

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF:

*

*

PAUL KEVIN BARKAL, M.D.

*

AMENDED ENTRY OF ORDER

This matter came before the Board on the Agreed Order of Remand from the Common Pleas Court of Franklin County, Ohio, in Case No. 98CVF07-5754, concerning Dr. Barkal's appeal pursuant to R.C. 119.12 of the Findings, Order and Journal Entry entered by the Board on July 8, 1998. In accordance with the terms of the Settlement Agreement entered into by and between the Board and Dr. Barkal, the following order is hereby entered upon the Journal of the State Medical Board of Ohio:

1. The Findings, Order and Journal Entry of the Board in the Matter of Paul Kevin Barkal, M.D., entered on July 8, 1998, permanently revoking Dr. Barkal's license to practice medicine and surgery in the State of Ohio, is hereby VACATED.
2. The Board hereby accepts the Permanent Surrender of Certificate signed by Dr. Barkal on JULY 9, 1999.

IT IS SO ORDERED.

[SEAL]



ANAND G. GARG
Secretary

OCTOBER 13, 1999
DATE

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY
CIVIL DIVISION

P. KEVIN BARKAL, M.D.,

Appellant,

v.

THE STATE MEDICAL BOARD OF
OHIO,

Appellee.

CASE NO. 98CVF07-5754

Judge David L. Johnson

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
99 AUG 12 PM 3:40
CLERK OF COURTS-CV

JOINT MOTION TO REMAND APPEAL

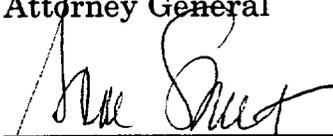
Having reached a settlement of this R.C. 119.12 appeal, the Appellant, P. Kevin Barkal, M.D., and the Appellee, the State Medical Board of Ohio, jointly move this Court to enter an order remanding this matter to the State Medical Board for further proceedings consistent with the terms of the settlement. attached hereto.

Respectfully submitted,



KRIS M. DAWLEY (0030149)
SCHOTTENSTEIN, ZOX & DUNN
41 South High Street, 26th floor
Columbus, Ohio 43215
(614) 462-2290

BETTY D. MONTGOMERY
Attorney General



ANNE BERRY STRAIT (0012256)
Assistant Attorney General
Health & Human Services Section
30 East Broad Street, 26th floor
Columbus, Ohio 43215-3428
(614) 466-8600

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into by and between Peter Kevin Barkal, M.D. ("Dr. Barkal") and the State Medical Board of Ohio ("Board"), the agency of the State of Ohio charged with enforcing Chapter 4731 of the Ohio Revised Code.

This Settlement Agreement is entered into on the basis of the following stipulations, statements, and understandings:

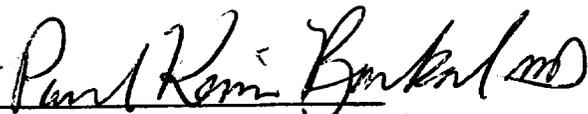
- A. The Board issued a notice of opportunity for hearing, dated May 13, 1998, to Dr. Barkal, notifying him that it intended to determine whether it should take disciplinary action against his Ohio license to practice medicine and surgery based upon his alleged violations of R.C. 4731.22(A), (B)(5), and (B)(22). The notice letter was sent by certified mail to Dr. Barkal's address of record, 4501 Mission Bay Drive, Suite 2A, San Diego, California, 92109. The Board received a signed return receipt, Postal Service Form 3811, indicating delivery on May 26, 1998. No hearing request was received from Dr. Barkal pursuant to R.C. 119.07, so on July 8, 1998 the Board entered its Findings, Order and Journal Entry, permanently revoking Dr. Barkal's Ohio license.
- B. Dr. Barkal denies that he personally received the May 13, 1998 notice of opportunity for hearing. Dr. Barkal therefore timely filed an appeal pursuant to R.C. 119.12 of the July 8, 1998 permanent revocation order with the Common Pleas Court of Franklin County, Ohio, Case No. 98CVF07-5754.
- C. Dr. Barkal and the Board (collectively, the "Parties") desire to completely and finally settle all claims and differences with respect to the above administrative proceedings and appeal, as set forth below.

Therefore, in consideration of the mutual covenants and promises contained herein, Paul Kevin Barkal, M.D., and the State Medical Board of Ohio, agree as follows:

1. Dr. Barkal agrees to execute the Permanent Surrender of Certificate which is attached hereto as Exhibit 1.
2. The Parties shall file a joint motion to the Common Pleas Court of Franklin County in Case No. 98CVF07-5754, seeking the remand of the appeal to the Board, in the form attached hereto as Exhibit 2.

3. Upon the entry by the Court of the Agreed Entry of Remand, the Board shall enter an Amended Entry of Order in the Matter of Paul Kevin Barkal, M.D., in the form attached hereto as Exhibit 3.
4. The Parties acknowledge and agree that the Permanent Surrender of Certificate will be null and void, and Dr. Barkal's appeal in Case No. 98CVF07-5754 may be reinstated, if the Board fails to ratify this Settlement Agreement or if the Board fails to enter the Amended Entry of Order.
5. Dr. Barkal hereby releases and forever discharges the Board, its members, employees, agents, officers and representatives, jointly and severally, from any and all liabilities, rights causes of action, costs, expenses, attorneys fees and any other possible claims arising from the within matter.
6. The terms of this Settlement Agreement bind the Parties hereto and their assigns and successors in interest. This Settlement Agreement is not to be construed as an admission of any type of liability or wrongdoing by the Board. This Settlement Agreement is not to be construed as precedent for actions taken or to be taken by the Board against any other individual(s).
7. This Settlement Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of the Agreement.
8. This Settlement Agreement shall be considered a public record as that term is used in R.C. 149.43.

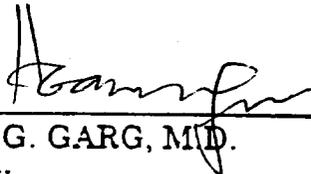
THE STATE MEDICAL BOARD OF
OHIO:



PAUL KEVIN BARKAL, M.D.

DATE

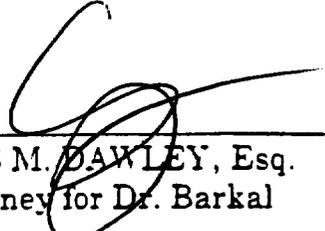
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ANAND G. GARG, M.D.
Secretary

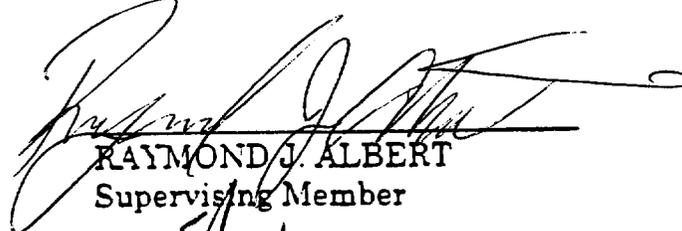
DATE

08/12/99



KRIS M. DAWLEY, Esq.
Attorney for Dr. Barkal
7-22-99

DATE



RAYMOND J. ALBERT
Supervising Member
8/12/99

DATE



ANNE BERRY STRAIT
Assistant Attorney General
8/12/99

DATE

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY
CIVIL DIVISION
1999 AUG 26 PM 3:29

CLERK OF COURTS

P. KEVIN BARKAL, M.D.,

CASE NO. 98CVF07-5754

Appellant,

Judge David L. Johnson

v.

THE STATE MEDICAL BOARD OF
OHIO,

Appellee.

TERMINATION NO. 1
BY KI 8/13/99

AGREED ENTRY OF REMAND

Pursuant to the joint motion of the parties, it is hereby

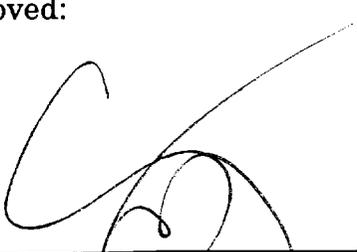
ORDERED that this case is REMANDED to the State Medical Board of Ohio for further proceedings consistent with the settlement agreement between the parties.

Costs to Appellant.

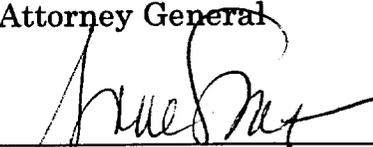
DATE

JUDGE DAVID L. JOHNSON

Approved:



KRIS M. DAWLEY (0030149)
SCHOTTENSTEIN, ZOX & DUNN
41 South High Street, 26th floor
Columbus, Ohio 43215
(614) 462-2290

BETTY D. MONTGOMERY
Attorney General


ANNE BERRY STRAIT (0012256)
Assistant Attorney General
Health & Human Services Section
30 East Broad Street, 26th floor
Columbus, Ohio 43215-3428
(614) 466-8600

STATE OF OHIO
THE STATE MEDICAL BOARD
PAUL KEVIN BARKAL, M.D.
PERMANENT SURRENDER OF CERTIFICATE
TO PRACTICE MEDICINE AND SURGERY

I, PAUL KEVIN BARKAL, M.D., am aware of my rights to representation by counsel, the right of being formally charged and having a formal adjudicative hearing, and do hereby freely execute this document and choose to take the actions described herein, after being fully advised by legal counsel.

I, PAUL KEVIN BARKAL, M.D., do hereby voluntarily, knowingly, intelligently, and permanently surrender my certificate to practice medicine and surgery, No. 35-055009 to the State Medical Board of Ohio, thereby permanently relinquishing all rights to practice medicine and surgery in Ohio. This surrender shall be effective as of midnight, April 14, 1999.

I understand that as a result of the surrender herein that I am no longer permitted to practice medicine and surgery in any form or manner in the State of Ohio.

I agree that I shall be ineligible for, and shall not apply for, reinstatement of certificate to practice medicine and surgery No. 35-055009 or issuance of any other certificate pursuant to Chapters 4730. or 4731., Ohio Revised Code, on or after the date of signing of this Surrender of Certificate to Practice Medicine and Surgery. Any such attempted reapplication shall be considered null and void and shall not be processed by the Board.

I stipulate and agree that I am taking the action described herein in lieu of further formal disciplinary proceedings in accordance with R.C. Chapter 119 and R.C. 4731.22 for the matters described in the Notice of Opportunity for Hearing dated May 13, 1998, which is attached hereto as Exhibit A and incorporated herein by this reference. I further stipulate and admit the factual and legal allegations set forth in paragraphs (2) and (3) of said Notice. With respect to paragraph (1) of said Notice, I admit the factual allegations but deny that I engaged in any false, fraudulent, deceptive or misleading conduct or in any way violated R.C. 4731.22(A) or R.C. 4731.22(B)(5).

I further stipulate and agree that I am taking the action described herein in consideration of the terms of the Settlement Agreement signed herewith, and that if the State Medical Board of Ohio does not ratify the Settlement Agreement, then this Permanent Surrender shall be null and void.

I, PAUL KEVIN BARKAL, M.D., hereby release the State Medical Board of Ohio, its members, employees, agents and officers, jointly and severally, from any and all

liability arising from the within matter.

This document shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code.

Further, this information may be reported to appropriate organizations, data banks and governmental bodies.

Signed this 9th day of ~~March~~, 1999.
July

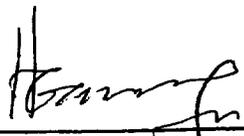

PAUL KEVIN BARKAL, M.D.

Sworn to and subscribed in my presence, this 9th day of July, 1999.




NOTARY PUBLIC

Accepted by the State Medical Board of Ohio:


ANAND G. GARG, M.D.
Secretary

OCTOBER 13, 1999
DATE


RAYMOND J. ALBERT
Supervising Member

OCTOBER 13, 1999
DATE

COPIES

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P. KEVIN BARKAL, M.D.
4501 Mission Bay Drive, Suite 2A
San Diego, California 92109
Telephone: (619) 274-4303

IN PRO PER

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO

In the Matter of:

Case No: UNASSIGNED

P. KEVIN BARKAL, M.D.
4501 Mission Bay Drive, Suite 2A
San Diego, California 92109,

Plaintiff, Appellant

vs.

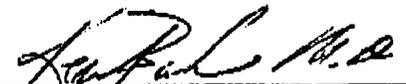
STATE MEDICAL BOARD OF OHIO
77 S. High Street, 17th Floor
Columbus, Ohio 43266-0315,

Defendant, Appellee

NOTICE OF APPEAL

Now comes Appellant P. Kevin Barkal, M.D. and hereby gives notice, pursuant to Ohio Revised Code §119.12 of his appeal from the Order of the State Medical Board of Ohio that was issued on May 13, 1998 and mailed on May 9, 1998 and made on the grounds that said order is not supported by reliable, probative and substantial evidence, is not in accordance with the law, and is an abuse of discretion. A copy of said Order is attached hereto.

Dated: 7/24/98


P. KEVIN BARKAL, M.D.
4501 Mission Bay Drive, Suite 2A
San Diego, California 92109
Tel: (619) 274-4303

98 JUL 27 AM 8:04

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Notice of Appeal has been forwarded to the State Medical Board of Ohio, 77 S. High Street, 17th Floor, Columbus, Ohio 43266-0315 via facsimile to (614) 728-5946 and by ordinary United States Mail Service* on this 24th day of July, 1998 from San Diego, California.



P. KEVIN BARKAL, M.D.
4501 Mission Bay Drive, Suite 2A
San Diego, California 92109
Tel: (619) 274-4303

*Also served via Federal Express Priority Overnight
Delivery on July 24, 1998

JUL 27 11 08 AM '98
STATE BAR OF CALIFORNIA



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Ohio 43266-0315 • 614/ 466-3934 • Website: www.state.oh.us/med/

July 8, 1998

Paul K. Barkal, M.D.
4501 Mission Bay Drive, Suite 2A
San Diego, CA 92109

Dear Doctor Barkal:

Please find enclosed a certified copy of the Findings, Order and Journal Entry approved and confirmed by the State Medical Board meeting in regular session on July 8, 1998.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

Very truly yours,

Anand G. Garg, M.D.
Secretary

AGG:jam
Enclosures

CERTIFIED MAIL RECEIPT NO. Z 233 840 012
RETURN RECEIPT REQUESTED

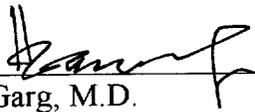
Mailed 7/9/98

CERTIFICATION

I hereby certify that the attached copy of the Findings, Order and Journal Entry, approved by the State Medical Board, meeting in regular session on July 8, 1998, constitute a true and complete copy of the Findings, Order and Journal Entry in the Matter of Paul K. Barkal, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This Certification is made by the authority of the State Medical Board of Ohio in its behalf.

(SEAL)



Anand G. Garg, M.D.
Secretary

July 8, 1998

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

PAUL KEVIN BARKAL, M.D.

*

FINDINGS, ORDER AND JOURNAL ENTRY

By letter dated May 13, 1998, notice was given to Paul K. Barkal, M.D., that the State Medical Board intended to consider disciplinary action regarding his license to practice medicine and surgery in Ohio, and that he was entitled to a hearing if such hearing was requested within thirty (30) days of the mailing of said notice. In accordance with Section 119.07, Ohio Revised Code, said notice was sent via certified mail, return receipt requested, to the last known address of Paul K. Barkal, M.D., that being 4501 Mission Bay Drive, Suite 2A, San Diego, CA, 92109.

No hearing request has been received from Paul K. Barkal, M.D., and more than thirty (30) days have now elapsed since the mailing of the aforesaid notice.

WHEREFORE, for the reasons outlined in the May 13, 1998 letter of notice, which is attached hereto and incorporated herein, it is hereby ORDERED that the license of Paul K. Barkal, M.D., to practice medicine and surgery in the State of Ohio be _____
PERMANENTLY REVOKED

This Order shall become effective IMMEDIATELY.

This Order is hereby entered upon the Journal of the State Medical Board of Ohio for the 8TH day of JULY, 1998, and the original thereof shall be kept with said Journal.

(SEAL)



Anand G. Garg, M.D.
Secretary

July 8, 1998

Date

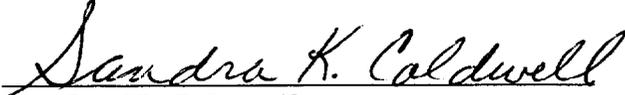
AFFIDAVIT

I, Sandra K. Caldwell, being duly cautioned and sworn, do hereby depose and say:

- 1) That I am employed by the State Medical Board of Ohio (hereinafter, "The Board")
- 2) That I serve the Board in the position Administrative Officer;
- 3) That in such position I oversee the division responsible for retaining custody of all public licensee records maintained by the Board pertaining to individuals who have received certificates issued pursuant to Chapter 4731., Ohio Revised Code;
- 4) That I have this day carefully examined the records of the Board pertaining to Paul K. Barkal, M.D.;
- 5) That based on such examination, I have found the last known address of record of Paul K. Barkal, M.D., to be:

4501 Mission Bay Drive, Suite 2A
San Diego, CA 92109

- 6) Further, Affiant Sayeth Naught.


Sandra K. Caldwell
Administrative Officer

Sworn to and signed before me, Lauren Lubow, Notary Public, this 25th day of June, 1998


Notary Public

LAUREN LUBOW, Attorney At Law
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date
Section 147.03 R.C.



State Medical Board of Ohio

77 S. High Street, 17th Floor • Columbus, Oh: 43266-0313 • 614/ 466-3934 • Website: www.state.oh.us/med/

May 13, 1998

Paul K. Barkal, M.D.
4501 Mission Bay Drive, Suite 2A
San Diego, CA 92109

Dear Doctor Barkal:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

- (1) On or about April 1, 1996, you signed the application for renewal of your Ohio certificate to practice medicine and surgery, certifying that the information provided on the application was true and correct in every respect. In response to the question, "At any time since signing your last application for renewal of your certificate have you...had any disciplinary action taken or initiated against you by any state licensing board other than the State Medical Board of Ohio?", you answered, "No."

In fact, an Accusation dated on or about April 28, 1995, was filed with the Division of Medical Quality, Medical Board of California, containing allegations relating to events when you were setting up your pain management practice in San Diego California. You were aware of the Filing of the Accusation in as much as, on or about June 12, 1995, through counsel, you filed a Special Notice of Defense to the above Accusation.

- (2) On or about August 8, 1997, the Medical Board of California issued a Decision and Order (hereinafter California Order), which adopted the attached "Stipulation in Settlement and Decision." As part of the California Order, you admitted to negligence in the treatment of three patients. The California Order placed your license on probation for five (5) years and required you to abstain from personal use or possession of any prescription drug, submit to biological fluid testing and undertake educational and ethical courses in addition to Continuing Medical Education requirements.

Mailed 5/14/98

Further, you were required to undergo psychiatric evaluation, psychological testing and extensive psychotherapy with your practice to be monitored by a physician in your field of pain management. A copy of the California Order is attached hereto and fully incorporated herein.

- (3) On or about March 6, 1998, the State of Illinois, Department of Professional Regulation, issued an Order (hereinafter Illinois Order) which adopted the attached "Stipulation and Recommendation for Settlement" of the Illinois Medical Disciplinary Board. The Illinois Order, which was based upon the above California Order, includes an indefinite probation through at least August 8, 2002. A Copy of the Illinois Order is attached hereto and fully incorporated herein.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute 'fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board, " as that clause is used in Section 4731.22(A), Ohio Revised Code.

Your acts, conduct, and/or omissions as alleged in paragraph (1) above, individually and/or collectively, constitute "publishing a false, fraudulent, deceptive, or misleading statement, " as that clause is used in Section 4731.22(B)(5), Ohio Revised Code.

The California and Illinois Orders, as alleged in paragraphs (2) and (3) above, individually and/or collectively, constitute "[t]he limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees," as that clause is used in Section 4731.22(B)(22), Ohio Revised Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to

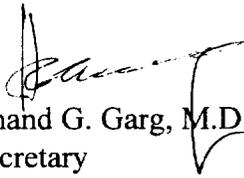
Paul K. Barkal, M.D.

Page 3

register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Copies of the applicable sections are enclosed for your information.

Very truly yours,


Anand G. Garg, M.D.
Secretary

AGG/jag

Enclosures

CERTIFIED MAIL # Z 233 895 110
RETURN RECEIPT REQUESTED

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

ORDER OF THE
MEDICAL BOARD OF CALIFORNIA
IN THIS

In the Matter of the Accusation
Against:

PAUL K. BARKAL, M.D.
Certificate #A-44292

Respondent.

Nancy C. Garcia 1-14-98
DATE

Assistant Custodian of Records
TITLE

No: 10-91-15215

DECISION AND ORDER

The attached Stipulation in Settlement and Decision is hereby adopted by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in the above-entitled matter.

This Decision shall become effective on August 8, 1997.

DATED July 9, 1997.

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA

Ira Lubell
Ira Lubell, M.D.
Chair, Panel A

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 STEVEN H. ZEIGEN,
Deputy Attorney General, State Bar No. 60225
3 Department of Justice
110 West A Street, Suite 1100
4 Post Office Box 85266
San Diego, California 92186-5266
5 Telephone: (619) 645-2074

6 Attorneys for Complainant

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

In the Matter of the Accusation)	Case No. 10-91-15215
Against:)	
)	
Paul Kevin Barkal, M.D.)	<u>STIPULATION IN</u>
4501 Mission Bay Dr.)	<u>SETTLEMENT AND DECISION</u>
San Diego, CA 92109)	
)	
Physician's and Surgeon's)	
Certificate No. A044292)	
)	
Respondent.)	

18 Complainant, Ron Joseph, Executive Director of the
19 Medical Board of California, by and through his attorney,
20 Daniel E. Lungren, Attorney General of the State of California,
21 by Steven H. Zeigen, Deputy Attorney General, and Paul Kevin
22 Barkal, M.D. ("respondent"), by and through his attorney
23 David Rosenberg, Esq., hereby stipulate as follows:

- 24 1. The Division of Medical Quality of the Medical
25 Board of California, Department of Consumer Affairs ("Division")
26 acquired jurisdiction over respondent by reason of the following:
27 A. Respondent was duly served with a copy of the
28 Accusation, Statement to Respondent, Request for Discovery,

1 Form Notice of Defense and copies of Government Code
2 sections 11507.5, 11507.6 and 11507.7 as required by section
3 11503 and 11505, and respondent filed a Notice of Defense
4 within the time allowed by section 11506 of the code.

5 B. Respondent has received and read the
6 Accusation, the First Supplemental Accusation, and the
7 Second Supplemental Accusation which are presently on file
8 as Case No. 10-91-15215, before the Division. Respondent
9 understands the nature of the charges alleged in the
10 Accusation and that the charges and allegations constitute
11 cause for imposing discipline upon respondent's license to
12 practice medicine which was issued by the Medical Board of
13 California ("Board").

14 2. Respondent and his counsel are aware of each of
15 respondent's rights, including the right to a hearing on the
16 charges and allegations, the right to confront and cross-examine
17 witnesses who would testify against respondent, the right to
18 present evidence in his favor and call witnesses on his behalf,
19 or to testify, his right to contest the charges and allegations,
20 and other rights which are accorded to respondent pursuant to the
21 California Administrative Procedure Act (Gov. Code, § 11500 et
22 seq.), including the right to seek reconsideration, review by the
23 Superior Court, and Appellate Review.

24 3. Respondent freely and voluntarily waives each and
25 every one of the rights set forth in paragraph 2.

26 4. Respondent understands that in signing this
27 stipulation rather than contesting the Accusation, he is enabling
28 the Division to issue the following order without further

1 process.

2 5. For the purpose of resolving Accusation
3 No. 10-91-15215, respondent admits that during the period January
4 1, 1992 through February 20, 1992, he was negligent in his
5 treatment of three patients as alleged in the underlying original
6 Accusation paragraphs 12 through 13; 15 through 16; 17 through
7 18. Respondent hereby gives up his right to contest that cause
8 for discipline exists based on those charges.

9 Pursuant to this stipulation, the charges and
10 allegations contained in the First and Second Supplemental
11 Accusations are hereby dismissed. No further charges be filed
12 against respondent on facts that are currently available to
13 complainant Board.

14 6. The admissions made by respondent herein are for
15 purposes of this proceeding, for any other disciplinary
16 proceedings by the Division, and for any petition for
17 reinstatement, reduction of penalty, or application for
18 relicensure, and shall have no force or effect in any other case
19 or proceeding.

20 7. It is understood by respondent that, in deciding
21 whether to adopt this stipulation, the Division may receive oral
22 and written communications from its staff and the Attorney
23 General's office. Communications pursuant to this paragraph
24 shall not disqualify the Division or other persons from future
25 participation in this or any other matter affecting respondent.
26 In the event this settlement is not adopted by the Division, the
27 stipulation will not become effective and may not be used for any
28 purpose, except for this paragraph, which shall remain in effect.

1 3. EDUCATION COURSE

2 Within 90 days from the effective date of this
3 decision, and on an annual basis thereafter, respondent shall
4 submit to the Division or its designee for its prior approval an
5 educational program or course to be designated by the Division,
6 which shall not be less than 40 hours per year, for each year of
7 probation. This program shall be in addition to the Continuing
8 Medical Education requirements for re-licensure. Following the
9 completion of each course, the Division or its designee may
10 administer an examination to test respondent's knowledge of the
11 course. Respondent shall provide proof of attendance for 65
12 hours of continuing medical education of which 40 hours were in
13 satisfaction of this condition and were approved in advance by
14 the Division or its designee.

15 4. ETHICS COURSE

16 Within 60 days of the effective date of this decision,
17 respondent shall enroll in a course in Ethics approved in advance
18 by the Division or its designee, and shall successfully complete
19 the course during the first year of probation.

20 5. PSYCHIATRIC EVALUATION

21 Within 30 days of the effective date of this decision,
22 and on a periodic basis thereafter as may be required by the
23 Division or its designees, respondent shall undergo a psychiatric
24 evaluation and psychological testing by a Division approved
25 psychiatrist or psychologist, who shall furnish an evaluation
26 report to the Division or its designees. The respondent shall
27 pay the cost of the psychiatric evaluation.

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6. PSYCHOTHERAPY

Within 60 days of the effective date of this decision, respondent shall submit to the Division or its designee for its prior approval the name and qualifications of a licensed psychologist or licensed psychiatrist of respondent's choice. Upon approval, respondent shall undergo twice weekly psychotherapy sessions for the first six months, and then weekly psychotherapy sessions for a minimum of another eighteen months, and shall continue such treatment beyond that time until the Division or its designee deems, based upon reports filed by the designated psychotherapist, that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Division or its designee.

7. MONITORING

Within 30 days of the effective date of this decision, respondent shall submit to the Division or its designee for its prior approval a plan of practice in which respondent's practice shall be monitored by another physician in respondent's field of practice, pain management, who shall provide periodic reports to the Division or its designee.

If the monitor resigns or is no longer available, respondent shall, within 15 days, move to have a new monitor appointed, through nomination by respondent and approval by the Division or its designee.

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1 warranted by respondent's conduct, as if a suspension or
2 revocation had originally been imposed and stayed. If an
3 accusation or petition to revoke probation is filed against
4 respondent during probation, the Division shall have continuing
5 jurisdiction until the matter is final, and the period of
6 probation shall be extended until the matter is final.

7 16. **COST RECOVERY**

8 The respondent is hereby ordered to reimburse the
9 Division the amount of \$7,500.00 for its investigation and
10 prosecution costs. Respondent shall pay the entire amount within
11 two years from the effective date of this decision, in amounts to
12 be agreed upon between respondent and the division. Failure to
13 reimburse the Division's cost of its investigation and
14 prosecution shall constitute a violation of the probation order,
15 unless the Division agrees in writing to another payment plan
16 because of financial hardship. The filing of bankruptcy by the
17 respondent shall not relieve the respondent of his responsibility
18 to reimburse the Division for its investigative and prosecution
19 costs.

20 17. **PROBATION MONITORING COSTS**

21 Respondent shall pay the costs associated with
22 probation monitoring each and every year of probation. Such
23 costs shall be payable to the Division at the beginning of each
24 calendar year. Failure to pay such costs shall constitute a
25 violation of probation.

26 18. **LICENSE SURRENDER**

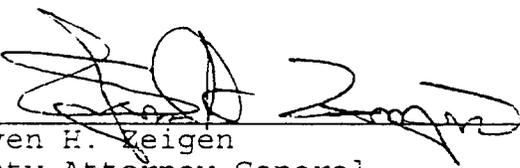
27 Following the effective date of this decision, if
28 respondent ceases practicing due to retirement, health reasons or

1 is otherwise unable to satisfy the terms and conditions of
2 probation, respondent may voluntarily tender his certificate to
3 the Division. The Division reserves the right to evaluate the
4 respondent's request and to exercise its discretion whether to
5 grant the request, or to take any other action deemed appropriate
6 and reasonable under the circumstances. Upon formal acceptance
7 of the tendered license, respondent will no longer be subject to
8 terms and conditions of probation.

9 We concur in the stipulation and order.

10 DATED: 5/28/57

11 DANIEL E. LUNGREN, Attorney General
12 of the State of California

13 
14 Steven H. Zeigen
15 Deputy Attorney General
16 Attorneys for Complainant

17 DATED: 5/14/57

18 
19 David Rosenberg, Esq.
20 Attorney for Respondent

21 I have carefully read and fully understand the
22 stipulation and order set forth above. I have discussed the
23 terms and conditions set forth in the stipulation and order with
24 my attorney, David Rosenberg, Esq. I understand that in signing
25 this stipulation I am waiving my right to a hearing on the
26 charges set forth in the Accusation on file in this matter. I

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28 \\\

1 further understand that in signing this stipulation the Division
2 may enter the foregoing order placing certain requirements,
3 restrictions and limitations on my right to practice medicine in
4 the State of California.

5 DATED: 4/30/97

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7 Paul Kevin Barkal M.D.

8 Paul Kevin Barkal, M.D.
9 Respondent

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STATE OF ILLINOIS

DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION)	
Of the State of Illinois,	Complainant)
	v.) No. 199407991
P. KEVIN BARKAL, M.D., a.k.a. PAUL KEVIN BARKAL,)	
a.k.a. KEVIN BARKAL)	
License No. 36070027,	Respondent)

ORDER

This matter having come before the Medical Disciplinary Board of the Department of Professional Regulation of the State of Illinois, and the Medical Disciplinary Board having approved a Stipulation and Recommendation for Settlement submitted by the parties;

NOW, THEREFORE, I, NIKKI M. ZOLLAR, DIRECTOR OF THE DEPARTMENT OF PROFESSIONAL REGULATION of the State of Illinois, do hereby adopt the Stipulation and Recommendation for Settlement approved by the Medical Disciplinary Board in this matter.

IT IS THEREFORE ORDERED that the Certificate of Registration, License No. 36070027, heretofore issued to P. Kevin Barkal to carry on the practice of medicine in the State of Illinois is placed on Indefinite Probation through at least August 8, 2002 in accordance with the Stipulation and Recommendation for Settlement which is attached hereto and incorporated herein.

IT IS FURTHER ORDERED that the Respondent immediately surrender said wall and wallet sizes of said Certificate of

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Registration to the Department (Emmons Russell, Chief of Medical Investigations, 100 West Randolph Street, Suite 9-300, Chicago, Illinois 60601) to be marked with the term of Probation and returned. Upon failure to do so, the Department shall seize the same.

DATED THIS 6th DAY OF March, 19 98.

DEPARTMENT OF PROFESSIONAL REGULATION
of the State of Illinois

Nikki M. Zollar
NIKKI M. ZOLLAR
DIRECTOR

NMZ:reu

REF: License No. 36070027
Case No. 199407991

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STATE OF ILLINOIS

DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL REGULATION)	
of the State of Illinois,)	
)	No. 1994-079912
v.)	
P. KEVIN BARKAL, M.D.,)	
a/k/a Paul Kevin Barkal)	
a/k/a Kevin Barkal)	
License No. 036-070027,)	
)	Respondent

STIPULATION AND RECOMMENDATION FOR SETTLEMENT

The Department by Susan J. Link, its attorney, and P. Kevin Barkal, Respondent, by Michael J. O'Rourke, his attorney, submit the following Stipulation and Recommendation for Settlement to the Medical Disciplinary Board for its approval and favorable recommendation to the Director of the Department (Director).

STIPULATION OF FACTS

1. THAT on August 27, 1997, the Department filed a Complaint against Respondent, alleging that Respondent's California medical license was placed on Probation for conduct which would constitute a violation of the Medical Practice Act of 1987 if the conduct occurred in the State of Illinois. Copies of the Notice of Preliminary Hearing, Complaint and Supporting documents are attached hereto as Department's Group Exhibit 1 and incorporated by reference herein.
2. Respondent has been advised that he has the right to be represented by counsel and has retained Michael J. O'Rourke as his attorney. Respondent has fully discussed the allegations made in the Complaint with his counsel. Respondent has been advised that he has

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 STATE OF ILLINOIS
 DEPARTMENT OF PROFESSIONAL REGULATION

- a right to a formal evidentiary hearing and waives such right to a hearing if this Recommendation is approved.
3. Respondent admits that at all times pertinent to the Complaint, he held a Physician and Surgeon license issued in the State of Illinois.
 4. Respondent is fully aware that this Recommendation must be approved by the Medical Disciplinary Board and the Director. By submission of this Recommendation for approval, Respondent expressly waives any objection based upon prejudice should the Medical Disciplinary Board or the Director refuse to accept this Recommendation.
 5. The Department represents that, if a hearing is held in this matter, it is prepared to present evidence to prove the allegations in the Department's Complaint. Respondent does not admit to the truth or accuracy of any of these representations by the Department but, for purposes of the Stipulation and consideration of the representations by the Board, agrees not to object to the representations at this time. Respondent reserves the right to object to all such representations if this matter proceeds to a contested hearing.
 6. The Respondent represents that, if a hearing is held in this matter, he is prepared to present evidence of compliance with the Probation imposed upon Respondent's California medical license. The Department does not admit to the truth or accuracy of any of these representations by the Respondent but, for purposes of

STATE MEDICAL BOARD
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the Stipulation and consideration of the representations by the Board, agrees not to object to the representations at this time. The Department reserves the right to object to all such representations if this matter proceeds to a contested hearing.

7. For purposes of settlement only, Respondent acknowledges that a violation of the Medical Practice Act of 1987 may be found by the Medical Disciplinary Board and the Director following review of the Stipulation and the documents submitted herewith as Department's Group Exhibit 1.

8. The parties stipulate that these admissions are made for purposes of this Recommendation only. In the event that this Recommendation is not approved by the Medical Disciplinary Board or the Director, these admissions shall not be admissible in any proceeding and the matter will be set for an evidentiary hearing on the merits as if this Recommendation had not been submitted. In addition, upon approval of this Recommendation, these admissions may not be utilized in any other proceeding except one to enforce this agreement.

9. Respondent has been advised that he has the right to file for a rehearing of the matter within 20 days of the Medical Disciplinary Board's action in this case. Respondent hereby waives such a right to a rehearing if this Recommendation is approved.

STATE OF OHIO
DEPARTMENT OF PUBLIC SAFETY
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10. Respondent has been advised that he has a right to Administrative Review of the Order entered by the Director in this case. Respondent hereby waives such right to review if this Recommendation is approved.

RECOMMENDATION FOR SETTLEMENT

11. In the interest of a prompt and just settlement in this matter in a manner consistent with the public interest and in light of the responsibilities of the Medical Disciplinary Board, the Department and the Respondent offer the following proposal for approval by the Medical Disciplinary Board and the Director. This Recommendation shall be considered to be an integrated package such that approval of this Recommendation without change is necessary. Respondent's Physician and Surgeon license heretofore issued to Respondent by the State of Illinois shall be placed upon Indefinite Probation through at least August 8, 2002 with the following conditions:

A. The Probation shall run concurrently with the five (5) year Probation imposed on Respondent's California medical license, which began on August 8, 1997.

B. Respondent shall ensure that written proof of Respondent's compliance with terms of the California Probation is submitted to the Department ninety (90) through one hundred ten (110) days after the effective date of an Order approving this Stipulation and Recommendation for Settlement and every ninety (90) days thereafter.

- C. Respondent shall not engage in the practice of medicine within the State of Illinois unless Respondent has given the Department a minimum of thirty (30) days written notice, which shall include any and all locations where Respondent will practice medicine and the nature of the practice for each location.
- D. If Respondent resides in the State of Illinois at any point during the Probationary period, Respondent shall continue comply with all conditions of the California Probation and shall submit a written request to the Department for approval of service providers by one of the Department's Medical Coordinators within thirty (30) days of Respondent's return to the State of Illinois.
- E. Respondent shall be required to present proof of termination of the California Probation and evidence of Rehabilitation prior to the termination of the Probation provided for in this Stipulation and Recommendation for Settlement.
- F. Respondent shall give written authorization for the Department to be notified in writing immediately if Respondent fails to comply with any of the terms of the California Probation.
- G. Noting contained in this Stipulation Recommendation for Settlement shall prevent

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Respondent from filing a Motion for Modification of the conditions of Probation due to early termination of the California Probation and/or other changes in Respondent's circumstances.

12. Upon notification that the Recommendation has been approved and that the Director has entered an Order adopting the Recommendation of the Medical Disciplinary Board, Respondent agrees that he shall surrender the Physician and Surgeon license, heretofore issued to Respondent, to the Department, to be marked with the term of Probation.

13. All items Respondent is required to submit to the Department, shall be submitted to the Department's Medical Investigations Unit, 100 West Randolph Street, Suite 9-300, Chicago, Illinois 60601.

I have read this Stipulation and Recommendation for Settlement and have fully discussed it with my attorney. I agree to be bound by its terms.

2/1/98

DATE

P. Kevin Barkal, M.D.

P. Kevin Barkal, M.D.
Respondent

2/5/98

DATE

Michael J. O'Rourke

Michael J. O'Rourke
Respondent's Attorney

2/9/98

DATE

Susan J. Link

Susan J. Link
Attorney for the Department

The foregoing Stipulation and Recommendation for Settlement is approved by the Medical Disciplinary Board as its decision this 18th day of February, 1998. The Medical Disciplinary Board concludes that Respondent has violated the Medical Practice Act of 1987 and hereby recommends that the Director approve the Recommendation set forth herein by issuing an appropriate Order.

2/18/98
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[Signature]
CHAIRMAN OF THE MEDICAL DISCIPLINARY BOARD

[Signature]
Member

[Signature]
Member

[Signature]
Member

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Member

Member

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STATE OF OHIO
MEDICAL DISCIPLINARY BOARD
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STATE OF ILLINOIS)
) ss:
COUNTY OF COOK)

The undersigned, being duly sworn on oath, states that on the date hereafter set out, I mailed copies of the foregoing STIPULATION AND RECOMMENDATION FOR SETTLEMENT and ORDER, by depositing them in the United States mailbox located at 100 West Randolph Street, Suite 9-300, Chicago, Illinois 60601, and by mailing them by certified mail at 100 West Randolph, Chicago, Illinois 60601, to all parties at the addresses listed above.

AFFIANT

Subscribed and sworn to before me this
_____ day of _____ 19____

NOTARY PUBLIC

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