

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

In the Matter of the Accusation)
Against:)
)
VIRENDER S. KALEKA, M.D.) No. D-5561
Certificate No. A-43546)
)
Respondent.)
_____)

DECISION

The attached Stipulation and Waiver is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective on March 16, 1995.

IT IS SO ORDERED February 14, 1995.

By: *Ira Lubell*
IRA LUBELL, M.D.
Chairperson, Panel A
Division of Medical Quality

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JANA L. TUTON
Supervising Deputy Attorney General
3 MARA FAUST
Deputy Attorney General
4 1515 K Street, Suite 511
P. O. Box 944255
5 Sacramento, California 94244-2550
Telephone: (916) 324-5358
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7 Attorneys for Complainant
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10 BEFORE THE
DIVISION OF MEDICAL QUALITY
11 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation) No. 5561
Against:)
14)
VIRENDER S. KALEKA, M.D.) STIPULATION AND WAIVER
15 6067 N. Fresno Street, Ste. 103)
Fresno, CA 93710)
16)
Physician and Surgeon)
17 Certificate No. A-43546)
18)
Respondent.)
19)

20 IT IS HEREBY STIPULATED by and between Virender S.
21 Kaleka, M.D., the respondent in this matter, with the advice of
22 his attorney, Thomas A. Pedreira, Esq., and Dixon Arnett, as
23 Executive Director of the Medical Board of California, Department
24 of Consumer Affairs, by and through his attorney Mara Faust,
25 Deputy Attorney General, that the following matters are true:

- 26 1. Accusation No. D-5561 is presently pending against
27 Virender S. Kaleka, M.D. (hereinafter referred to as the

1 "respondent"), Physician and Surgeon Certificate No. A-43546,
2 before the Medical Board of California (hereinafter referred to
3 as the "Board") and said Accusation having been filed on or about
4 December 7, 1993.

5 2. The complainant in said Accusation, Dixon Arnett, is
6 the Executive Director of the Board and brought said Accusation
7 in his official capacity only.

8 3. Respondent has fully discussed with Thomas A.
9 Pedreira, Esq., the charges contained in the above-mentioned
10 Accusation, and in that connection, respondent has been fully
11 advised regarding his rights in this matter.

12 4. Respondent hereby freely and voluntarily waives his
13 rights to a hearing on the charges and allegations contained in
14 the above-mentioned Accusation in order to enter into this
15 Stipulation and Waiver and that he further agrees to waive his
16 right to reconsideration, judicial review, and any and all rights
17 which may be accorded him by the Administrative Procedure Act and
18 the laws of the State of California, except his right to petition
19 for termination or modification of probation pursuant to
20 Government Code section 11522.

21 5. All admissions of fact and conclusions of law
22 contained in this Stipulation are made exclusively for this
23 proceeding and any future proceedings between the Board and the
24 respondent, but not otherwise, and shall not be deemed to be
25 admissions for any purpose in any other administrative, civil or
26 criminal action, forum or proceeding.

27 ///

1 6. Respondent's license history and status as set
2 forth at paragraph 2 of the Accusation are true and correct and
3 respondent's address of record is as set forth in the caption of
4 this Stipulation and Waiver. (A copy of Accusation No. D-5561 is
5 attached hereto as Exhibit A.)

6 7. Without admitting any of the charges and
7 allegations in the First Cause for Discipline in the Accusation,
8 respondent stipulates and agrees there are grounds for
9 disciplinary action against him pursuant to Business and
10 Professions Code sections 726 and 729.

11 8. Respondent does admit that he entered into a sexual
12 relationship with patient R.M. while he was R.M.'s treating
13 psychiatrist. As a result of the above referenced conduct,
14 respondent admits that on May 8, 1994 he plead guilty to one
15 count of Business and Professions Code section 729(a) and was
16 placed on 3 years formal probation.

17 9. Should respondent in the future petition to modify
18 or terminate probation on his license to practice medicine,
19 and/or violates any term of his probation, and/or receive any new
20 complaints against his license that result in the filling of an
21 Accusation, that without admitting that each of the acts in the
22 Accusation took place, respondent admits he violated Business and
23 Professions Code section 726 and 729, in that respondent entered
24 into a sexual relationship with patient R.M. while respondent was
25 her treating psychiatrist. Further, respondent agrees that for
26 purposes of preservation of evidence, the following documents,
27 reports and records listed in Exhibit B, may be admitted at

1 the hearing of such petition(s) and/or accusation(s) and the
2 Board may fully consider them in deciding whether to modify his
3 probation and/or discipline his license. Exhibit B is
4 confidential and may not be disclosed, except to the Medical
5 Board and only for the above referenced proceeding or
6 circumstances.

7 10. It is understood by all parties hereto that the
8 foregoing recitals are solely for purposes of settlement of
9 Accusation No. D-5561.

10 IT IS HEREBY STIPULATED AND AGREED that the Medical
11 Board of California, upon its approval of the Stipulation and
12 Waiver herein set forth, may without further notice, prepare a
13 decision and enter the following order, whereby Physician and
14 Surgeon Certificate No. A-43546 heretofore issued to respondent
15 by the Medical Board of California, is hereby revoked; PROVIDED,
16 HOWEVER, that execution of this order of revocation is stayed,
17 and respondent is placed on probation for a period of five (5)
18 years, upon the following terms and conditions:

19 (A) ACTUAL SUSPENSION

20 As part of probation, Physician and Surgeon Certificate
21 No. A-43546 issued to respondent Virender S. Kaleka, M.D. is
22 suspended for thirty (30) consecutive days to commence on the
23 effective date of this decision.

24 (B) COMMUNITY SERVICES - FREE SERVICES

25 Within 60 days of the effective date of this decision,
26 respondent shall submit to the Division for its prior approval a
27 community service program in which respondent shall provide free

1 psychiatric services on a regular basis to a community or
2 charitable facility or agency for at least 12 hours a month for
3 the first 12 months of probation.

4 (C) ETHICS

5 Within 60 days of the effective date of this decision,
6 respondent shall submit to the Division for its prior approval a
7 course in Ethics, which respondent shall successfully complete
8 during the first year of probation.

9 (D) PSYCHIATRIC EVALUATION

10 Within 30 days of the effective date of this decision,
11 and on a periodic basis thereafter as may be required by the
12 Division or its designee, respondent shall undergo a psychiatric
13 evaluation (and psychological testing, if deemed necessary) by a
14 Division appointed psychiatrist who shall furnish a psychiatric
15 report to the Division or its designee.

16 If respondent is required by the Division or its
17 designee to undergo psychiatric treatment, respondent shall
18 within 30 days of the requirement notice submit to the Division
19 for its prior approval the name and qualifications of a
20 psychiatrist of respondent's choice. Upon approval of the
21 treating psychiatrist, respondent shall undergo and continue
22 psychiatric treatment until further notice from the Division.
23 Respondent shall have the treating psychiatrist submit quarterly
24 status reports to the Division.

25 (E) COSTS

26 Respondent shall pay to the Medical Board a sum not to
27 exceed the reasonable costs of the investigation and prosecution

1 of the case. That sum shall be \$3844, and shall be paid in four
2 quarterly payments of \$961. The first quarterly payment is due
3 within sixty (60) days of the effective date of the decision,
4 each of the next three payments is due in three month intervals,
5 with the last payment due within 11 months of the effective date
6 of the decision.

7 GENERAL TERMS OF PROBATION

8 (F) OBEY ALL LAWS

9 Respondent shall obey all federal, state and local
10 laws, and all rules to the practice of medicine in California.

11 (G) QUARTERLY REPORTS

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

15 (H) SURVEILLANCE PROGRAM

16 Respondent shall comply with the Board's probation
17 surveillance program.

18 (I) INTERVIEW WITH MEDICAL CONSULTANT

19 Respondent shall appear in person for interviews with
20 the Board or its designee upon request at various intervals and
21 with reasonable notice.

22 (J) TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE

23 The period of probation shall not run during the time
24 respondent is residing or practicing outside the jurisdiction of
25 California. If, during probation, respondent moves out of the
26 jurisdiction of California to reside or practice elsewhere,
27 respondent is required to immediately notify the Division in

1 writing of the date of departure, and the date of return, if any.

2 (K) COMPLETION OF PROBATION

3 Upon successful completion of probation, respondent's
4 certificate will be fully restored.

5 (L) VIOLATION OF PROBATION

6 If respondent violates probation in any respect, the
7 Division, after giving respondent notice and the opportunity to
8 be heard, may revoke probation and carry out the disciplinary
9 order that was stayed. If an accusation or petition to revoke
10 probation is filed against respondent during probation, the
11 Division shall have continuing jurisdiction until the matter is
12 final, and the period of probation shall be extended until the
13 matter is final.

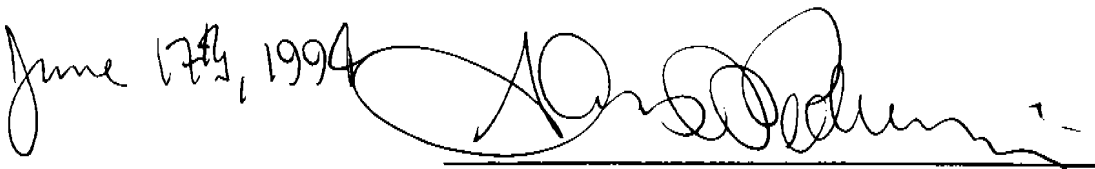
14 10. IT IS FURTHER STIPULATED AND AGREED that the terms
15 set forth herein shall be null and void, and in no way binding
16 upon the parties hereto, unless and until accepted by the Medical
17 Board of California of the State of California.

18 DATED: 11/8/94

19 DANIEL E. LUNGREN, Attorney General
20 of the State of California
21 MARA FAUST
22 Deputy Attorney General

23 Mara Faust
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25 Deputy Attorney General
26 Attorneys for Complainant
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DATED: June 17th, 1994 

THOMAS A. PEDREIRA, ESQ.
Attorney for Respondent

I hereby certify that I have read this Stipulation and Waiver in its entirety, that my attorney of record has fully explained the legal significance and consequence thereof, that I fully understand all of the same and in witness thereof I affix my signature this 17th day of June 1994, at FRESNO, California.

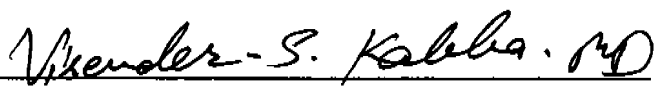

VIRENDER S. KALEKA, M.D.
Respondent

EXHIBIT *A*

COPY

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JANA L. TUTON
Supervising Deputy Attorney General
3 MARA FAUST
Deputy Attorney General
4 1515 K Street, Suite 511
P.O. Box 944255
5 Sacramento, California 94244-2550
Telephone: (916) 324-5358

6 Attorneys for Complainant
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8 BEFORE THE
9 DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
10 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
11

12 In the Matter of the) No. D 5561
Accusation Against:)
13) ACCUSATION
VIRENDER S. KALEKA, M.D.)
14 5271 N First Street)
Fresno, CA 93710)
15)
Physician and Surgeon)
16 Certificate No. A-43546)
17)
Respondent.)
18 _____)

19
20 Complainant, DIXON ARNETT, alleges as follows:

21 1. He is the Executive Directors of the Medical Board
22 of California (hereinafter the "Board") and makes and files this
23 accusation solely in his official capacity.

24 2. On or about April 13, 1987, the Board issued to
25 respondent, Virender Kaleka, M.D., (hereinafter "respondent")
26 physician and surgeon certificate A-43546. Said certificate is
27 now, and was at all times mentioned herein in full force and

1 effect and will expire on October 31, 1994, unless previously
2 renewed.

3 STATUTES

4 3. Section 2004 of the Business and Professions
5 Code^{1/} provides that the Board has the responsibility for the
6 enforcement of disciplinary provisions of the Medical Practices
7 Act and for reviewing the quality of Medical Practice carried out
8 by physician and surgeon certificate holder.

9 4. Section 2234 of the Code provides that the Division
10 of Medical Quality (hereinafter "the Division") shall take action
11 against any licensee who is charged with unprofessional conduct.
12 Unprofessional conduct is defined therein to include but not to
13 be limited to (a) Violating or attempting to violate directly or
14 indirectly. . . any provision of the Medical Practice Act; (b)
15 gross negligence; and (e) the commission of any act involving
16 dishonesty or corruption which is substantially related to the
17 qualifications, functions and duties of a physician and surgeon.

18 5. Section 726 provides, in pertinent part, that the
19 commission of any act of sexual abuse, misconduct, or relations
20 with a patient which is substantially related to the qualifi-
21 cations, functions or duties of the occupation for which a
22 license was issued constitutes unprofessional conduct and is
23 grounds for disciplinary action for a physician and surgeon.

24 6. Section 729(a) of the Code states that any
25 psychotherapist, or any person holding himself or herself out to
26

27 1. All statutory references are to the Business and Professions Code, unless otherwise indicated.

1 be a psychotherapist, who engages in sexual intercourse, sodomy,
2 oral copulation, or sexual contact with a patient or client, or
3 with a former patient or client when the relationship was
4 terminated primarily for the purpose of engaging in those acts
5 unless the psychotherapist has referred the patient or client to
6 an independent and objective psychotherapist, recommended by a
7 third-party psychotherapist, for treatment, is guilty of sexual
8 exploitation by a psychotherapist.

9 PATIENT R.M.

10 FIRST CAUSE FOR DISCIPLINARY ACTION

11 7. Respondent began treating patient R.M. in December
12 1990, while R.M. was hospitalized for severe psychological
13 stress. During this time R.M.'s husband had been shipped
14 overseas to Kuwait as part of Operation Desert Storm. After R.M.
15 was discharged from the hospital in January 1991, she began to
16 see respondent for therapy on a weekly basis. After two months,
17 she began to see respondent on a bi-weekly basis.

18 8. During therapy R.M. discussed her prior sexual
19 contact with the pastor of her church and her lack of trust in
20 men. Respondent also began to discuss his own sexual issues.

21 9. Respondent began to have sexual contact with
22 patient R.M. on approximately seven occasions from February 1992
23 through November 25, 1992. The first sexual contact occurred in
24 February 1992. R.M. telephoned respondent when she was very
25 distressed and arranged to see respondent in his office that
26 afternoon. When R.M. entered respondent's inner office,
27 respondent locked the office door, began kissing R.M., pulled

1 R.M.'s shirt above her breasts and her pants and panties below
2 her buttocks. Respondent and R.M. then engaged in sexual
3 intercourse.

4 10. Approximately six of the seven sexual encounters
5 between respondent and R.M. occurred in respondent's office and
6 one encounter occurred at R.M.'s home. Five of the seven
7 contacts involved respondent initialing sexual (vaginal)
8 intercourse with patient R.M., one contact involved respondent
9 sodomizing patient R.M., and one contact involved respondent
10 directing patient R.M. to orally copulate him.

11 11. The last sexual contact occurred on November 25,
12 1992, and this date was the last time respondent and R.M. saw
13 each other. Respondent never did refer R.M. to an independent
14 third-party psychotherapist for treatment, either during
15 respondent's treatment of R.M. or after his treatment of R.M.

16 12. Respondent's actions as set forth in paragraph 9,
17 10, and 11 have exposed his license to discipline for
18 unprofessional conduct pursuant to sections 2234(a), 2234(b),
19 2234(e), 726, and 729 of the Code in that respondent's sexual
20 acts with patient R.M. constitute acts of gross negligence,
21 commission of an sexual misconduct, and corrupt sexual
22 exploitation of a patient.

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26 ///

27 ///

1 WHEREFORE, complainant requests that the Division of
2 Medical Quality schedule a hearing in this matter and thereafter
3 issue an order suspending or revoking the physician and surgeon
4 certificate No. A-43546 issued to Virender S. Kaleka, M.D., and
5 take such other and further action as the Board deems proper.

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7 Dated: December 7, 1993



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DIXON ARNETT
Executive Director
Medical Board of California
Division of Medical Quality
Department of Consumer Affairs
State of California

Complainant