

BEFORE THE BOARD OF MEDICAL EXAMINERS  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

IN THE MATTER OF THE PROPOSED ) DOCKET NO. CC-98-036-MD  
DISCIPLINARY ACTION AGAINST )  
ROBERT W. MCDERMOTT, JR., M.D., ) STIPULATION AND AGREEMENT;  
LICENSE NO. 6728 ) ORDER OF PROBATION

COME NOW Robert W. McDermott, Jr., M.D., ("Licensee") and the Montana Board of Medical Examiners ("Board"), and make the following stipulations and agreements:

1. Licensee is currently the holder of License No. 6728 issued by the State of Montana, granting him the privilege of practicing medicine in the State of Montana; the Board has jurisdiction over said license and the conduct of Licensee at issue herein.

2. Licensee admits that he has the illnesses of bipolar disorder, chemical dependency and addiction, and that during the last three and one-half years he used his license to practice medicine in Montana and his registration with the United States Drug Enforcement Administration to write third party prescriptions for controlled substances which he diverted to his own use.

3. Licensee admits that in 1995, 1996 and 1997, he answered "No" to two questions on his annual license renewal forms concerning his personal health, when he should have answered "Yes."

4. Licensee admits that the conduct described in Paragraphs 2 and 3 above constitutes "unprofessional practice," in violation

of Section 37-1-316(3), (4), (5), (10), (11), (12), and (18), Montana Code Annotated ("MCA") and Rules 8.28.423(3), (6), (9), (16), (17), Administrative Rules of Montana ("ARM").

5. Licensee admits that such unprofessional conduct is grounds for license discipline under Sections 37-1-312, MCA.

6. Licensee has undergone treatment for his illnesses of bipolar disorder, chemical dependency and addiction, and has been medically discharged from the treating facility with a recommendation that Licensee can return to medical practice with reasonable skill and safety, in a practice site with a certain structure and oversight, and with continued aftercare activities by Licensee.

7. Licensee wishes to avoid unnecessary expenditure of time and other valuable resources in resolving the issues in this matter; Licensee therefore waives all right to further notice, hearing and appeal, and elects to submit this matter to the Board on the stipulations, terms and conditions contained herein. This document shall be referred to as the "Stipulation."

8. The Board is satisfied that the public will be adequately protected under the following terms and conditions, in lieu of further disciplinary proceedings based on the violations admitted above, and Licensee fully agrees that:

A. Licensee's license to practice medicine in the State of Montana is hereby placed on probation until further Order of the Board;

B. Licensee shall comply scrupulously with each of the

Probationary Terms and Conditions set forth hereinafter;

C. The Board shall abstain from commencing contested case proceedings against Licensee for the violations admitted in Paragraphs 2 and 3 above so long as Licensee complies with all the Probationary Terms and Conditions.

9. Probationary Terms and Conditions:

A. Licensee shall enter into an agreement with the Montana Professional Assistance Program ("MPAP Agreement"), the terms and conditions of which must be pre-approved by the Board;

B. Licensee shall comply scrupulously with all terms and conditions of the MPAP Agreement; any violation of the MPAP Agreement shall constitute a violation of this Stipulation, and therefore "unprofessional conduct" subject to discipline by the Board.

C. Licensee shall comply with all recommendations by the treating facility referred to in Paragraph 5 for continuing care and/or aftercare of his illness.

D. Licensee shall undergo re-evaluation at his treatment facility at such intervals as may be required by the treatment facility, in consultation with MPAP. Licensee shall provide the Board with copies of the evaluation reports or other discharge summaries that may be prepared by the treatment facility.

E. Licensee shall continue with regular treatment from his Treating Professional at such intervals as the Treating Professional, in consultation with MPAP, deems appropriate.

Licensee shall not discontinue such treatment without the prior approval of the Board and MPAP. Licensee shall ensure his Treating Professional provides quarterly reports to the Board and monthly reports to MPAP on Licensee's progress and status.

F. Licensee shall notify MPAP immediately of any change in his physical or mental health for which he seeks or obtains any form of treatment, including over-the-counter medications.

G. Licensee shall abstain from any and all use of alcohol, mind-altering or potentially addicting drugs or medications (including but not limited to marijuana, cocaine, stimulants, narcotics, narcotic derivatives or synthetic narcotics, sedatives, and tranquilizers), pain-relieving medications, sleeping aids, alertness aids, and any and all other medications or drugs (as defined in Section 37-7-101(5), MCA), including over-the-counter medications, EXCEPT where such medication is prescribed by his Primary Care Physician or his Treating Professional, as designated in his MPAP Agreement. Licensee shall not drink "near-beer," cough syrup, cold medication, or any other beverage which contains alcohol. All substances identified in this paragraph are hereafter referred to as "Proscribed Substances."

H. In the event that Licensee requires any Proscribed Substance for treatment of a medical or dental illness or other condition, Licensee shall notify the Board and MPAP in advance of taking any such substance, except in the case of a medical or

dental emergency. In the case of an emergency, Licensee shall ensure that his Primary Care Physician or his Treating Professional (whichever is prescribing the substance in question) notifies the Board and MPAP in writing within seventy-two (72) hours of the issuance of the prescription or order, or ingestion or use of the substance, whichever shall occur first. The report may be a copy of the prescription, faxed to the Board at (406) 444-9396 and to MPAP at (406) 245-4432, or some other written document faxed to the Board and MPAP.

I. Licensee shall fill all prescriptions issued to him for his personal use at a single pharmacy, the name of which he shall provide to the Board and MPAP. At this time, Licensee has designated Pharmacy One, 2900 12th Avenue, Billings, MT, as the pharmacy he will use.

J. If for some reason, Licensee does use a Proscribed Substance without the required prescription from his Primary Care Physician or Treating Professional, Licensee will notify the Board within 24 hours by calling (406) 444-4284 and leaving a voice mail message if necessary, AND in writing by fax to (406) 444-9396. Licensee shall also notify MPAP immediately.

K. Licensee shall provide bodily fluid or hair samples for testing in a random program as set forth in the MPAP Agreement; the samples shall be tested, at a laboratory selected by MPAP, for Proscribed Substances. The laboratory shall report all test results to MPAP; MPAP shall report any positive results (i.e., indicating the presence of a Proscribed Substance) to the

Board within 24 hours of receiving the report. Licensee shall pay all expenses of testing and reporting by the laboratory, within thirty (30) days of billing.

L. Licensee shall practice medicine only at a site pre-approved by the Board and MPAP. As of the date of this Stipulation, Licensee is approved to practice medicine on-site at Deaconess-Billings Clinic Health System, 2800 Tenth Avenue North, Billings, Montana. Licensee shall not seek or accept employment or any other professional relationship, or open his own private office, for the practice of medicine, without the prior approval of the Board and MPAP.

M. Licensee shall work no more than 50 hours per week, including charting and other paperwork, and time on call.

N. Licensee shall forthwith surrender his controlled substance registration with the U.S. Drug Enforcement Administration. Licensee shall not seek reinstatement of such registration unless and until he is approved by the Board and MPAP to do so. Licensee shall not seek such approval earlier than two years from the date of this Stipulation and Agreement.

O. Licensee shall not accept samples of the Proscribed Substances, nor shall he order or receive such substances from pharmaceutical manufacturers or distributors, whether in-state or out-of-state.

P. Licensee may order Proscribed Substances for in-house use by in-patients at Deaconess-Billings Clinic Health System. Licensee may not administer or otherwise personally

handle any Proscribed Substance. Any Proscribed Substances required by out-patients at that facility will be ordered or prescribed by another licensed health care provider.

Q. Licensee shall not order or write a prescription of any medication whatsoever for himself or any member of his family. Licensee shall keep MPAP informed of the identity, address and telephone number of his spouse.

R. Licensee hereby releases and authorizes full and free written and oral communication between the Board and MPAP, between the Board and any treating physician, facility or other provider, and between the Board and any supervisor or employer of Licensee on the subject of Licensee's physical, mental or emotional health, and his compliance with this Stipulation and his MPAP Agreement.

S. Licensee shall maintain, and shall provide to the Board within ten (10) days of a written request documentation of his compliance with the requirements of this Stipulation and/or the MPAP Agreement.

T. Licensee shall meet with the Board no less than twice each calendar year.

U. Licensee shall renew his Montana license in a timely fashion from year to year.

V. Licensee shall immediately withdraw from practice upon written notice from the Board that the Board or MPAP has received prima facie evidence of any violation of this Stipulation. Licensee agrees that any disciplinary charges

(i.e., a Notice of Proposed Board Action) resulting from said prima facie evidence shall go to hearing within 45 days of service of such Notice.

W. Licensee shall provide a copy of this Stipulation to the following persons:

(1) All persons or entities named in this Stipulation, and all persons named in Licensee's MPAP Agreement;

(2) The Chief of Staff and Administrator of any hospital, institution, organization or facility by which he may be employed or where he may practice medicine (including but not limited to physician placement services, private employers, etc.);

(3) The Board of Medical Examiners of any state where he commences practice or seeks licensure during the probationary period.

10. Licensee agrees that any violation of this Stipulation, or of his MPAP Agreement constitutes unprofessional conduct, and will result in:

A. Permanent revocation of Licensee's medical license, upon notice and a hearing (within forty-five days) on the sole issue of whether in fact Licensee committed such violation of this Stipulation or the MPAP Agreement;

B. Imposition of such other or further license discipline as the Board may deem appropriate, based on the violations of law and agreements admitted herein.

11. Licensee understands and acknowledges that:



A. This Stipulation constitutes disciplinary action;  
B. This Stipulation is a matter of public record;  
C. This Stipulation will be reported promptly to the National Practitioner Data Bank, the Federation of State Medical Boards, and to any enquiring person or entity.

12. Licensee has read and understands each and every provision of this Stipulation, and freely agrees to each such provision, including, but not limited to the Probationary Terms and Conditions set forth in Paragraph 9 above.

13. Licensee has consulted with legal counsel concerning all matters herein, and specifically with respect to the Probationary Terms and Conditions of this Stipulation. Licensee makes the admissions, stipulations and agreements contained herein knowingly, voluntarily, and with advice of legal counsel.

14. This Stipulation may only be modified in writing,

A. With the consent of Licensee, MPAP and the Board;

or

B. By further Order of the Board, issued after disciplinary proceedings conducted in accordance with the terms and conditions hereof and the Montana Administrative Procedure Act.

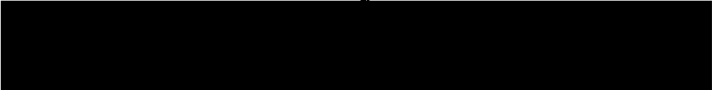
Dated: 11-26-97

  
ROBERT W. MCDERMOTT, M.D.  
Licensee

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MONTANA BOARD OF MEDICAL EXAMINERS

Dated: 12/10/97

  
DANIEL C. BROOKE, M.D., President

O R D E R

IT IS SO ORDERED.

Dated: 12/10/97

  
DANIEL/C. BROOKE, M.D., President

BEFORE THE BOARD OF MEDICAL EXAMINERS  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

IN THE MATTER OF THE PROPOSED )	DOCKET NO. CC-98-036-MD
DISCIPLINARY ACTION AGAINST )	
ROBERT W. MCDERMOTT, JR., M.D., )	AMENDMENT TO STIPULATION AND
<u>LICENSE NO. 6728</u> )	AGREEMENT; ORDER OF PROBATION

COME NOW Robert W. McDermott, Jr., M.D. ("Licensee") and the Board of Medical Examiners for the State of Montana ("Board"), and stipulate to the following facts and make the following agreements:

1. That for good cause shown, Paragraphs 8.N and 8.P of the Stipulation and Agreement; Order of Probation between Licensee and the Board dated December 10, 1997, shall be amended as follows:

"N. Licensee may seek reinstatement of his controlled substance registration with the United States Drug Enforcement Administration, to the extent approved by the Board and MPAP. As of the date of this Order, Licensee has been approved to prescribe Schedule IV and V medications for out-patients."

"P. Licensee may order Proscribed Substances for in-house use by in-patients at Deaconess-Billings Clinic Health System. Licensee may not administer or otherwise personally handle any Proscribed Substance. All Proscribed Substances required by out-patients at that facility will be ordered or prescribed by

another licensed health care provider, with the exception that Licensee may order or prescribe Schedule IV and V drugs for such out-patients."

3. All other terms and conditions of the Stipulation and Agreement; Order of Probation dated December 10, 1997 shall remain in full force and effect.

Dated:

[REDACTED]

ROBERT W. MCDERMOTT, M.D.  
LICENSEE

Dated: *7/22/99*

[REDACTED]

LAWRENCE R. MCEVOY, M.D.  
President, Montana Board of  
Medical Examiners

*28 July 99*

AMENDED ORDER

IT IS SO ORDERED.

Dated: *28 July 1999*

BOARD OF MEDICAL EXAMINERS,  
STATE OF MONTANA

[REDACTED]

LAWRENCE R. MCEVOY, M.D.,  
President

BEFORE THE BOARD OF MEDICAL EXAMINERS  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

IN THE MATTER OF THE PROPOSED ) DISCIPLINARY ACTION AGAINST ) ROBERT W. MCDERMOTT, JR., M.D., ) <u>LICENSE NO. 6728</u> )	DOCKET NO. CC-98-036-MD  SECOND AMENDMENT TO STIPULATION AND AGREEMENT; ORDER OF PROBATION
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COME NOW Robert W. McDermott, Jr., M.D. ("Licensee") and the Board of Medical Examiners for the State of Montana ("Board"), and stipulate to the following facts and make the following agreements:

1. That for good cause shown, Paragraphs 8.N and 8.P of the Stipulation and Agreement; Order of Probation between Licensee and the Board dated December 10, 1997, as modified by the Amendment to Stipulation and Agreement; Order of Probation dated July 28, 1999, be amended as follows:

"N. Licensee may seek reinstatement of his controlled substance registration with the United States Drug Enforcement Administration, to the extent approved by the Board and MPAP. As of the date of this Order, Licensee has been approved to prescribe Schedule II, III, IV and V medications for out-patients."

*Schedule I*

"P. Licensee may order Proscribed Substances for in-house use by in-patients at Deaconess-Billings Clinic Health System. Licensee may not administer or otherwise personally handle any

Proscribed Substance. All Proscribed Substances required by out-patients at that facility will be ordered or prescribed by another licensed health care provider, with the exception that Licensee may order or prescribe Schedule II, III, IV and V drugs for such out-patients."

3. All other terms and conditions of the Stipulation and Agreement; Order of Probation dated December 10, 1997, as formerly amended, shall remain in full force and effect.

Dated: 12-3-2000

[REDACTED]  
ROBERT W. MCDERMOTT, M.D.  
LICENSEE

Dated: 12-14-2000

[REDACTED]  
LAWRENCE R. MCEVOY, M.D.  
President, Montana Board of  
Medical Examiners

**AMENDED ORDER**

IT IS SO ORDERED.

BOARD OF MEDICAL EXAMINERS,  
STATE OF MONTANA

Dated: 12-14-2000

[REDACTED]  
LAWRENCE R. MCEVOY, M.D.,  
President

BEFORE THE BOARD OF MEDICAL EXAMINERS  
DEPARTMENT OF COMMERCE  
STATE OF MONTANA

IN THE MATTER OF THE PROPOSED ) DOCKET NO. CC-98-036-MD  
DISCIPLINARY ACTION AGAINST )  
ROBERT W. MCDERMOTT, JR., M.D., ) THIRD AMENDMENT TO  
LICENSE NO. 6728 ) STIPULATION AND AGREEMENT;  
ORDER OF PROBATION

COME NOW Robert W. McDermott, Jr., M.D., ("Licensee") and the Montana Board of Medical Examiners ("Board"), and make the following stipulations and agreements:

1. That for good cause shown, Paragraph 9 (k) of the Stipulation and Agreement; Order of Probation between Licensee and the Board dated December 10, 1997, shall be amended as follows:

"K. Licensee shall provide bodily fluid or hair samples for testing twice a month as approved by the Board, pursuant to the recommendation of MPAP made to the Board at its meeting on November 16, 2001;" The remainder of said paragraph 9(k) shall remain as stated.

2. All other terms and conditions of the Stipulation and Agreement; Order of Probation dated December 10, 1997 shall remain in full force and effect.

Dated:

  
ROBERT W. MCDERMOTT, M.D.  
Licensee

2/8/07

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MONTANA BOARD OF MEDICAL EXAMINERS

Dated:

Feb 13, '02

[REDACTED]  
LAWRENCE R. MCEVOY, M.D., President

O R D E R

IT IS SO ORDERED.

Dated:

Feb 13, '02

[REDACTED]  
LAWRENCE R. MCEVOY M.D., President



CERTIFICATE OF SERVICE

I, LaVelle M. Potter, hereby certify that on March 12, 2002, I served a true and correct copy of the foregoing document on the interested parties by depositing same in the United States first class mail, addressed as follows:

KENNETH S FRAZIER  
PO BOX 2558  
BILLINGS MT 59103-2558

Date: March 12, 2002

  
LaVelle M. Potter

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**BEFORE THE BOARD OF MEDICAL EXAMINERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA**

IN THE MATTER OF THE PROPOSED )  
DISCIPLINARY ACTION AGAINST )  
ROBERT W. MCDERMOTT, JR., M.D., )  
LICENSE NO. 6728 )

DOCKET NO. CC-98-036-MED  
FINAL ORDER TERMINATING  
PROBATION

WHEREAS, Robert W. McDermott, Jr., M.D., Licensee herein, has been and is in compliance with the terms and conditions set forth in the Stipulation and Agreement; Order of Probation dated December 10, 1997; and

WHEREAS, the Board of Medical Examiners has considered Licensee's Motion to Terminate Probation Pursuant to §37-3-324, MCA, dated September 24, 2002 in light of the Board's responsibility to protect the Montana public;

IT IS HEREBY ORDERED that the probation in TERMINATED and License No. 6728 is fully restored.

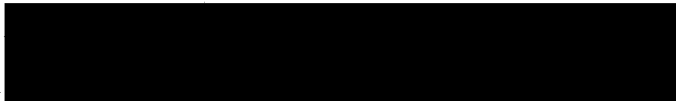
Dated: December 04, 2002

  
ANNE M. WILLIAMS, M.D.  
President, Montana Board of  
Medical Examiners

1  
2 CERTIFICATE OF SERVICE

3 I hereby certify that on the 10<sup>th</sup> day of December, 2002, I served a true  
4 and accurate copy of the foregoing **Final Order Terminating Probation**, by U.S. mail,  
5 postage prepaid, upon the following:

6 Robert W. McDermott, Jr., M.D.  
7 c/o Kenneth S. Frazier  
8 313 Hart Albin Building  
9 P.O. Box 2558  
10 Billings, MT 59103-2558



**DOCUMENT UNAVAILABLE:**

*Notice of Proposed Board Action  
and Opportunity For Hearing*