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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 03 2007 188318

12 **RANDY SCOTT BAKER, M.D.**

13 **2955 Park Avenue**
14 **Soquel, CA 95073**

15 **Physician's and Surgeon's Certificate No. G 52554**

16 **Respondent.**

17 **STIPULATED SETTLEMENT AND**
18 **DISCIPLINARY ORDER**

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

20 **PARTIES**

21 1. At the time the Accusation was filed in this matter, Barbara Johnston was the
22 Executive Director of the Medical Board of California ("Medical Board" or "Board"),
23 Department of Consumer Affairs, and the Complainant in this matter. Linda K. Whitney is now
24 the Executive Director of the Medical Board and takes Barbara Johnston's place as Complainant.
25 This action was brought solely in Complainant's official capacity as the Executive Director of the
26 Medical Board of California. Complainant is represented in this matter by Edmund G. Brown Jr.,
27 Attorney General of the State of California, by Kerry Weisel, Deputy Attorney General.

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1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in the Accusation
3 in Case No. 03 2007 188318, if proven at a hearing, constitute cause for imposing discipline upon
4 his Physician's and Surgeon's Certificate.

5 9. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent understands that, at a hearing, Complainant could establish a
7 prima facie case with respect to the charges and allegations contained in the Accusation and that
8 he has therefore subjected his license to disciplinary action.

9 10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
10 discipline and he agrees to be bound by the Medical Board's imposition of discipline as set forth
11 in the Disciplinary Order below.

12 RESERVATION

13 11. The admissions made by Respondent herein are only for the purposes of this
14 proceeding, or any other proceedings in which the Medical Board of California or other
15 professional licensing agency is involved, and shall not be admissible in any other criminal or
16 civil proceeding.

17 CONTINGENCY

18 12. This stipulation shall be subject to approval by the Medical Board of California.
19 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
20 Board may communicate directly with the Board regarding this stipulation and settlement,
21 without notice to or participation by Respondent or his counsel if he should retain one. By
22 signing the stipulation, Respondent understands and agrees that he may not withdraw his
23 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it.
24 If the Board fails to adopt this stipulation as its order, the stipulated settlement, except for this
25 paragraph, shall be of no force or effect. The stipulated settlement shall be inadmissible in any
26 legal action between the parties and the Board shall not be disqualified from further action by
27 having considered this matter.

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1 Respondent shall complete the Program no later than six months after initial enrollment
2 unless the Board or its designee agrees in writing to a later time for completion. Respondent shall
3 submit a certification of successful completion to the Board or its designee not later than 15
4 calendar days after successfully completing the course, or not later than 15 days after the effective
5 date of the Decision, whichever is later. Failure to participate in or successfully complete the
6 medical record keeping course outlined above shall constitute unprofessional conduct and
7 grounds for further disciplinary action.

8 **C. EDUCATION COURSE**

9 Within 60 calendar days of the effective date of this Decision, Respondent shall submit
10 educational program(s) or course(s) in the area of the use and prescribing of psychotropic
11 medications to the Board or its designee for prior approval, which courses shall not be less than
12 20 hours and shall be Category I certified, limited to classroom, conference, or seminar settings.
13 The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition
14 to the Continuing Medical Education (CME) requirements for renewal of licensure. Following
15 the completion of each course, the Board or its designee may administer an examination to test
16 Respondent's knowledge of the course. The courses shall be completed within one year of the
17 effective date of the Board's Decision in this matter. Respondent shall provide proof of
18 attendance for 45 hours of continuing medical education of which 20 hours were in satisfaction of
19 this condition. Failure to take the educational courses outlined above shall constitute
20 unprofessional conduct and grounds for further disciplinary action.

21 **ACCEPTANCE**

22 I have carefully read the above Stipulated Settlement and Disciplinary Order. I understand
23 the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into
24 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
25 agree to be bound by the Decision and Order of the Medical Board of California.

26
27 DATED: _____

5/20/10

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RANDY SCOTT BAKER, M.D.
Respondent

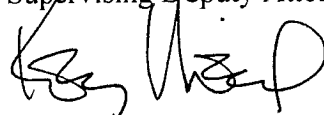
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: May 24, 2010

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General



KERRY WEISEL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 03 2007 188318

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

12 In the Matter of the Accusation Against:

Case No. 03 2007 1888318

13 **RANDY SCOTT BAKER, M.D.**

ACCUSATION

14 **2955 Park Avenue**
15 **Soquel, CA 95073**

16 **Physician's and Surgeon's Certificate No. G 52554**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Barbara Johnston (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Director of the Medical Board of California.

23 2. On or about June 25, 1984, the Medical Board of California issued Physician's and
24 Surgeon's certificate Number G.52554 to Randy Scott Baker, M.D. ("respondent"). The
25 Physician's and Surgeon's certificate was in full force and effect at all times relevant to the
26 charges brought in this Accusation and will expire on June 30, 2010, unless renewed.

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JURISDICTION

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2 3. This Accusation is brought before the Medical Board of California, under the
3 authority of the following laws. All section references are to the Business and Professions Code
4 unless otherwise indicated.

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

9 5. Section 2234 of the Code provides in pertinent part that the Board “shall take action
10 against any licensee who is charged with unprofessional conduct. In addition to other provisions
11 of this article, unprofessional conduct includes, but is not limited to, the following:

12 “(a) Violating . . . any provision of this chapter.

13 “ . . . ”

14 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
15 omissions. An initial negligent act or omission followed by a separate and distinct departure from
16 the applicable standard of care shall constitute repeated negligent acts.

17 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
18 for that negligent diagnosis of the patient shall constitute a single negligent act.

19 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
20 constitutes the negligent act described in paragraph (1), including, but not limited to, a
21 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs from the
22 applicable standard of care, each departure constitutes a separate and distinct breach of the
23 standard of care.

24 “ . . . ”

25 6. Section 2266 of the Code provides that “[t]he failure of a physician and surgeon to
26 maintain adequate and accurate records relating to the provision of services to their patients
27 constitutes unprofessional conduct.”

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DRUGS

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2 7. Ativan is a trade name for lorazepam, a psychotropic drug for the management of
3 anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a dangerous drug as
4 defined in section 4022 and a schedule IV controlled substance as defined by section 11057,
5 subdivision (d) of the Health and Safety Code. It has a central nervous system depressant effect.
6 Lorazepam can produce psychological and physical dependence and it should be prescribed with
7 caution particularly to addiction-prone individuals (such as drug addicts and alcoholics) because
8 of the predisposition of such patients to habituation and dependence.

9 8. Doxepin, a generic medication also sold under the trade name Sinequan, is a tricyclic
10 antidepressant. It is a dangerous drug as defined in Business and Professions Code section 4022.
11 It is indicated for treatment of depression and anxiety. Optimal antidepressant effect may not be
12 evident for two to three weeks.

13 9. Flexeril is a trade name for cyclobenzaprine HCl, a muscle-relaxant. It is a dangerous
14 drug as defined in section 4022. Flexeril may enhance the effects of alcohol, barbiturates, and
15 other CNS depressants. It is closely related to tricyclic antidepressants such as amitriptyline and
16 imipramine.

17 10. Hydroxyzine, sold under the trade names Atarax, Vistaril, and others, reduces activity
18 in the central nervous system and also acts as an antihistamine. It is used as a sedative to treat
19 anxiety and tension. Hydroxyzine is a dangerous drug as defined in Business and Professions
20 Code section 4022.

21 11. Lorazepam. See Ativan.

22 12. Lyrica, a trade name for pregabalin, an antiepileptic medication, is a dangerous drug
23 as defined in section 4022 and a schedule V controlled substance and narcotic as defined by
24 section 11058 of the Health and Safety Code. Lyrica is indicated for management of neuropathic
25 pain associated with diabetic peripheral neuropathy, management of postherpetic neuralgia,
26 adjunctive therapy for adult patients with partial onset seizures, and management of fibromyalgia.
27 If Lyrica is discontinued, it should be tapered gradually over a minimum of one week. Stopping
28 Lyrica suddenly may cause headaches, nausea, diarrhea, or trouble sleeping.

1 13. Neurontin, a trade name for gabapentin, is an antiepileptic and is indicated as
2 adjunctive therapy in the treatment of partial seizures with and without secondary generalization
3 in adults with epilepsy. It is a dangerous drug as defined in Business and Professions Code
4 section 4022. The most commonly observed adverse events associated with the use of Neurontin
5 in combination with other antiepileptic drugs were somnolence, dizziness, ataxia, fatigue, and
6 nystagmus.

7 14. Parafon Forte, a trade name for chlorzoxazone, is a muscle relaxant. It is a dangerous
8 drug as defined in section 4022 of the Business and Professions Code. Parafon Forte is used to
9 treat skeletal muscle conditions such as pain or injury. The concomitant use of alcohol or other
10 central nervous system depressants may have an additive effect.

11 15. Promethazine HCl is a dangerous drug as defined in section 4022. It has
12 antihistaminic, sedative, anti-motion-sickness, antiemetic, and anticholinergic effects and may be
13 used as a preoperative sedative. The concomitant use of alcohol, sedative hypnotics (including
14 barbiturates), general anesthetics, narcotics, narcotic analgesics, tranquilizers or other central
15 nervous system depressants may have additive sedative effects and patients should be warned
16 accordingly. Promethazine HCl may significantly affect the actions of other drugs. It may
17 increase, prolong, or intensify the sedative action of central-nervous-system depressants.

18 16. Restoril. See temazepam.

19 17. Sinequan. See doxepin.

20 18. Seroquel, a trade name for quetiapine fumarate, is an antipsychotic medication used
21 to treat the symptoms of psychotic conditions such as schizophrenia and bipolar disorder. It is a
22 dangerous drug as defined in section 4022.

23 19. Soma is a trade name for carisoprodol tablets; carisoprodol is a muscle-relaxant and
24 sedative. It is a dangerous drug as defined in section 4022. Since the effects of carisoprodol and
25 alcohol or carisoprodol and other central nervous system depressants or psychotropic drugs may
26 be additive, appropriate caution should be exercised with patients who take more than one of
27 these agents simultaneously. Carisoprodol is metabolized in the liver and excreted by the

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1 kidneys; to avoid its excess accumulation, caution should be exercised in administration to
2 patients with compromised liver or kidney functions.

3 20. Temazepam is a hypnotic agent, sold under the trade name Restoril. It is a dangerous
4 drug as defined in section 4022 and a schedule IV controlled substance and narcotic as defined by
5 section 11057, subdivision (d) of the Health and Safety Code. Temazepam is indicated for the
6 short-term treatment of insomnia (generally 7-10 days). Patients using temazepam should be
7 warned about the possible combined effects with alcohol and other central nervous system
8 depressants. The recommended usual adult dosage is one 15 mg. tablet before retiring.

9 21. Trazodone, sold under the trade name Desyrel, is an antidepressant medication and a
10 dangerous drug as defined in Business and Professions Code section 4022. It is used to treat
11 depression.

12 22. Ultram, a trade name for tramadol hydrochloride, is a centrally acting synthetic
13 analgesic compound. It is a dangerous drug as defined in section 4022 of the Business and
14 Professions Code. Ultram is indicated for the management of moderate to moderately severe
15 pain.

16 23. Zyprexa, a trade name for olanzapine, is a psychotropic agent that belongs to the
17 thienobenzodiazepine class. It is a dangerous drug as defined by section 4022. Zyprexa is
18 indicated for the management of the manifestations of psychotic disorders, the treatment of
19 schizophrenia, and the short term treatment of the acute manic episodes associated with Bipolar I
20 disorder.

21 **FIRST CAUSE FOR DISCIPLINE**

22 (Repeated Negligent Acts, Inadequate Documentation)

23 24. Respondent is subject to disciplinary action under section 2234, subdivisions (a) and
24 (c), and section 2266 in that he failed to obtain written informed consent or document that he
25 discussed the risks and benefits of intravenous therapy before administering intravenous vitamin
26 therapy to Patient TC¹ and in that he failed to consult with the physicians who treated TC's

27 ¹ The patients are referred to in this document by their initials to protect their privacy.
28 Respondent knows the names of the patients and can confirm their identities through discovery.

1 somatoform disorder in the hospital and he prescribed small amounts of various psychotropic
2 medications in different classes for TC at the same time to rotate to see how each worked. The
3 circumstances are as follows:

4 25. Respondent first saw Patient TC, then 41 years old, in June 2005. She was
5 housebound so he made a house call to see her after she had had two telephone consultations with
6 his physician assistant. She had a history of low back injury and degenerative disc disease, had
7 been hospitalized for eight months for low body weight, and had been treated for four months
8 with intravenous antibiotics for a staph infection from decubiti in her hips. She was cachectic
9 with a weight of around 80 pounds, had a decubitus ulcer on her left hip, and complained of
10 diffuse pain, night sweats, insomnia, temperature dysregulation, and severe exhaustion.
11 Respondent ran some laboratory tests and determined that she was anemic and in a state of poor
12 nutrition. He advised her to take protein powder, iron supplements, and fish oil and increase the
13 amount of red meat in her diet.

14 26. Over the time that respondent saw TC, she became more anemic and developed
15 hypothyroidism and elevated liver enzymes. She was non-compliant with most of respondent's
16 suggestions stating that she could not tolerate the supplements and medications he prescribed.

17 27. On August 31, 2007, without obtaining written informed consent or documenting that
18 he had discussed the risks and benefits of intravenous therapy with her, respondent administered
19 intravenous vitamin therapy to TC.

20 28. On October 6, 2007, TC was taken to the emergency room at Dominican Hospital by
21 her brother. TC was admitted to the hospital where she was diagnosed with somatoform disorder,
22 malnutrition, and hypokalemia, among other diagnoses. She was hydrated intravenously and her
23 potassium level restored and was fed both by mouth and by nasogastric tube. The hospital
24 physician started her on Seroquel and promethazine (for nausea) and she was discharged on those
25 drugs and various vitamins and minerals on October 27, 2007.

26 29. Respondent continued to care for TC after she was discharged from the hospital. He
27 did not consult with any of the physicians who cared for her while she was hospitalized to discuss
28 her treatment.

1 30. When respondent saw TC on November 28, 2007, he discussed with her rotating
2 medications in the Seroquel family. He prescribed a trial of Doxepin, Restoril, and Flexeril.

3 31. On December 14, 2007, again without obtaining written informed consent or
4 documenting that he had discussed the risks and benefits of intravenous therapy with her,
5 respondent administered intravenous vitamin therapy to TC. Also at this visit, respondent wrote
6 in TC's chart notes that she wanted to try a variety of medications to help her with sleep, pain,
7 anxiety, and muscle spasms to see how they worked. He documented that she was afraid to take
8 any medication more than once every 4 to 5 days due to her concern that she would develop
9 intolerance to it. Respondent prescribed twenty tablets each of doxepin (25 mg), hydroxyzine (25
10 mg), trazodone (50 mg), temazepam (15 mg), Neurontin (100 mg), tramadol (50 mg.), Lyrica (50
11 mg), Parafon Forte, Soma (350 mg), lorazepam (1 mg), and promethazine suppositories (25 mg)
12 and 10 tablets of Zyprexa (2.5 mg). It is not clear from the chart notes whether TC was still
13 taking Seroquel at this time. Dosing directions are not included in the chart notes.

14 32. On July 25, 2008, respondent again administered intravenous vitamin therapy to TC
15 without obtaining written informed consent or documenting that he had discussed the risks and
16 benefits of intravenous therapy with her.

17 33. Respondent's license is subject to discipline and respondent is guilty of
18 unprofessional conduct in violation of sections 2234, subdivisions (a) and (c), and 2266 of the
19 Code in that he was negligent in and failed adequately to document his care and treatment of RS
20 including but not limited to the following:

- 21 A. Failing to obtain written informed consent or to document that he discussed the
22 risks and benefits of intravenous therapy with TC before administering
23 intravenous vitamin therapy to her; and
24 B. Failing to consult with the physicians who treated TC's somatoform disorder in
25 the hospital and prescribing small amounts of various psychotropic medications in
26 different classes at the same time to rotate to see how each worked.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 (Repeated Negligent Acts, Inadequate Documentation)

3 34. Respondent is subject to disciplinary action under section 2234, subdivisions (a) and
4 (c), and section 2266 in that he failed to obtain written informed consent or document that he
5 discussed the risks and benefits of intravenous therapy before administering intravenous vitamin
6 therapy to Patient CS and in that he failed to obtain a chemistry panel during the initial testing of
7 CS's blood, failed to recommend testing to determine the source of a possible bacterial infection,
8 failed to discuss the risks of an unknown bacterial infection with CS, and administered
9 intravenous vitamin therapy without knowing CS's electrolyte status. The circumstances are as
10 follows:

11 35. Respondent first saw Patient CS, a 66 year old man, on September 19, 2007. CS
12 complained of a six week history of pain in his chest, neck, hip, knee, and shoulder. CS was very
13 distrustful of and did not want to have conventional medical treatment. He had not seen a
14 medical doctor for twenty years and wanted to try homeopathic treatments. Respondent's
15 examination revealed an enlarged liver, moderate lower extremity edema, and tenderness over the
16 scapula. Among respondent's differential diagnoses were acute inflammatory condition, Lyme
17 Disease, and autoimmune disorder. CS refused testing.

18 36. Respondent next saw CS on September 24, 2007. He was still in a lot of pain and
19 complained of having had a nose bleed a couple of days before. He consented to have blood tests
20 and respondent ordered a CBC and fibrinogen testing.

21 37. CS's next visit was on September 27, 2007. The blood tests showed a slightly
22 elevated white cell count and respondent felt that CS had a bacterial infection. There is no
23 indication that respondent recommended additional testing to determine the source of any
24 infection. CS refused antibiotics. Respondent recommended an herbal medicine, additional
25 testing and intravenous vitamin therapy. He did not document that he had advised CS of the
26 potential consequences of an untreated or undiagnosed bacterial infection.

27 38. CS returned to see respondent on October 1, 2007. He described feeling worse with
28 increased pain in his legs and hips and having trouble standing. He had swelling at the left

1 clavicular head. Respondent ordered a chemistry panel and an x-ray of the left clavicle and
2 administered intravenous vitamin therapy without knowing CS's electrolyte status or obtaining
3 written informed consent or documenting that he had discussed the risks and benefits of
4 intravenous therapy with CS.

5 39. Respondent's chart notes for CS's October 4, 2007 visit reflect that CS's blood test
6 results showed multiple abnormalities and that the x-ray of his clavicle reflected a lytic lesion.
7 Respondent wrote that the clinical picture was consistent with cancer of unknown origin
8 metastasized to the bone and liver. He discussed the diagnosis and prognosis with CS and CS's
9 partner. CS was adamant that he did not want surgery, radiation, or chemotherapy.

10 40. On October 10, 2007, CS was too weak to come to the office so respondent made a
11 home visit to see him. CS asked for intravenous vitamin therapy and, again without obtaining
12 written informed consent or documenting that he had discussed the risks and benefits of
13 intravenous therapy with CS, respondent administered the therapy. There is also no
14 documentation that respondent had checked CS's fluid status or the ability of his heart and liver
15 to handle the fluids given.

16 41. Respondent's license is subject to discipline and respondent is guilty of
17 unprofessional conduct in violation of sections 2234, subdivisions (a) and (c), and 2266 of the
18 Code in that he was negligent in and failed adequately to document his care and treatment of CS
19 including but not limited to the following:

- 20 A. Failing to obtain written informed consent or document that he discussed the risks
21 and benefits of intravenous therapy with CS before administering intravenous
22 vitamin therapy to him; and
23 B. Failing to obtain a chemistry panel during the initial testing of CS's blood, failing
24 to recommend testing to determine the source of a possible bacterial infection,
25 failing to discuss the risks of an unknown bacterial infection with CS, and
26 administering intravenous vitamin therapy without knowing CS's electrolyte
27 status.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that, following the hearing, the Medical Board issue a decision:

1. Revoking or suspending Physician's and Surgeon's certificate Number G 52554, issued to Randy Scott Baker, M.D.;
2. Revoking, suspending, or denying approval of Randy Scott Baker's authority to supervise physician assistants, pursuant to section 3527 of the Code;
3. Ordering Randy Scott Baker, if placed on probation, to pay the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: January 29, 2010


BARBARA JOHNSTON
Executive Director
Medical Board of California
State of California
Complainant

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