

**CONSENT AGREEMENT
BETWEEN
JAY HAMMOND SHAFFER, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO**

This Consent Agreement is entered into by and between Jay Hammond Shaffer, M.D., and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Shaffer enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by R.C. 4731.22(B) to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for any of the enumerated violations.
- B. The Board and Dr. Shaffer enter into this Consent Agreement in lieu of further formal proceedings based upon the allegations set forth in the Notice of Opportunity for Hearing issued on November 12, 2003, attached hereto as Exhibit A and incorporated herein by this reference. The Board expressly reserves the right to institute additional formal proceedings based upon any other violations of R.C. Chapter 4731., whether occurring before or after the effective date of this Consent Agreement.
- C. Dr. Shaffer is licensed to practice medicine and surgery in the State of Ohio, License # 35-036369. Dr. Shaffer also holds a license to practice medicine in California; that license is active.
- D. Dr. Shaffer admits that his California medical license was subjected to discipline by the Medical Board of California [hereinafter "California Board"], as set forth in the Decision and Order and Stipulated Settlement and Disciplinary Order that are attached to the November 12, 2003 Notice of Opportunity for Hearing attached hereto as Exhibit A and incorporated by reference, whereby his license was revoked, the revocation was stayed, he was suspended from the practice of medicine for a period of one (1) year, he was placed on probation for a period of seven (7) years, and he was required to pay reimbursement in the amount of

\$9,937.00. Dr. Shaffer did not admit to the allegations before the California Board, however, for purposes of the settlement, Dr. Shaffer admitted that the California Board could establish a prima facie case against him indicating that, as the treating psychiatrist for Patient S.L., he established a personal and sexual relationship with her for a period of approximately two years, and that, during the same time period, his treatment included marital counseling of both S.L. and her spouse. Dr. Shaffer further admits that his medical license being subjected to discipline in California constitutes a violation of R.C. 4731.22(B)(22).

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of further formal proceedings at this time, Dr. Shaffer knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

PERMANENT REVOCATION, STAYED, SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Shaffer to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED and Dr. Shaffer's certificate is indefinitely SUSPENDED for not less than one (1) year.

CONDITIONS FOR REINSTATEMENT

2. The Board shall not consider reinstatement of Dr. Shaffer's certificate to practice medicine and surgery until all of the following conditions are met:
 - A. Dr. Shaffer shall submit an application for reinstatement, accompanied by appropriate fees, if any.

Ethics Course

- B. At the time he submits his application for reinstatement, Dr. Shaffer shall provide documentation of successful completion of a professional ethics course or courses dealing specifically with the ethical principles Dr. Shaffer violated in this matter. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee but in no event shall be less than thirty hours. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for re-licensure for the Continuing Medical Education period(s) in which they are completed.

- C. In the event that Dr. Shaffer has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Shaffer's fitness to resume practice.
- D. At the time he submits his application for reinstatement or restoration, Dr. Shaffer shall submit to the Board documentation from the California Board, dated no earlier than sixty days prior to Dr. Shaffer's application for reinstatement or restoration, that Dr. Shaffer has complied with the conditions precedent set forth in the California Board Stipulated Settlement and Disciplinary Order. Those conditions precedent include clearance to resume practice from the California Board's Diversion Program, successful completion of the PACE Program and successful completion of the PACE Professional Boundaries Program.

PROBATIONARY TERMS, CONDITIONS AND LIMITATIONS

- 3. Upon reinstatement, Dr. Shaffer's certificate to practice medicine and surgery shall be subject to the following PROBATIONARY terms, conditions and limitations for a period of at least three (3) years:
 - A. Dr. Shaffer shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Ohio.

Compliance With California Board Order

- B. Prior to commencing practice in Ohio, Dr. Shaffer shall submit to the Board and receive its approval for a plan of practice in Ohio. The practice plan, unless otherwise determined by the Board, shall be limited to a supervised structured environment in which Dr. Shaffer's activities will be directly supervised and overseen by a monitoring physician approved by the Board. Dr. Shaffer shall obtain the Board's prior approval for any alteration to the practice plan approved pursuant to this Order.

Further, Dr. Shaffer shall make his patient records available to the Board upon request.

Quarterly Declarations

- C. Dr. Shaffer shall submit quarterly declarations under penalty of Board disciplinary action or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement and with the terms of the California Board Stipulated Settlement and Disciplinary Order. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

Personal Appearances

- D. Dr. Shaffer shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Consent Agreement becomes effective, or as otherwise directed by the Board. Dr. Shaffer shall also appear upon his request for termination of the probationary period, and/or as otherwise requested by the Board.
- E. In the event Dr. Shaffer is found by the Secretary of the Board to have failed to comply with any provision of this Consent Agreement, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Consent Agreement.

REQUIRED REPORTING BY LICENSEE

- 4. Within thirty days of the effective date of this Consent Agreement, Dr. Shaffer shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Shaffer further agrees to provide a copy of this Consent Agreement by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, Dr. Shaffer shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
- 5. Within thirty days of the effective date of this Consent Agreement, Dr. Shaffer shall provide a copy of this Consent Agreement to all employers or entities with

which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Shaffer shall provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Shaffer appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

DURATION/MODIFICATION OF TERMS

Dr. Shaffer shall not request modification to the probationary terms, limitations, and conditions contained herein for at least one year following reinstatement of his certificate to practice medicine and surgery. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Shaffer acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., and Ohio Revised Code.

Dr. Shaffer hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

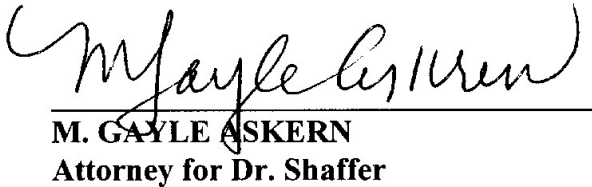
This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code, and may be reported to appropriate organizations, data banks, and governmental bodies. Dr. Shaffer agrees to provide his social security number to the Board and hereby authorizes the Board to utilize that number in conjunction with that reporting.

EFFECTIVE DATE

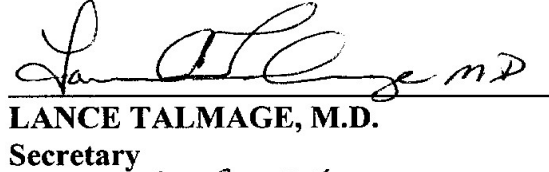
It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.


JAY HAMMOND SHAFFER, M.D.

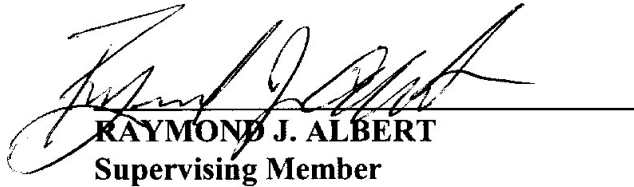
MAY 26TH, 2004
DATE


M. GAYLE ASKERN
Attorney for Dr. Shaffer

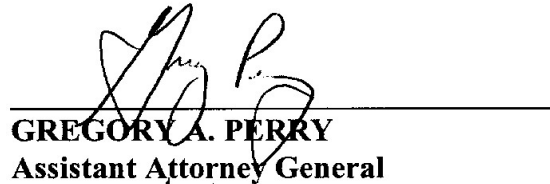
May 26, 2004
DATE


LANCE TALMAGE, M.D.
Secretary

6-9-04
DATE


RAYMOND J. ALBERT
Supervising Member

6/9/04
DATE


GREGORY A. PERRY
Assistant Attorney General

6/10/04
DATE



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.state.oh.us/med/

November 12, 2003

Jay H. Shaffer, M.D.
3113 Morning Way
La Jolla, California 92037

Dear Doctor Shaffer:

In accordance with R.C. Chapter 119., you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, permanently 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 September 4, 2003, by Decision, effective October 6, 2003, the Medical Board of California (California Board) adopted as their Decision and Order, a Stipulated Settlement [and Disciplinary Order] that revoked your Physician and Surgeon's Certificate; stayed the revocation; suspended you from practice for a period of one (1) year; placed you on probation for a period of seven (7) years and required reimbursement in the amount of \$9,937.00 for investigative and prosecution costs.

For the purposes of settlement, you admitted, "that at hearing, the Complainant [California Board] could establish a prima facie [sic] case with respect to the allegations contained in the [California Board] Accusation appended hereto as Exhibit A." The California Board Accusation included that, while you were the treating psychiatrist for Patient S.L., you established a personal and sexual relationship with her for a period of approximately two years. Your treatment, during the same time period, included marital counseling with both S.L. and her spouse, W.W.

Your underlying conduct is provided in greater detail in the attached California Board Decision, Stipulated Settlement and Disciplinary Order (with appended Accusation) and Stipulation for Interim Suspension Pursuant to [California] Government Code Section 1159, dated August 23, 2002.

The California Board Decision and Order, as alleged in paragraph one (1) above, constitutes "[a]ny of the following actions taken by the agency responsible for regulating the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or the limited branches of medicine in another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand," as that clause is used in R.C. 4731.22(B)(22).

Pursuant to R.C. Chapter 119., 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

Mailed 11-13-03

received in the offices of the State Medical Board within thirty days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, 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 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Please note that, whether or not you request a hearing, R.C. 4731.22(L), provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/cad
Enclosures

CERTIFIED MAIL #7000 0600 0024 5149 6091
RETURN RECEIPT REQUESTED

9834 Genesse, #411
La Jolla, California 92037

CERTIFIED MAIL #7000 0600 0024 5149 6084
RETURN RECEIPT REQUESTED

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

CERTIFICATION
IS ON THE BACK
OF THIS PAGE.....

In the Matter of the Accusation
Against:

JAY H. SHAFFER, M.D.

File No. 10-2001-125353

Physician and Surgeon
Certificate No. C 36420

Respondent

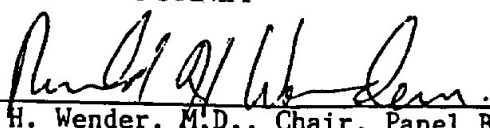
DECISION

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

This Decision shall become effective at 5:00 p.m. on October 6, 2003.

IT IS SO ORDERED September 4, 2003.

MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
Ronald H. Wender, M.D., Chair, Panel B
Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 D. KENNETH BAUMGARTEN
Deputy Attorney General
3 State Bar No. 124371
California Department of Justice
4 110 West A Street, Suite 1100
Post Office Box 85266
5 San Diego, California 92816-5266
Telephone: (619) 645-2195
6 Facsimile: (619) 645-2061

7 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 Against:

CASE NO. 10-2001-125353

JAY HAMMOND SHAFFER, M.D.

3113 Morning Way
La Jolla, CA 92037

Physician and Surgeon's
Certificate No. C 36420

**STIPULATED SETTLEMENT
AND
DISCIPLINARY ORDER**

Respondent.

IT IS HEREBY STIPULATED AND AGREED, by and between the parties to
the above-entitled proceedings, that the following matters are true:

PARTIES

1. Ron Joseph, ("Complainant") is the Executive Director of the Medical
Board of California and has brought this action solely in his official capacity. Complainant is
represented by the Attorney General of California, Bill Lockyer, by Deputy Attorney General
D. Kenneth Baumgarten.

2. Jay Hammond Shaffer, M.D., ("Respondent") is represented in this
matter by Mr. Carlo Coppo, Esq., DiCaro, Coppo & Popcke, Carlsbad Corporate Plaza,
6183 Paseo Del Norte, Suite 250, Carlsbad, CA; (760) 918-0500.

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1 9. For purposes of settlement, Respondent hereby admits that at a hearing,
2 Complainant could establish a prima facie case with respect to the allegations contained in the
3 Accusation, appended hereto as Exhibit A.

4 10. By signing this Stipulation, Respondent hereby acknowledges he
5 understands and agrees that he may not withdraw his agreement hereto, or seek to rescind the
6 Stipulation, once it has been submitted to, considered and/or acted upon by the Division.

7 11. The parties agree that facsimile copies of this Stipulated Settlement and
8 Disciplinary Order, including facsimile signatures thereto, shall have the same force and
9 effect as the original Stipulated Settlement and Disciplinary Order, and signatures thereto.

10 12. Respondent agrees to be bound by the Division's Disciplinary Order as
11 set forth below.

12 13. In consideration of the foregoing admissions and stipulated matters, the
13 parties agree the Division shall, without further notice or formal proceeding, issue and enter
14 the following Order:

15 14. **DISCIPLINARY ORDER**

16 IT IS HEREBY ORDERED that Physician and Surgeon's Certificate number
17 C 36420, issued to Jay Hammond Shaffer, M.D., is revoked. However, such revocation is
18 hereby stayed by the Division and Respondent is placed on seven (7) years probation.
19 During the term of probation, Respondent shall comply with the Division's Probation
20 Surveillance Program and the following terms and conditions:

21 A. **SUSPENSION FROM THE PRACTICE OF MEDICINE**

22 Respondent shall be suspended from the practice of medicine in California for
23 a period of one year. This period of suspension shall have commenced on August 23, 2002,
24 the date Respondent voluntarily agreed to an Interim Suspension Order in this matter, and
25 will expire on August 23, 2003. Thereafter, and only if Respondent has fully satisfied all
26 conditions precedent specified in this Stipulation, will he be entitled to resume the practice of
27 medicine in California, but only within the specific requirements and restrictions set forth
28 herein.

1 B. **DIVERSION PROGRAM CLEARANCE -**
2 **CONDITION PRECEDENT**

3 As a condition precedent to resuming the practice of medicine, Respondent
4 shall obtain clearance to do so from the Medical Board's Diversion Program. Such clearance
5 shall be in writing and shall be presented to the Division, or its designee.

6 C. **DIVERSION PROGRAM - CONTINUED PARTICIPATION**

7 Respondent shall continue his current participation in the Medical Board's
8 Diversion Program until such time as a determination has been made by both the Division
9 and Diversion Program personnel that further treatment and rehabilitation is no longer
10 necessary and that Respondent is no longer in need of continued participation in the Program.
11 Such a decision shall be in writing and shall be presented to the Division, or its designee.

12 Respondent agrees that his successful completion of the Diversion Program
13 will be in the sole determination of the Division and Diversion Program faculty and such
14 determination shall be binding.

15 Respondent's failure to continue his participation in the Diversion Program,
16 and successfully complete this program as specified above, shall constitute a violation of
17 probation.

18 D. **COMPLETION OF PACE PROGRAM - CONDITION PRECEDENT**

19 As a second condition precedent to resuming the practice of medicine in
20 California, Respondent, at his expense, shall enroll in and complete The Physician
21 Assessment and Clinical Education Program at the University of California, San Diego
22 School of Medicine (hereinafter the "PACE Program"). The PACE Program is a
23 Comprehensive Assessment Program comprised of two mandatory components: Phase 1 and
24 Phase 2.

25 Phase 1 is a two-day program which assesses physical and mental health;
26 neuropsychological performance; basic clinical and communication skills common to all
27 clinicians; and medical knowledge, skill and judgment pertaining to the specialty or sub-

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1 specialty of the Respondent. After the results of Phase 1 are reviewed, Respondent shall
2 complete Phase 2.

3 Phase 2 comprises five days (40 hours) of Clinical Education in Respondent's
4 field of specialty. The specific curriculum of Phase 2 is designed by PACE Faculty and the
5 Department or Division of Respondent's specialty, and utilizes data obtained from Phase 1.

6 After Respondent has completed Phase 1 and Phase 2, the PACE Evaluation
7 Committee will review all results and make a recommendation to the Division or its designee
8 as to whether further education, clinical training (including scope and length), treatment of
9 any medical and/or psychological condition and any other matters affecting Respondent's
10 practice of medicine will be required or recommended. The Division or its designee may at
11 any time request information from PACE regarding the Respondent's participation in PACE
12 and/or information derived therefrom. The Division may order Respondent to undergo
13 additional education, medical and/or psychological treatment based upon the
14 recommendations received from PACE.

15 At the completion of the PACE Program, Respondent shall submit to an
16 examination on its contents and substance. The examination shall be designed and
17 administered by the PACE Program faculty. Respondent shall not be deemed to have
18 successfully completed the program unless he passes the examination. Respondent agrees
19 that the determination of the PACE Program faculty as to whether or not he passed the
20 examination and/or successfully completed the PACE Program shall be binding.

21 Respondent shall complete the PACE Program no later than six months after
22 his initial enrollment in the Program unless the Division or its designee agrees in writing to a
23 later time for completion.

24 If Respondent successfully completes the PACE Program, including the
25 examination referenced above, he agrees to cause the PACE Program representative to
26 forward a Certification of Successful Completion of the Program to the Division or its
27 designee.

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1 Failure to successfully complete the PACE Program within the time limits
2 outlined above shall constitute a violation of probation.

3 E. **COMPLETION OF THE PACE BOUNDARIES PROGRAM -**
4 **CONDITION PRECEDENT**

5 As the third and final condition precedent to resuming the practice of medicine
6 in California, Respondent, at his expense, shall enroll in and complete the PACE Professional
7 Boundaries Program at the University of California, San Diego School of Medicine.

8 Respondent shall complete the Boundaries Program no later than six months
9 after his initial enrollment in the Program, unless the Division or its designee agrees in
10 writing to a later time for completion. Respondent agrees that it will be the determination of
11 the PACE Program faculty as to whether or not he has successfully completed this Program
12 and such decision shall be binding.

13 At such time that Respondent successfully completes the Program, he agrees to
14 cause the PACE Program representative to forward a Certification of Successful Completion
15 of the Program to the Division or its designee.

16 Failure by Respondent to successfully complete the PACE Program within the
17 time limits outlined above shall constitute a violation of probation.

18 F. **CONTINUED PSYCHOTHERAPY**

19 Within 30 days of the effective date of the Decision in this matter, Respondent
20 shall submit to the Division, or its designee, for its prior approval, the name and
21 qualifications of a psychotherapist of Respondent's choice. Upon approval, Respondent shall
22 undergo and continue treatment with this approved psychotherapist until the Division, or its
23 designee, deems that no further psychotherapy is necessary. Until such time however, should
24 Respondent discontinue treatment with his approved psychotherapist, he shall, within 30 days
25 of such termination, advise the Division, or its designee, of such fact and he shall thereafter,
26 within an additional 30 days, submit the name of a new psychotherapist for prior approval by
27 the Division. Once approved, Respondent shall thereafter resume his required psychotherapy

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1 until advised in writing by the Division, or its designee, that continued psychotherapy is no
2 longer necessary.

3 During probation, Respondent shall be responsible for having his approved,
4 treating psychotherapist submit quarterly progress reports to the Division, or its designee.

5 During probation, the Division, or its designee, may require Respondent to
6 undergo one or more psychiatric evaluations by a Division-appointed psychiatrist, at Division
7 expense.

8 Failure by Respondent to comply with any of these psychotherapy
9 requirements shall constitute a violation of probation.

10 G. ETHICS COURSE

11 Within ninety (90) days from the effective date of the Decision in this matter,
12 Respondent shall enroll and successfully complete an Ethics course approved in advance by
13 the Division, or its designee.

14 Failure to complete this Ethics course within the time specified shall constitute
15 a violation of probation.

16 H. COST RECOVERY

17 Within one year of the effective date of the Decision in this matter, Respondent
18 shall reimburse the Division \$9,937.00 of the investigative and prosecution costs incurred in
19 this action. Failure to pay this cost recovery in full when due shall constitute a violation of
20 probation.

21 15. Respondent agrees to comply with the requirements of all provisions of
22 this Stipulation, in the time and manner specified herein. Failure to do so shall constitute a
23 separate and additional act, or acts, of general unprofessional conduct for which additional
24 discipline may be sought and thereafter imposed by the Division.

25 16. If the Division adopts this Stipulation, and Respondent thereafter fails
26 to fulfill his obligations as set forth herein, the Division, in its sole discretion, may take
27 whatever action it deems necessary to protect the public health, safety and welfare, including
28 resuming the prosecution of the Accusation appended hereto as Exhibit A. If such shall

1 occur, except for this paragraph, this Stipulation will no longer be of any force or effect and
2 it shall be inadmissible in any legal action between the parties. Upon nullification of this
3 Stipulation, the Board, in its sole discretion, may proceed on the original Accusation in this
4 matter, or may proceed on an amended and/or supplemental accusation and/or may proceed
5 in any manner or in any fashion it deems appropriate.

6 Respondent hereby agrees to waive any affirmative statute of limitations
7 defense that may then exist as to the pending charges in the Accusation, appended hereto as
8 **Exhibit A**, should the Division be compelled, for the reasons specified in this paragraph, to
9 resume the prosecution of the allegations in the original Accusation.

10 17. This Stipulation is intended by the parties to be an integrated writing
11 representing the complete, final and exclusive embodiment of the agreements of the parties
12 herein.

13 CONTINGENCY

14 18. This Stipulation shall be subject to the approval of the Division of
15 Medical Quality. Respondent and his counsel understand and agree that Medical Board staff
16 and counsel for Complainant may communicate directly with the Division regarding this
17 Stipulated Settlement and Disciplinary Order, without notice to or participation by
18 Respondent or his counsel.

19 If the Division fails to adopt this Stipulation as its Order, the Stipulation shall
20 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
21 between the parties, and the Division shall not be disqualified from further action in this
22 matter by virtue of its consideration of this Stipulation.


23 ACCEPTANCE

24 I have read the above Stipulated Settlement and Disciplinary Order and have
25 fully discussed the terms and conditions and other matters contained therein with my
26 attorney, Carlo Coppo, Esq.

27 I understand the effect this Stipulated Settlement and Disciplinary Order will
28 have on my Physician and Surgeon's Certificate, and agree to be bound thereby.

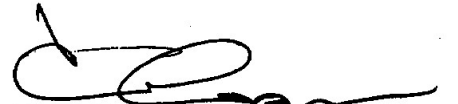
1 I enter into this Stipulation freely, knowingly, intelligently and voluntarily.

2 DATED: 6.23.03

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5 JAY HAMMOND SHAFFER, M.D.
Respondent

6 I have read and have fully discussed the terms and conditions and other matters
7 contained in this Stipulated Settlement and Disciplinary Order with Respondent, JAY
8 HAMMOND SHAFFER, M.D., and I approve of its form and content.

9 DATED: June 23, 2003

10
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12 CARLO COPPO, Esq.
Attorney for Respondent

13
14 **ENDORSEMENT**

15 This Stipulated Settlement and Disciplinary Order is hereby respectfully
16 submitted for consideration by the Division of Medical Quality, Medical Board of California,
17 Department of Consumer Affairs.

18 DATED: June 26, 2003

19 BILL LOCKYER, Attorney General
of the State of California

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22 D. KENNETH BAUMGARTEN
23 Deputy Attorney General
24 Attorneys for Complainant

25 Exhibit A: Accusation No. 10-2001-125353

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EXHIBIT A
Accusation No. 10-2001-125353

1 BILL LOCKYER, Attorney General
of the State of California
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Deputy Attorney General
3 California Department of Justice
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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 4 2003
BY [Signature]

7 Attorneys for Complainant

8
9 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 10-2001-125353

14 **JAY HAMMOND SHAFFER, M.D.**
3113 Morning Way
15 La Jolla, CA 92037

A C C U S A T I O N

16 Physician and Surgeon's
Certificate No. C 36420

17
18 Respondent.

19
20 Complainant, Ron Joseph, as cause for disciplinary action, alleges:

21 **PARTIES**

- 22 1. Complainant brings this Accusation solely in his official capacity as the
23 Executive Director of the Medical Board of California, Department of Consumer Affairs.
24 2. On or about April 3, 1975, the Medical Board of California issued
25 Physician and Surgeon's Certificate Number C 36420 to JAY HAMMOND SHAFFER, M.D.
26 ("Respondent"). This certificate expired on January 31, 2003, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Division of Medical Quality ("Division"), Medical Board of California, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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

5. Section 2234 of the Code states:

The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter [Chapter 5, the Medical Practice Act].

(b) Gross negligence.

(c) Repeated negligent acts.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct which would have warranted the denial of a certificate.

6. Section 14124.12 of the Welfare and Institutions Code states, in pertinent

part:

(a) Upon receipt of written notice from the Medical Board of California, the Osteopathic Medical Board of California, or the Board of Dental Examiners of California, that a licensee's license has been placed on probation as a result of a disciplinary action, the department may not reimburse any Medi-Cal claim for the type of surgical service or invasive procedure that gave rise to the probation, including any dental surgery or invasive procedure, that was performed by the licensee on or after the effective date of probation and until the termination of all probationary terms and conditions or until the probationary period has ended, whichever occurs first. This section shall apply except in any case in which the

1 relevant licensing board determines that compelling circumstances warrant
2 the continued reimbursement during the probationary period of any Medi-
3 Cal claim, including any claim for dental services, as so described. In
4 such a case, the department shall continue to reimburse the licensee for all
5 procedures, except for those invasive or surgical procedures for which the
6 licensee was placed on probation.

7 7. Section 726 of the Code states:

8 The commission of any act of sexual abuse, misconduct, or relations with
9 a patient, client, or customer constitutes unprofessional conduct and grounds for
10 disciplinary action for any person licensed under this division, under any initiative
11 act referred to in this division and under Chapter 17 (commencing with Section
12 9000) of Division 3.

13 This section shall not apply to sexual contact between a physician and
14 surgeon and his or her spouse or person in an equivalent domestic relationship
15 when that physician and surgeon provides medical treatment, other than
16 psychotherapeutic treatment, to his or her spouse or person in an equivalent
17 domestic relationship.

18 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
19 request the administrative law judge to direct a licensee found to have committed a violation or
20 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
21 and enforcement of the case.

22 **FIRST CAUSE FOR DISCIPLINE**
23 (Sexual Relations With a Patient)

24 9. Respondent is subject to disciplinary action under section 726 of the Code
25 in that, during the time he treated S.L. as a patient, he engaged in sexual relations with her. The
26 circumstances are as follows:

27 A. On or about February 20, 1996, S.L. was working as a flight
28 attendant on a flight that encountered sudden turbulence. She was thrown against the
ceiling of the plane, sustaining a severe blow to her head. Reportedly, this injury
produced both emotional and cognitive changes that essentially rendered S.L. completely
disabled, and resulted in dementia, a significant degree of depression and a symptom
pattern consistent with a Post-Traumatic Stress Disorder.

B. Respondent had been S.L.'s treating psychiatrist for approximately
four years, between 1997 until 2002. On or about July 3, 1997, Respondent first saw S.L.

1 and her then husband, W.W. Respondent's initial diagnostic impressions of S.L. included
2 major depressive episode with psychotic features, panic disorder, chronic pain syndrome
3 with opiate dependency, organic brain syndrome with severe impairment of short term
4 memory and cognitive impairment, and post-traumatic stress disorder. Respondent also
5 concluded that S.L. had sustained damage to her pituitary gland causing a cessation of her
6 menstrual periods.

7 C. Respondent began weekly cognitive and supportive psychotherapy
8 with S.L., in addition to prescribing her multiple psychotropic medications, including
9 anti-psychotic compounds. S.L. participated in the Scripps Encinitas brain rehabilitation
10 program, but had to withdraw from the program after six weeks because she was not able
11 to adequately perform in the rehab program. In 1998, an EEG showed S.L. had some
12 brain abnormalities. An MRI scan showed abnormalities along the hippocampus.
13 Another MRI in March 2000, showed cortical atrophy and evidence for hemosiderin
14 depositions, compatible with old trauma along the hippocampus.

15 D. On March 3, 2001, Respondent diagnosed S.L. with dementia due
16 to head trauma, major depressive episode with psychotic features, post-traumatic stress
17 disorder, pain related opioid dependency and partner related problems. Respondent had
18 continued treating S.L. for her head related injuries, as well as providing marital
19 counseling to S.L. and her husband, W.W., who were having marital difficulties as well.

20 E. Despite Respondent's knowledge that S.L. had sustained
21 significant head injuries, and despite his finding that she was also disabled from gainful
22 employment as a result of these injuries. Respondent began a sexual relationship with
23 S.L. sometime during or prior to the summer of 2000 that continued for approximately
24 two years. S.L. was videotaped spending days at a time at Respondent's La Jolla Village
25 Drive condominium. Respondent and S.L. were also seen together picking up her
26 medication at a pharmacy in Pacific Beach. Respondent continued to see S.L. as a patient
27 despite being involved in a sexual relationship with her.

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SECOND CAUSE FOR DISCIPLINE
(Gross Negligence)

10. Respondent is also subject to disciplinary action under section 2234 (b) of the Code in that he committed gross negligence during his care and treatment of S.L. The circumstances are as follows:

A. Paragraph 9 in its entirety is incorporated by reference as if fully set forth herein.

B. Respondent established a personal and sexual relationship with S.L., despite having treated her for more than two years prior to the relationship.

AGGRAVATING CIRCUMSTANCES

11. Respondent engaged in a personal and sexual relationship with patient S.L. who, as a result of her accident and subsequent serious head injury, developed a mental impairment that rendered her totally disabled, with diminished independence, vulnerable to influence by others, and unable to properly evaluate and appreciate the risks of the situation that developed with Respondent. Moreover, during the same time period, patient S.L. was also attempting to cope with the end of her twenty year marriage to W.W., whom Respondent reportedly also saw as a patient with S.L., for marriage counseling.

PRAYER

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

1. Revoking or suspending Physician and Surgeon's Certificate Number C 36420, issued to JAY HAMMOND SHAFFER, M.D.;

2. Revoking, suspending or denying the approval authority of JAY HAMMOND SHAFFER, M.D.'s to supervise physician's assistants, pursuant to section 3527 of the Code;

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3. Ordering JAY HAMMOND SHAFFER, M.D. to pay the Division of Medical Quality the reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the costs of probation monitoring;

4. Taking such other and further action as deemed necessary and proper.

DATED: June 4, 2003



RON JOSEPH
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

CERTIFICATION
IS ON THE BACK
OF THIS PAGE.....

1 BILL LOCKYER, Attorney General
of the State of California
2 STEVEN H. ZEIGEN, State Bar No. 60225
Deputy Attorney General
3 California Department of Justice
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8 Attorneys for Complainant
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10 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 RON JOSEPH
EXECUTIVE DIRECTOR
14 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
15

16 Petitioner,

17 JAY SHAFFER, M.D.
9834 GENESEE AVENUE, SUITE 411
18 LA JOLLA, CALIFORNIA 92037
19

20 PHYSICIAN'S AND SURGEON'S
CERTIFICATE NO. C 36420
21

Respondent.

Case No. 10-2001-125353

STIPULATION FOR INTERIM
SUSPENSION PURSUANT TO
GOVERNMENT CODE
SECTION 11529

22 Petitioner, Ron Joseph, the Executive Director of the Medical Board of California
23 (hereafter "the Board") by and through his attorney, Bill Lockyer, the Attorney General of the
24 State of California, by Steven H. Zeigen, Deputy Attorney General, and respondent Jay Shaffer,
25 M.D., by and through his attorney Carlo Coppo, of DiCaro, Coppo, & Popcke hereby stipulate
26 that the below signed Administrative Law Judge, pursuant to Government Code section 11529,
27 shall order respondent's license as a physician and surgeon be suspended pursuant to this
28 voluntary agreement. Respondent is aware of the pending investigation by the Medical Board of

1 his care and treatment of patient S.L., with whom it is alleged, inter alia, he engaged in a sexual
2 relationship. He is also aware that the Medical Board would file a Petition seeking a formal
3 order for an Interim Order of Suspension under section 11529 were he not to agree to this
4 voluntary suspension. In agreeing to this voluntary suspension, respondent chooses to avoid the
5 costs and potential publicity generated by such a proceeding. Such suspension shall remain in
6 place until such time as the Board is satisfied that with due regard for the public health, safety,
7 and welfare respondent's right to practice medicine may be safely reinstated.

8 Respondent is aware of each of his rights, including the right to a hearing on any
9 charges and allegations, the right to confront and cross-examine witnesses who would testify
10 against respondent, the right to present evidence in his favor and call witnesses on his behalf, or
11 to testify, his right to contest the charges and allegations, and other rights which are accorded to
12 respondent pursuant to the California Administrative Procedure Act (Gov. Code, § 11500 et
13 seq.), including the right to seek reconsideration, review by the superior court, and appellate
14 review. Respondent freely and voluntarily waives each and every one of the rights set forth
15 above.

16 This stipulation does not prevent complainant from filing an accusation,
17 specifying violations of the Medical Practice, once those specific violations have been
18 determined. Respondent has been advised that complainant intends to file an Accusation at that
19 time. Respondent waives the right to have the accusation filed within fifteen (15) days from the
20 date of this order pursuant to section 11529.

21 Respondent specifically reserves the right to assert his privileges against self-
22 incrimination guaranteed by the United States and California Constitutions and this Stipulation
23 does not constitute a waiver of said privileges.

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DICARD, COPPO&POPOCKE

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1 It is further stipulated that a facsimile copy of the signature of any party or
2 attorney representing said party may be used as an original for purposes of this Stipulation.

3 Dated: July 16, 2002.

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5 
6 JAY SHAFFER, M.D.

7 I concur.

8
9 Dated: July 26, 2002.

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11 
12 CARLO COPPO, Esq.
13 Attorney for Respondent

14 I concur.

15
16 Dated Aug 13, 2002.

17
18 Bill Lockyer, Attorney General
19 of the State of California

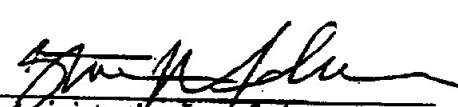
20 
21 STEVEN H. ZEIGEN
22 Deputy Attorney General

23 Attorneys for Ron Joseph
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ORDER

IT IS HEREBY ORDERED that, pursuant to the stipulation of the parties, respondent Jay Shaffer, M.D., Physician's and Surgeon's Certificate No. C 36420, issued on April 3, 1975, with an expiration date of January 31, 2003, is hereby suspended until respondent is notified in writing that the pending administrative action against him has been resolved.

Date: 23 August 2002


Administrative Law Judge