STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

FILE COPY

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
MARSHALL L. BERMAN, M.D., RESPONDENT	:	96 MED 173

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Marshall L. Berman
9046 Vista Grande
Los Angeles, CA 90069

Medical Examining Board
PO Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Marshall L. Berman, M.D. (DOB 08/04/42) is duly licensed to practice medicine and surgery, with a specialty area of internal medicine, in the state of Wisconsin (license #17756.) This license was first granted on October 21, 1971.

2. Dr. Berman's most recent address on file with the Wisconsin Medical Examining Board is 9046 Vista Grande, Los Angeles, CA 90069.

3. On December 29, 1995, the Medical Board of California issued a decision which imposed discipline upon the California license of Dr. Berman to practice medicine. Dr. Berman agreed, based upon his medical condition, to the terms and conditions imposed upon his license in

California . A true and correct copy of the Accusation, the Stipulation to Restrict Practice of Medicine Pending Final Decision on Pending Accusation and the Decision are attached to this document as Exhibit A. Exhibit A is incorporated into this document by reference.

4. In resolution of this matter, Dr. Berman consents to the entry of the following Conclusions of Law and Order as a reasonable accommodation, based upon the facts and circumstances of this case.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter, pursuant to sec. 448.02(3), Stats. and is authorized to enter into the attached Stipulation and Order, pursuant to sec. 227.44(5), Stats.

2. The conduct described in paragraph 3, above, constitutes a violation of Wis. Admin. Code §Med 10.02(q).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

IT IS FURTHER ORDERED that the Wisconsin license of Marshall L. Berman (license #17756.) is LIMITED as follows:

1. Until otherwise ordered by the Board, Dr. Berman shall refrain from the practice of all medicine in Wisconsin [or the practice of medicine elsewhere under the use of his Wisconsin license].

2. Dr. Berman may petition the Board for permission to practice under Wisconsin licensure at any time following the effective date of this Order.

a. In conjunction with a petition by Dr. Berman, the Board shall require current documentation of the status of Dr. Berman's compliance with the terms and conditions imposed against his California license to practice medicine.

b. In the exercise of its discretion, the Board may in addition may require a personal appearance by Dr. Berman to answer questions in conjunction with his petition.

c. The Board may in addition require Dr. Berman to provide the results of a competency assessment and/or current mental health and chemical dependency assessments from sources acceptable to the Board attesting to Dr. Berman's ability to safely and competently practice medicine and surgery. To be considered current, the assessment(s) shall have occurred within forty (40) days from the date of its (their) submission.

c. Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. §§227.01(3) and 227.42.

3. Upon its completion of review of a petition under this Order, the Board may issue a full and unrestricted license to Dr. Berman. In the alternative, the Board may in its discretion SUSPEND the respondent's license for a period of not less than five (5) years. The Board may then stay the suspension for a period of three (3) months, *conditioned upon compliance with such terms and conditions as the Board finds appropriate*. If the Board issues a three month stay:

a. The respondent may apply for consecutive three (3) month extensions of the stay of suspension, which shall be granted upon acceptable demonstration of compliance with the conditions and limitations imposed upon Dr. Berman's practice during the prior three (3) month period. "Three months" means until the third regular Board meeting after the meeting at which any stay of suspension is granted.

b. The Board may without hearing deny an application for extension of the stay, or commence other appropriate action, upon receipt of information that respondent has violated any of the terms or conditions of this Order. If the Board denies the petition by Dr. Berman for an extension, the Board shall afford an opportunity for hearing in accordance with the procedures set forth in Wis. Adm. Code Ch. RL 1 upon timely receipt of a request for hearing.

c. Dr. Berman may petition the Board in conjunction with any application for an additional stay to revise or eliminate any of the above conditions. Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. §§227.01(3) and 227.42.

d. The applications for stays of suspension together with all reports required under this Order shall be due on the first day of the third month following the Board order issuing a stay of suspension.

4. Violation of any of the terms of this Order or the conditions imposed as a result of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Dr. Berman's license; the Board in its discretion may in the alternative deny an extension of the stay of suspension or impose additional conditions and limitations other additional discipline for a violation of any of the terms of this Order.

5. This Order shall become effective on the date of its signing.

MEDICAL EXAMINING BOARD

By _____ 9/25/96
A Member of the Board Date

DANIEL E. LUNGREN, Attorney General
of the State of California
MARK T. ROOHK,
Deputy Attorney General
300 South Spring Street
Los Angeles, California 90013
Telephone: (213) 897-2568

Attorneys for Complainant

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

In the Matter of the Accusation Against: MARSHALL L. BERMAN, M.D. 9046 Vista Grande Los Angeles, California 90069 Physician's and Surgeon's Certificate No. G22551, Respondent.	No. 11-94-36284 ACCUSATION

COMES NOW DIXON ARNETT, complainant herein, and as causes for disciplinary action alleges as follows:

1. He is the Executive Director of the Medical Board of California, Division of Medical Quality (hereinafter "Division"), and makes and files this accusation solely in his official capacity.

2. On or about July 12, 1972, the Medical Board of California issued Physician's and Surgeon's certificate number G22551 to Marshall L. Berman, M.D. ("respondent"). At all times relevant herein, said certificate was in full force and effect.

Exhibit A

3. Pursuant to Business and Professions Code sections 2220 and 2227(a), the Division may take action against all persons guilty of violating the provisions of the Medical Practice Act (Business and Professions Code section 2000 et seq.) and, after a hearing or default in which a licensee is found guilty, may revoke or suspend a physician's and surgeon's certificate, or place such a certificate on probation.

4. Pursuant to Business and Professions Code section 822:

"If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any of the following methods:

(a) Revoking the licentiate's certificate or license.

(b) Suspending the licentiate's right to practice.

(c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper."

5. Business and Professions Code section 2234 provides that the Division shall take action against any licensee who is charged with unprofessional conduct, which includes, but is not limited to:

"(b) Gross negligence.

(c) Repeated negligent acts.

(d) Incompetence."

6. Business and Professions Code section 125.3 provides in pertinent part that the Division may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the Medical Practice Act to pay a sum not to exceed the reasonable costs of the investigation and prosecution of the case.

MENTAL ILLNESS

7. Respondent has subjected his license to disciplinary action under Business and Professions Code section 822 in that his ability to practice his profession safely is impaired due to a chronic and severe mental illness. The circumstances are as follows:

A. From approximately 1970, respondent has suffered and continues to suffer from a major affective mental disorder, bipolar, with manic-depressive behavior and episodes of psychosis. Respondent's condition is such that he has been hospitalized several times since 1970, and has had periods of complete or almost complete disability.

B. On or about June 15, 1981, accusation number D-2766 ("Accusation") was filed with the Board, alleging that, as a result of the mental illness described above, respondent was unable to practice medicine in a manner consistent with the public health and safety.

C. In 1984, respondent entered the Board's Diversion Program as an impaired physician.

D. On or about April 8, 1985, the Accusation was withdrawn by the Board.

1 E. In or about May 1993, respondent grdauated from the
2 Diversion Program.
3 F. Subsequent to his graduation from Diversion,
4 respondent has mailed empty envelopes and postcards with
5 strange slogans, writings, and drawings to previous
6 employers, the Diversion Program, the Board, the Medical
7 Board in respondent's home state of Wisconsin, and other
8 government agencies. The slogans and writings include but
9 are not limited to: predictions and commentaries on
10 earthquakes, AIDS, and polio, predictions and commentaries
11 on politics and political figures, references to historical
12 events and figures, references to the Bible, requests for
13 refunds of various fees paid to the recipient by respondent,
14 and other phrases and words, some in foreign languages,
15 which are abstract and not readily understandable. The
16 drawings include but are not limited to: pictures of
17 Franklin Roosevelt and Adolf Hitler, other cartoon drawings
18 of people and figures, and a variety of symbols, including
19 crosses, dollar signs, chemical compounds, and other symbols
20 which are abstract and not readily identifiable.
21 G. Also subsequent to his graduation from Diversion,
22 respondent's employer, for whom he had also worked while
23 participating in Diversion, received several complaints from
24 patients about respondent's behavior, characterizing it as
25 "a bad attitude," "perverted," "rude," "nasty," and
26 "strange." Finally, on or about April 7, 1994, respondent
27 became so loud and verbally abusive towards the clinic

manager, he had to be removed from the clinic. Subsequently, respondent was placed on administrative leave by his employer.

H. Respondent's license is subject to disciplinary action in that his disorder affects respondent to the extent that, without proper psychoactive medication, treatment, and/or supervision, he is unable to practice medicine in a manner consistent with the public health and safety.

UNPROFESSIONAL CONDUCT

8. Respondent has subjected his license to disciplinary action under Business and Professions Code section 2234(b) in that he has committed acts of gross negligence in his care and treatment of patients. The circumstances are as follows:

Patient E.S.

A. On or about December 21, 1993, patient E.S. was seen by respondent as part of a Social Security evaluation of E.S.'s disability claim. E.S. had had her lower left leg amputated as a result of injuries suffered in an automobile accident, which had resulted in her being placed on disability.

B. Respondent's entire examination of E.S. consisted of the following:

i) Asking E.S. to remove her prosthesis, without asking her to remove the latex liner which covered the amputation site, and then looking at the amputation site from a distance;

1 ii) Asking E.S. questions about her medication, how
2 long she could walk, and her hometown of St. Louis;
3 iii) A breast examination of E.S. while she was fully
4 clothed.
5 As a result of this examination, E.S.'s disability benefits
6 were discontinued.
7 Patient L.M.
8 C. On or about March 16, 1994, patient L.M. was seen
9 by respondent as part of an EDD evaluation of L.M.'s
10 disability claim. L.M. had developed a burning sensation in
11 one of her legs which had been diagnosed by another
12 physician as a type of arthritis, and had also had a history
13 of trouble with her weight and with her hands which had also
14 resulted in her being placed on disability.
15 D. Respondent's entire examination of L.M. consisted
16 of the following:
17 i) Asking L.M. questions about her medications;
18 ii) A brief look at L.M. legs, and a brief test of her
19 reflexes by tapping her on the foot;
20 iii) Derogatory comments about her surname, and jokes
21 about weight loss and medications;
22 iv) A breast examination of L.M. while she was fully
23 clothed.
24 As a result of this examination, L.M.'s disability benefits
25 were denied.
26 E. Respondent's acts constitute gross negligence in
27 that he failed to perform an adequate or appropriate

physical examination, and therefore was unable to provide a proper evaluation, for either patient.

9. Respondent has subjected his license to disciplinary action under Business and Professions Code section 2234(d) in that he has committed acts of incompetence in his care and treatment of patients. The circumstances are as follows:

A. Paragraphs 8(A)-(D) are hereby incorporated by reference as if set forth in full at this point.

B. Respondent's acts constitute incompetence in that he failed to perform an adequate or appropriate physical examination, and therefore was unable to provide a proper evaluation, for either patient.

10. Respondent has subjected his license to discplinary action under Business and Professions Code section 2234(c) in that he has committed repeated negligent acts in his care and treatment of patients. The circumstances are as follows:

A. Paragraphs 8(A)-(D) are hereby incorporated by reference as if set forth in full at this point.

B. Respondent's acts constitute repeated negligence in that he failed to perform an adequate or appropriate physical examination, and therefore was unable to provide a proper evaluation, for either patient.

WHEREFORE, complainant prays that a hearing be held on the matters alleged herein, and that following said hearing the Division issue an order:

1. Revoking or suspending Physician's and Surgeon's certificate no. G22551, previously issued to Marshall L. Berman, M.D.;

2. Directing respondent to pay to the Division the costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as the Division deems necessary and proper.

DATED: November 30, 1994

DIXON ARNETT
Executive Director
Medical Board of California

DANIEL E. LUNGREN, Attorney General
of the State of California
MARK T. ROOHK,
Deputy Attorney General
300 South Spring Street
Los Angeles, California 90013
Telephone: (213) 897-2568

Attorneys for Petitioner

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that this document is true and correct copy of the original on file in this office.
SIGNED
DATE 2/22/96
TITLE

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

In the Matter of the Petition for Interim Suspension Order Against: MARSHALL L. BERMAN, M.D. 9046 Vista Grande Los Angeles, California 90069 Physician's and Surgeon's Certificate No. G22551, Respondent.	MBC No. 11-94-36284 OAH No. L-11057 STIPULATION TO RESTRICT PRACTICE OF MEDICINE PENDING FINAL DECISION ON PENDING ACCUSATION

THE PARTIES TO THE ABOVE MATTER herein agree that the following is true:

1. On or about November 7, 1994, petitioner Dixon Arnett, acting within his authority as Executive Director of the Medical Board of California, Division of Medical Quality ("Division"), caused to be filed and served a Petition for Interim Suspension Order ("Petition") against the physician's and surgeon's license of Marshall L. Berman, M.D. ("respondent").

2. An ex parte hearing on the Petition was scheduled for November 16, 1994. At that time, the parties orally entered

into a stipulation in which respondent agreed to not practice medicine for sixty (60) days, while the Division would conduct and complete a psychiatric evaluation of him. The stipulation was set forth in writing and signed by the parties, and is attached hereto as Appendix A and incorporated by reference as if set forth in full at this point.

3. On or about November 30, 1994, Accusation number 11-94-36284 was filed and served on respondent, pursuant to the requirements of Government Code section 11529(f). That accusation is pending at this time.

4. The sixty (60) day period was extended by oral agreement of the parties so that the psychiatric evaluation could be completed. The psychiatric evaluation was subsequently conducted on or about January 24, 1995. The evaluator prepared a report of his findings on or about February 10, 1995, and copies were provided to counsel for both parties.

5. Pursuant to the terms of the stipulation referenced above in paragraph 2, the parties to this matter retain the power to revise the agreement that respondent not practice medicine, "for the purpose of reaching a final decision on the [pending] accusation."

6. The parties have agreed to revise the agreement as follows:

A. Until such time as the Division has reached a final decision on Accusation number 11-94-36284 ("Accusation"), the following restrictions shall be placed on respondent's license to practice medicine:

1. Respondent shall be prohibited from engaging in solo practice, and shall be under the direct supervision of another physician and surgeon licensed to practice in the State of California. Respondent shall inform this individual of all restrictions on his license to practice medicine, and this individual shall serve as respondent's worksite monitor for purposes of communicating with the Division and/or its designee.

2. Respondent shall be prohibited from working more than 25 hours a week.

3. Respondent shall remain under the care of a psychiatrist, to whom he shall give full release to communicate freely with the Division and/or its designee. Respondent shall immediately inform the Division if for any reason he changes psychiatrists.

B. If respondent chooses to participate in the Division's Physician Diversion Program, he agrees to allow for a release of information pertaining to his participation for purposes of reaching a final decision on the Accusation. Any participation by respondent in the Diversion Program shall not in any way prevent, impede, or limit the Division from prosecuting the Accusation. It is understood by the parties that, should respondent participate in the Diversion Program and for any reason fail to complete its requirements, the Diversion Program shall notify the Division of that failure.

C. Violation of the terms of this stipulation in any manner by respondent shall constitute further grounds for

restriction or discipline of respondent's physician's and surgeon's certificate, and Petitioner may take further action and proceed either by petition for full suspension of respondent's license, or by supplemental accusation for revocation.

SO STIPULATED:

DATE: 3/21/95

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

MARK T. ROOHK, Deputy Attorney General
Attorneys for Petitioner

DATE: 3-16-95

HENRY LEWIN, Lewin & Levin
Attorneys for Respondent

DATE: 3/16/1995

MARSHALL L. BERMAN, M.D.
Respondent

MEDICAL BOARD OF CALIFORNI
I do hereby certify that
this document is true
and correct copy of the
original on file in this
office.
SIGNED 2/22/96 DATE
Asst Cust. Records
TITLE

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

In the Matter of the Accusation Against: MARSHALL L. BERMAN, M.D. Certificate No. G-22551 Respondent.	No. 11-94-36284

DECISION

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

This Decision shall become effective on December 29, 1995.

IT IS OR ORDERED November 30, 1995.

By: _____
IRA LUBELL, M.D.
Chair, Panel A
Division of Medical Quality

DANIEL E. LUNGREN, Attorney General
of the State of California
MARK T. ROOHK,
Deputy Attorney General
300 South Spring Street
Los Angeles, California 90013
Telephone: (213) 897-2568

Attorneys for Complainant

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

In the Matter of the Accusation Against: MARSHALL L. BERMAN, M.D. 9046 Vista Grande Los Angeles, California 90069 Physician's and Surgeon's Certificate No. G22551, Respondent.	No. 11-94-36284 STIPULATION

IT IS HEREBY STIPULATED by and between the parties to the above captioned matter that the following is true:

1. Complainant Dixon Arnett is the Executive Director of the Medical Board of California, Division of Medical Quality ("Board"). Complainant is represented in this matter by Daniel E. Lungren, Attorney General of the State of California, by and through Mark T. Roohk, Deputy Attorney General.

2. Respondent Marshall L. Berman, M.D., was issued Physician's and Surgeon's Certificate No. G22551 by the predecessor in interest to the Board on or about July 12, 1972.

At all times relevant herein, the license has been in full force and effect. Respondent is represented in this matter by Henry Lewin, Esq., Lewin & Levin, 3580 Wilshire Boulevard, Suite 1920, Los Angeles, California 90010-2520.

3. On or about November 30, 1994, complainant, acting solely in his official capacity as Executive Director of the Board, filed Accusation number 11-94-36284, which set forth causes for disciplinary action against respondent's license. The Accusation, together with all required supporting documentation, was duly and properly served upon respondent by certified mail and was received. Respondent thereafter timely filed a notice of defense contesting the charges and allegations set forth in the Accusation.

4. Complainant and respondent desire to resolve this matter without a hearing or further administrative proceeding.

5. Respondent herein has been specifically advised by the documents served upon him and through consultation with counsel of his rights in this matter, including a) his right to an administrative hearing on the charges and allegations filed against him; b) his right to confront and cross-examine witnesses called against him; c) his right to present evidence in defense and mitigation; d) his right to issue subpoenas to compel the attendance of witnesses and the production of documents; e) his right to petition the Board for reconsideration of any decision rendered adverse to him; and f) his rights of appeal to the courts of the State of California.

6. Respondent knowingly and intelligently waives and agrees to give up each of the rights set forth above, and agrees that the pending charges and allegations set forth in the Accusation may be resolved by this stipulation.

7. Respondent has not been forced, coerced, threatened, or induced in any way into entering into this stipulation.

GROUNDS FOR DISCIPLINE

8. Respondent is charged herein with violations of Business and Professions Code sections 822 and 2234. For purposes of settlement of this matter and to avoid a costly and protracted trial, respondent neither admits nor denies the allegations herein, but does admit that he suffers from a medical disorder which he must control through the use of adequate and proper medication, limitations upon the hours he practices, and the setting in which he practices. Respondent hereby agrees that the Board may impose practice restrictions on his license, and that the foregoing disciplinary order shall have the same effect and be binding to the same degree as any other order.

FACTORS IN MITIGATION

9. As part of this proceeding, the parties have previously entered into an agreement by and through which respondent a) has been restricted in his practice of medicine, and b) has been allowed to participate in the Board's Diversion Program, pending a final decision on this accusation. The parties agree that respondent has complied with the restrictions, and has thus far satisfied the Diversion Program's requirements.

RESERVATION

10. This stipulation and the admissions, agreements, and waivers contained herein are for purposes of settlement of this matter, and shall not be admissible in any civil or criminal proceeding to which the Division is not a party.

CONTINGENCY

11. In the event the Division fails to adopt this stipulation, it shall be null and void and of no effect for either party at any subsequent proceeding.

WHEREFORE, based upon the foregoing, it is agreed that the Division may issue the following:

ORDER

Physician's and Surgeon's Certificate No. G22551, previously issued to Marshall L. Berman, M.D., is hereby suspended for a period of one (1) year; however, suspension is stayed, and respondent is placed on probation for a period of five (5) years under the following terms and conditions:

A. DIVERSION PROGRAM. Respondent shall continue participating in the Board's Diversion Program until the Division determines that further treatment and rehabilitation is no longer necessary. Quitting the program without permission or being expelled for cause shall constitute a violation of probation by respondent.

B. PSYCHIATRIC EVALUATION. On a yearly basis during the probation period, respondent shall undergo a psychiatric evaluation (and psychological testing, if deemed necessary) by a Division-appointed psychiatrist, who shall furnish an evaluation report to the Division or its designee. The respondent shall pay the cost of each psychiatric evaluation. If as a result of the final psychiatric evaluation required by this condition, which shall take place no later than 100 days prior to the expiration of the probation period, the finding is made that respondent is unable to practice medicine safely, such a finding may constitute a violation of probation.

C. 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 psychotherapist of respondent's choice. Upon approval, respondent shall undergo and continue treatment until the Division or its designee deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the Division or its designee, indicating whether respondent is capable of practicing medicine safely. If a report is received indicating respondent is unable to practice medicine safely, respondent may not engage in the practice of medicine until a subsequent report is received indicating that respondent is mentally fit to resume practice, and is so notified by the Division or its designee.

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D. PRACTICE RESTRICTIONS. Respondent shall be prohibited from working more than 25 hours per week, and shall be prohibited from engaging in solo practice of any kind.

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

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

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

H. PROBATION SURVEILLANCE PROGRAM COMPLIANCE. Respondent shall comply with the Division's probation surveillance program, and shall at all times keep the Division informed of his or her addresses of business and residence, both of which shall serve as addresses of record. Changes of these addresses shall be communicated immediately in writing to the Division. Under no circumstances shall a post office box serve as an address of record. Respondent shall also immediately inform the Division in writing of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.

I. INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS DESIGNATED PHYSICIAN(S). Respondent shall appear in person for interviews with the Division, its designee or its designated physician upon request at various intervals and with reasonable notice.

J. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE. The period of probation shall not run during the time respondent is residing or practicing outside the jurisdiction of California. If, during probation, respondent moves out of the jurisdiction of California to reside or practice elsewhere, whether temporarily or permanently, respondent is required to immediately notify the Division in writing of the date of departure, and the date of return, if any.

K. COST RECOVERY. Respondent is hereby ordered to reimburse the Division in the amount of $4000 for its investigative costs. Respondent shall be required to pay $1000 within six (6) months of the effective date of this decision, and shall thereafter make payments of $1000 on a yearly basis until the total is paid. Failure to reimburse the Division within the specified time shall constitute a violation of probation, unless the Division agrees in writing to a change in the payment schedule. The filing of bankruptcy by the respondent shall not relieve him of his responsibility to reimburse the Division.

L. VIOLATION OF PROBATION. If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an

accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

M. COMPLETION OF PROBATION. Upon successful completion of probation, respondent's certificate will be fully restored.

N. LICENSE SURRENDER. Following the effective date of this decision, if respondent ceases practicing medicine due to retirement, health, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his license to the Board. The Division reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

ENDORSEMENT

DATED: October 13, 1995

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

MARK T. ROOHK
Deputy Attorney General

Attorneys for Complainant

ACCEPTANCE

I have read and reviewed the foregoing stipulation and order with my client and have discussed its terms and conditions

with him. I am satisfied that he understands the stipulation and its terms and agrees to be bound by them.

DATED: October 12, 1995

Henry Lewin

HENRY LEWIN
Lewin & Levin

Attorneys for Respondent

I, Marshall L. Berman, M.D., have read the foregoing stipulation and order, and have discussed its terms and conditions with my attorney. I acknowledge that I understand those terms and conditions, and that, by signing this stipulation, I am waiving and giving up my right to an administrative hearing on the charges and allegations currently pending against my license, and agreeing that the pending matter may be resolved by the terms and conditions of this stipulation.

DATED: October 12, 1995

Marshall L. Berman M.D

MARSHALL L. BERMAN, M.D.
Respondent

("All-Purpose" Acknowledgment)

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

STAPLE HERE

On SEPTEMBER 9, 1996 before me, (here insert name, title of the officer–ex., "Jane Doe, Notary Public"), *********

SHENITHA ASH, NOTARY, personally appeared *******MARSHALL BERMAN, M.D.**********

**********,

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature Shenitha Ash

Signature of Notary

OFFICIAL SEAL
SHENITHA ASH
NOTARY PUBLIC - CALIFORNIA
PRINCIPAL OFFICE IN
LOS ANGELES COUNTY
Commission # 999113
USS1
My Commission Expires July 7, 1997

(Seal)

This certificate must be attached to:

Title or type of document: State of Wiscousin-Department of Regulation & Licensing

Number of Pages 2

Date of Document: 9-9-96

Signer(s) other than named above: STEVEN M. GLOE

Signer is representing: HIMSELF MARSHALL BERMAN, M.D.

(Name of person(s) or entity(ies))

Capacity claimed by signer:

- ☐ Partnership
- ☒ Individual
- ☐ Corporate Officer(s)
- ☐ Attorney-in-Fact

_____ Title(s)

- ☐ Trustee(s)
- ☐ Guardian / Conservator
- ☐ Other _____

SAV 7023/R0394

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST MARSHALL L. BERMAN, M.D., RESPONDENT	: : : :	STIPULATION 96 MED 173

It is hereby stipulated between Marshall L. Berman, personally on his own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Dr. Berman's licensure by the Division of Enforcement (96 MED 173). Dr. Berman consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Dr. Berman understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Americans with Disabilities Act of 1990, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Dr. Berman is aware of his right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this stipulation.

4. Dr. Berman agrees to the adoption of the attached Final Decision and Order by the Medical Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. Attached to this Stipulation is the current licensure card of Marshall L. Berman. If the Board accepts the Stipulation, Dr. Berman's license shall be reissued only in accordance with the terms of the attached Final Decision and Order. If the Board does not accept this Stipulation, the

license of Dr. Berman shall be returned to him with a notice of the Board's decision not to accept the Stipulation.

7. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Medical Examining Board assigned as an advisor in this investigation may appear before the Medical Examining Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

8. The Division of Enforcement joins Dr. Berman in recommending the Medical Examining Board adopt this Stipulation and issue the attached Final Decision and Order.

Marshall L. Berman MD

Marshall L. Berman, M.D.

9/9/1996

Date

Steven M. Gloe

Steven M. Gloe, Attorney
Division of Enforcement

9/10/96

Date

BEFORE THE STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	AFFIDAVIT OF SERVICE
MARSHALL L. BERMAN, M.D., RESPONDENT.	:	

Katie Rotenberg, being first duly sworn on oath deposes and states that she is in the employ of the Department of Regulation and Licensing, and that on September 27, 1996, she served the following upon the respondent:

Final Decision and Order dated September 25, 1996

by mailing a true and accurate copy of the above-described document, which is attached hereto, by certified mail with a return receipt requested in an envelope properly addressed to the above-named respondent at:

9046 Vista Grande
Los Angeles, CA 90069
Certified P 213 148 343

an address which appears in the files and records of the Medical Examining Board as the respondent's last known address.

NOTARY PUBLIC
RUBY JEFFERSON-MOORE
STATE OF WISCONSIN

Katie Rotenberg
Katie Rotenberg
Department of Regulation and Licensing

Subscribed and sworn to before me

this 27th day of September, 1996.

Ruby Jefferson Moore
Notary Public
Dane County, Wisconsin
My Commission is Permanent

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708.

The Date of Mailing this Decision is:

September 27, 1996

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)