondent it deems necessary and appropriate. Respondent understands that the Board may accept or reject a report, as well as refer the matter for additional disciplinary proceedings or take any further action authorized by law.

42. If at any time the practice monitor believes Respondent is not in compliance with this Order, is unable to practice with skill and safety to patients, or has otherwise committed unprofessional conduct as defined in Section 12-36-117(1), C.R.S., the practice monitor shall immediately inform the Panel. Respondent understands that the Board may take any appropriate disciplinary action, including but not limited to, suspension or other emergency action, if the practice monitor's report establishes an appropriate basis.

43. It is the responsibility of Respondent to fully cooperate with the practice monitor and to assure that the practice monitor's reports are timely and complete. Failure of the practice monitor to perform the duties set forth above may result in a notice from Board staff requiring the nomination of a new practice monitor. Upon such notification, Respondent shall nominate a new practice monitor according to the procedure set forth above. Respondent shall nominate the new monitor within 30 days of such notice. Failure to nominate a new monitor within 30 days of such notification shall constitute a violation of this Order.

#### VANDERBILT PRESCRIBING COURSE

44. Respondent shall enroll in and successfully complete the continuing medical education course titled *Prescribing Controlled Drugs* at Vanderbilt University School of Medicine ("Prescribing Course"). Respondent shall be solely responsible to enroll and pay for the Prescribing Course.

45. Respondent shall sign any and all releases necessary to allow the course instructors to communicate with the Panel directly. Respondent shall not revoke such releases. Any failure to execute such a release or any revocation of such a release shall constitute a violation of this Order.

46. In order to successfully complete the Prescribing Course, Respondent's participation in the course must be rated as successful, without condition or qualification. The Board in its discretion may impose further remedial coursework if the Respondent receives a conditional pass or negative assessment.

47. Within one year of the effective date of this Order, Respondent shall provide the Panel with written proof of Respondent's successful completion of the pre-approved Prescribing Course.

#### TOLLING OF THE PROBATIONARY PERIOD

48. If a practice monitor nominated by Respondent and approved by the Panel does not commence practice monitoring within three months of the effective date of the Order, the period of probation shall be tolled for the time the Order is in effect and Respondent's practice is not being monitored by the practice monitor. Additionally, if the Respondent is required to nominate a new practice monitor, the period of probation shall be tolled for any period of time during which a practice monitor is not monitoring Respondent's practice.

49. If at any time, Respondent ceases the active clinical practice of medicine defined for the purposes of this Order as evaluating or treating a minimum of five patients per month, the probationary period shall be tolled for the time the Order is in effect and Respondent is not engaged in the active clinical practice of medicine.

50. Respondent must comply with all other terms of the Order and all other terms of probation. Unless otherwise specified, all terms of the Order and all terms of probation shall remain in effect, regardless of whether the probationary period has been tolled, from the effective date of this Order until probation is terminated. The probationary period shall be tolled for any time that Respondent is not in compliance with any term of this Order.

#### OUT OF STATE PRACTICE

51. Respondent may wish to leave Colorado and practice in another state. At any time other than during a period of suspension imposed by this Order, and whether to practice out of state or for any other reason, Respondent may request, in writing, that the Board place Respondent's license on inactive status as set forth in Section 12-36-137, C.R.S. Respondent's request to place his license on inactive status must include written evidence that Respondent has reported this Order to all other jurisdictions in which Respondent is licensed, as required by the "Other Terms" Section of this Order. Upon the approval of such request, Respondent may cease to comply with the terms of this Order. Failure to comply with the terms of this Order while inactive shall not constitute a violation of this Order. While inactive, Respondent shall not perform any act in the state of Colorado that constitutes the practice of medicine, nor shall Respondent perform any act in any other jurisdiction pursuant to the authority of a license to practice medicine granted by the state of Colorado. Unless Respondent's license is inactive, Respondent must comply with all terms of this Order, irrespective of Respondent's location. The probationary period will be tolled for any period of time Respondent's license is inactive.

52. Respondent may resume the active practice of medicine at any time pursuant to written request and as set forth in Section 12-36-137(5), C.R.S. With such written request, Respondent shall demonstrate engagement in CPEP activities as required by CPEP and shall nominate any necessary monitor required by CPEP as provided above. Respondent shall cause CPHP to perform an updated evaluation of Respondent. Respondent shall be permitted to resume the active practice of medicine only after approval of the required monitor(s) and only after submission of and approval of an updated evaluation from CPHP.

#### EARLY TERMINATION FROM PROBATION

53. After successful completion of five years of treatment monitoring, the Vanderbilt prescribing course, the CPEP education plan or other remedial training or educational program, including any final evaluations, a minimum of three years of successful practice monitoring, and after a minimum of three years of probation, Respondent may petition the Panel, in writing, for early termination of probation. The parties agree that the Panel's

decision regarding such a petition shall be made at the sole discretion of the Panel. Respondent is waiving the right to appeal the Panel decision on this issue.

#### TERMINATION OF PROBATION

54. Upon the expiration of the probationary period, Respondent may submit a written request for restoration of Respondent's license to unrestricted status. If Respondent has complied with the terms of probation, and if Respondent's probationary period has not been tolled, such release shall be granted by the Panel in the form of written notice.

#### OTHER TERMS

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

56. Both parties acknowledge that they understand the legal consequences of this Order; both parties enter into this Order voluntarily; and both parties agree that no term or condition of this Order is unconscionable.

57. All costs and expenses incurred by Respondent to comply with this Order shall be the sole responsibility of Respondent, and shall in no way be the obligation of the Board or Panel.

58. If Respondent is licensed by any other jurisdiction, Respondent shall report this Order to all other jurisdictions in which Respondent is licensed.

59. Respondent shall submit an update to his profile with the Healthcare Professions Profiling Program regarding this Order within thirty (30) days of the effective date of this Order.

60. During the probationary period or any period in which a physician is subject to prescribing restrictions, no physician shall perform an assessment of a patient's medical history and current medical condition, including a personal physical examination, for the purpose of concluding that a patient may benefit from the use of medical marijuana, recommending the use of medical marijuana or certifying a debilitating medical condition for an applicant to the Colorado Medical Marijuana Program. Respondent hereby understands and agrees that shall not certify to the state health agency that a patient has a debilitating medical condition or that the patient may benefit from the use of medical marijuana.

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61. Respondent shall obey all state and federal laws while the terms of this Order are in effect.

62. So that the Board may notify hospitals of this agreement pursuant to Section 12-36-118(13), C.R.S., Respondent presently holds privileges at or is employed by the following hospitals and facilities:

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63. This Order and all its terms shall have the same force and effect as an order entered after a formal disciplinary hearing pursuant to Section 12-36-118(5)(g)(III), C.R.S., except that it may not be appealed. Failure to comply with the terms of this Order may be sanctioned by the Inquiry Panel as set forth in Section 12-36-118(5)(g)(IV), C.R.S. This Order and all its terms also constitute a valid board order for purposes of Section 12-36-117(1)(u), C.R.S.

64. This Order shall be admissible as evidence at any proceeding or future hearing before the Board.

65. Invalidation of any portion of this Order by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

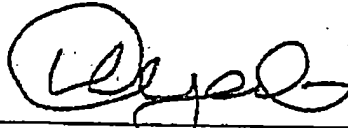
66. During the pendency of any action arising out of this Order, the terms of this Order shall be deemed to be in full force and effect and shall not be tolled.

67. Respondent acknowledges that the Panel may choose not to accept the terms of this Agreement and that if the Agreement is not approved by the Panel and signed by a Panel member or other authorized person, it is void.

68. This Order shall be effective upon (a) mailing by first-class mail to Respondent at Respondent's address of record with the Board, or (b) service by electronic means on Respondent at Respondent's electronic address of record with the Board and upon the Board's approval of Respondent's application to reinstate his license. Respondent hereby consents to service by electronic means if Respondent has an electronic address on file with the Board.

69. Upon full execution by both parties, this Order shall be open to public inspection and shall be publicized pursuant to the Board's standard policies and procedures. This Order constitutes discipline against Respondent's license. Additionally, this Order shall be reported to the Federation of State Medical Boards, the National Practitioner Data Bank and as otherwise required by law.

Dated this 23 day of April, 2018.



Khaja N. Chisty, M.D.

THE FOREGOING Stipulation and Final Agency Order is approved this 19 day of April, 2018.

FOR THE COLORADO MEDICAL BOARD  
INQUIRY PANEL B

*Paula E. Martinez*

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Paula E. Martinez  
Program Director  
*Delegated authority to sign by Inquiry Panel B*

THE FOREGOING Stipulation and Final Agency Order is fully executed upon service to Respondent, on April 24, 2018.

*Jim Hart*

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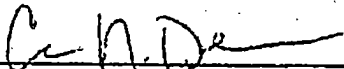
APPROVED AS TO FORM:

FOR THE RESPONDENT  
KHAJA N. CHISTRY, M.D.

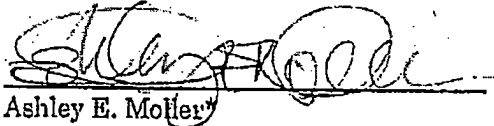
FOR THE COLORADO MEDICAL  
BOARD

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