

STATE OF COLORADO

BOARD OF MEDICAL EXAMINERS

Susan Miller
Program Administrator

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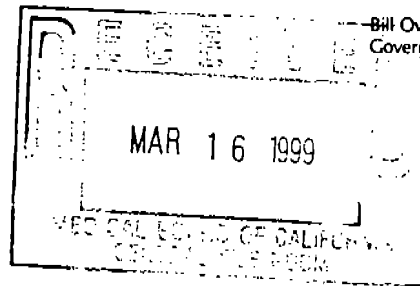
M. Michael Cooke
Executive Director

Division of Registrations

Bruce M. Douglas, Director



Bill Owens
Governor



TO WHOM IT MAY CONCERN:

I, Donna Eccleston, Administrative Assistant for the Colorado State Board of Medical Examiners, and Custodian of the Records, do hereby certify that the attached Stipulation and Final Agency Order, dated December 17, 1998 in the matter of the disciplinary proceeding regarding the license to practice medicine in the State of Colorado, of Deborah E. Banker, M.D., License Number 28591, is a true and correct copy of the records of the Colorado State Board of Medical Examiners in the above referenced matter.

Dated this *10* day of *March*, 1999.

Subscribed and sworn under the seal of the Colorado State Board of Medical Examiners, pursuant to the provision of § 12-36-104(1)(c), C.R.S. 1985.

COLORADO STATE BOARD OF MEDICAL EXAMINERS

Donna E. Eccleston
Administrative Assistant and Custodian of Records

BEFORE THE STATE BOARD OF MEDICAL EXAMINERS

STATE OF COLORADO

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE
LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF
DEBORAH E. BANKER, M.D., LICENSE NO. 28591,

Respondent.

IT IS HEREBY STIPULATED and agreed by and between Inquiry Panel B ("Panel") of the Colorado State Board of Medical Examiners ("Board") and Deborah E. Banker, M.D. ("Respondent") as follows:

1. Respondent was licensed to practice medicine in the state of Colorado on January 14, 1988, and was issued license no. 28591 which Respondent has held continuously since that date.
2. Respondent's license lapsed on May 31, 1997, for failure to renew.
3. On July 27, 1998, the Panel filed a formal complaint against Respondent pursuant to the provisions of § 12-36-118(5), C.R.S.
4. It is the purpose of this agreement to resolve all matters alleged in that formal complaint.
5. Respondent understands that:
 - a. She has the right to be represented by an attorney of Respondent's choice and is so represented;
 - b. She has the right to a formal disciplinary hearing pursuant to § 12-36-118(5), C.R.S.;
 - c. By entering into this agreement, Respondent is knowingly and voluntarily giving up the right to a hearing.
 - d. Respondent is knowingly and voluntarily giving up the right to present a defense by oral and documentary evidence, and to cross-examine witnesses who would testify on behalf of the Panel.

6. Respondent hereby agrees never to reinstate her lapsed license. Respondent hereby agrees never to apply for a new license issued by the Board. Respondent hereby agrees never to perform any act requiring a license issued by the Board.

7. Nothing in this agreement shall constitute a finding that Respondent has engaged in unprofessional conduct.

8. Respondent holds no privileges at Colorado hospitals.

9. This agreement shall have the same force and effect as an order entered pursuant to § 12-36-118(5)(g)(III), C.R.S. This agreement and all its terms also constitute a valid board order for purposes of § 12-36-117(1)(u), C.R.S.

10. This agreement shall be effective upon approval by the Panel and signature by a Panel member. Respondent acknowledges that the Panel may choose not to accept the terms of this Order and that if the Order is not approved by the Panel and signed by a Panel member, it is void.

Deborah E Banker, M.D.
Deborah E. Banker, M.D.

290 30th St

Boulder, CO. 80304
Address

The foregoing was acknowledged before me this 16th day of November by Deborah E. Banker, M.D.

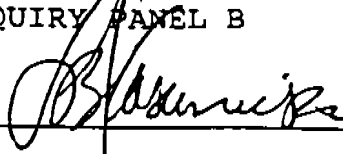
Stephen W. Skowron
NOTARY PUBLIC

My Commission expires:

January 19, 2012

THE FOREGOING Stipulation and Final Agency Order is approved and effective this 17th day of December, 1998.

FOR THE COLORADO STATE BOARD
OF MEDICAL EXAMINERS
INQUIRY PANEL B



APPROVED AS TO FORM:

FOR THE RESPONDENT

William N. Moore
WILLIAM MOORE
910 East Victory Dr.
Savannah, Georgia
31405-2424

FOR THE BOARD OF MEDICAL EXAMINERS

GALE A. NORTON
Attorney General

RICHARD A. WESTFALL
Solicitor General

LINDA L. SIDERIUS
Deputy Attorney General

M. E. Norwood
MATTHEW E. NORWOOD*
First Assistant Attorney General
Regulatory Law Section

Attorneys for the Colorado State
Board of Medical Examiners

1525 Sherman Street, 5th Floor
Denver, Colorado 80203
Telephone: 866-5307
*Counsel of Record

AG Alpha: RG ME DLJTW
P:RL:RLNORWME:ANKERST

JUL 27 1998

BEFORE THE STATE BOARD OF MEDICAL EXAMINERS

STATE OF COLORADO

Case No. ME 98-

ORDER OF SUMMARY SUSPENSION

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE
LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF
DEBORAH E. BANKER, M.D., LICENSE NO. 28591,

Respondent.

TO: Deborah E. Banker, M.D.
2060 Broadway, Suite 255
Boulder, Colorado 80302

ORDER OF SUMMARY SUSPENSION

THIS MATTER having come before Inquiry Panel B ("Panel") of the Colorado State Board of Medical Examiners ("Board"), the Panel does find and order with respect to the license to practice medicine in the state of Colorado of Deborah E. Banker, M.D. ("Respondent"), that her license to practice medicine be summarily suspended pursuant to § 24-4-104(4), C.R.S. As grounds wherefore the Panel has reasonable cause to believe and finds:

1. That the allegations set forth in the Formal Complaint filed herewith and incorporated in this Order, show that the Respondent is guilty of deliberate and willful violation of the Medical Practice Act.


2. That the allegations set forth in the Formal Complaint filed herewith and incorporated in this Order, show that the public health, safety and welfare imperatively require emergency action.

3. WHEREFORE, IT IS HEREBY ORDERED that Respondent's license to practice medicine is summarily suspended pending proceedings to determine whether Respondent's license should be further disciplined in accordance with § 12-36-118, C.R.S. of the Colorado Medical Practice Act.

4. IT IS FURTHER ORDERED that Deborah E. Banker, M.D. immediately cease, desist, and refrain from performing any act requiring authorization by her license issued by the Board.

DATED this 27th day of July, 1998.

COLORADO STATE BOARD
OF MEDICAL EXAMINERS


Susan Miller
Program Administrator

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JUL 27 1998

BEFORE THE STATE BOARD OF MEDICAL EXAMINERS
STATE OF COLORADO

Case No. ME 98-__

**FORMAL COMPLAINT OF THE ATTORNEY GENERAL, NOTICE TO SET
INFORMAL PREHEARING CONFERENCE, NOTICE OF HEARING, NOTICE OF
DUTY TO ANSWER AND STATEMENT WITH REGARD TO ALTERNATIVE
DISPUTE RESOLUTION**

IN THE MATTER OF THE DISCIPLINARY PROCEEDING REGARDING THE LICENSE
TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF DEBORAH E. BANKER,
M.D., LICENSE NO. 28591,Respondent.

FORMAL COMPLAINT

COMES NOW the Colorado State Board of Medical Examiners ("Board"), Inquiry Panel B ("Panel"), by the Colorado Attorney General, and makes this formal complaint against Deborah E. Banker, M.D. ("Respondent"), pursuant to § 12-36-118(5), C.R.S.:

Jurisdiction

1. The Board and the Panel possess jurisdiction over Respondent and the subject matter of these proceedings as set forth in the Colorado Medical Practice Act, §§ 12-36-101 to 137, C.R.S., and the State Administrative Procedure Act, §§ 24-4-101 to 108, C.R.S.
2. Respondent was licensed to practice medicine in Colorado on January 14, 1988 and was issued license number 28591.
3. Respondent's license lapsed on May 31, 1997, for failure to renew.
4. Respondent is an ophthalmologist.

Unprofessional Conduct**Patient L.L.**

5. On or about March 25, 1996 to March 29, 1996, Respondent treated patient L.L.
6. Patient L.L. suffers from macular degeneration in her left eye.

7. Respondent treated L.L.'s macular degeneration with electrotherapy, also called electro-acupuncture, as well as with nutritional supplements.

8. Respondent's electrotherapy device used on patient L.L. and R.E. below, has not been approved by the United States Food and Drug Administration.

9. Respondent's treatment of L.L.'s macular degeneration did not meet generally accepted standards of medical practice.

Patient R.E.

10. On or about May 19, 1997 to June 13, 1997, Respondent treated patient R.E.

11. Patient R.E. suffers from macular degeneration.

12. Respondent treated R.E.'s macular degeneration with electrotherapy, massage and other modalities.

13. Respondent's treatment of R.E.'s macular degeneration did not meet generally accepted standards of medical practice.

Practicing Medicine Without a License

14. Respondent has continued to practice medicine after her license lapsed in May 31, 1997.

The "30 Day Letters"

15. On or about May 1, 1996, the Panel sent Respondent an informal complaint or "30 day letter" as set forth in §12-36-118(4), C.R.S. regarding patient L.L. (Board case no. 5196022820).

16. Respondent received the 30 day letter and responded to it.

17. On or about February 23, 1998, the Panel sent Respondent a 30 day letter regarding her care of patient R.E. (Board case no. 5198022670).

18. Upon information and belief, Respondent received the 30 day letter regarding patient R.E.

19. Respondent failed to respond to the 30 day letter regarding patient R.E.

20. On or about November 20, 1997, the Panel sent Respondent a 30 day letter regarding her failure to renew her license and whether she had practiced medicine after her license had lapsed. (Board case no. 5198021790).

21. Upon information and belief, Respondent received the 30 day letter regarding her failure to renew.

22. Respondent failed to respond to the 30 day letter regarding her failure to renew.

23. On or about March 11, 1998, the Panel sent Respondent a 30 day letter regarding a complaint from the British Columbia Association of Optometrists regarding statements Respondent made on a radio talk show. (Board case no. 5198022800).

24. Upon information and belief, Respondent received the 30 day letter regarding her statements on the radio talk show.

25. Respondent failed to respond to the 30 day letter regarding her failure to renew.

26. On or about March 19, 1998, the Panel sent Respondent a 30 day letter regarding a complaint from the College des Medecins du Quebec (the Quebec Licensing Board for Physicians). The Quebec Board's complaint related to workshops given by the Respondent in Montreal, Quebec, November 1 and 2, 1997. (Board case no. 5198022870).

27. Upon information and belief, Respondent received the 30 day letter regarding the complaint from the Quebec Board.

28. Respondent failed to respond to the 30 day letter regarding the complaint from the Quebec Board.

Improper Prescribing

29. Respondent's authority to prescribe controlled substances issued by the United States Drug Enforcement Administration ("DEA") expired July 31, 1997.

30. Respondent has continued to prescribe controlled substances after that date.

31. In particular, but not by way of limitation, Respondent has prescribed controlled substances to patient B.W. after July 31, 1997.

Count I

32. The conduct set forth in paragraphs 5 through 13 above establish that Respondent has engaged in unprofessional conduct as defined in §12-36-117(1)(p), C.R.S.: an act or omission which fails to meet generally accepted standards of medical practice.

Count II

33. The conduct set forth in paragraph 14 above establishes that Respondent has engaged in unprofessional conduct as defined in §12-36-117(1)(n), C.R.S.: violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of the Medical Practice Act. The provision at issue is §12-36-106(2), C.R.S.

Count III

34. The conduct set forth in paragraphs 17 through 28 above establishes that Respondent has engaged in unprofessional conduct as defined in §12-36-117(1)(gg), C.R.S.: failing to respond in a timely manner to a complaint issued pursuant to section 12-36-118(4), C.R.S.

Count IV

35. The conduct set forth in paragraphs 29 through 31 above establishes that Respondent has engaged in unprofessional conduct as defined in §12-36-117(1)(g), C.R.S.: administering, dispensing, or prescribing any habit-forming drug, as defined in §12-22-102(13), or any controlled substance, as defined in §12-22-303(7), other than in the course of legitimate professional practice. The conduct set forth in paragraphs 29 through 31 above also establishes that Respondent has engaged in unprofessional conduct as defined in §12-36-117(1)(p), C.R.S.: an act or omission which fails to meet generally accepted standards of medical practice.

WHEREFORE the Panel respectfully requests that appropriate disciplinary action, as provided by law, be imposed.

NOTICE TO SET INFORMAL PREHEARING CONFERENCE

YOU ARE HEREBY NOTIFIED that the attorney for Inquiry Panel B of the Colorado State Board of Medical Examiners will appear on Tuesday, August 11, 1998 at 1:30 p.m. in the Office of the Division of Administrative Hearings, 1120 Lincoln Street, Suite 1400, Denver, Colorado 80203 for the purpose of obtaining a date for an informal prehearing conference in conformance with Division of Administrative Hearings Rule 21 B. In the event you wish to

obtain an earlier date to set the informal prehearing conference, please contact the undersigned. You are invited to appear in person or by counsel. If you cannot be present personally or through counsel, you may contact the setting clerk at the Division of Administrative Hearings (303) 894-2500 on the aforementioned date and time to participate in the setting.

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that pursuant to § 12-36-118, C.R.S., and § 24-4-105, C.R.S., a hearing on the Formal Complaint of the Attorney General will be held before an administrative law judge, on a date to be set, for the purpose of determining whether you engaged in unprofessional conduct as set forth in § 12-36-117(1)(g), (n) and (p), C.R.S. of the Colorado Medical Practice Act, and whether your license to practice medicine in Colorado should be revoked, suspended, or otherwise disciplined, pursuant to § 12-36-118(5), C.R.S. of the Colorado Medical Practice Act.

At the hearing, you shall have the right to appear in person with legal counsel, to cross-examine any witness, to rebut any evidence presented by the complainant, and to present evidence in your own defense.

The Panel's statement with regard to an option to engage in mediation is attached for your review and signature.

NOTICE OF DUTY TO ANSWER

YOU ARE HEREBY NOTIFIED that, pursuant to § 24-4-105(2)(b), C.R.S., you are required to file a written answer to the Formal Complaint with the Division of Administrative Hearings, 1120 Lincoln Street, Suite 1400, Denver, Colorado 80203, within 30 days after the service or mailing of this Formal Complaint of the Attorney General, Notice to Set, Notice of Hearing, Notice of Duty to Answer and Statement With Regard to Alternative Dispute Resolution. You must also mail a copy of such answer to the Panel's attorney, Matthew E. Norwood, First Assistant Attorney General, Office of the Attorney General, 1525 Sherman St., 5th Floor, Denver, Colorado 80203.

If you fail to file your written answer within the applicable time period, an order entering a default decision may be issued against you for the relief requested in the Formal Complaint, without further notice, or such other penalties which may be provided for by law, without further notice.

Date: 7/27/98

GALE A. NORTON
Attorney General

RICHARD A. WESTFALL
Solicitor General

LINDA L. SIDERIUS
Deputy Attorney General



MATTHEW E. NORWOOD, 15181*
First Assistant Attorney General
Regulatory Law Section

Attorneys for Colorado State Board of Medical
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Inquiry Panel B

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*Counsel of Record

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