

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

In the Matter of the Accusation)
Against:)
MURRAY RICHARD SUSSER, M.D.) Case No: 17-2002-133925
Physician's and Surgeon's) OAH No: L2003050261
Certificate No: G-22316)
Respondent.)


DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Division of Medical Quality of the Medical Board of California, as its Decision in the above entitled matter.

This Decision shall become effective at 5:00 p.m. on June 10, 2005.

DATED May 11, 2005

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA



Ronald L. Moy, M.D.
Panel B Chair
Division of Medical Quality

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

In the Matter of the Accusation Against:

**MURRAY SUSSER, M.D.
2211 Corinth Avenue, #204
Los Angeles, CA 90064**

**Physician's and Surgeon's Certificate
Number G 22316,**

Respondent.

Case No. 17-2002-133925

OAH No. L2003050261

PROPOSED DECISION

On March 28, 2005, Complainant's Motion for Issuance of Proposed Decision, came on regularly for hearing in Los Angeles, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings.

Vladimir Shalkevich, Deputy Attorney General, represented Ron Joseph (Complainant). Murray Susser, M.D. (Respondent) was represented by Carlos F. Negrete, Attorney at Law.

FACTUAL FINDINGS

1. The Accusation was brought by Complainant Ron Joseph in his official capacity as Executive Director of the Medical Board of California (Board).

2. At a settlement conference on November 5, 2004, a settlement was reached and placed orally on the record. Included in the record are the terms of settlement, Respondent's agreement with those terms, and Respondent's stipulation that the oral settlement agreement was binding on Respondent until the terms of settlement were acted on by the Board.

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3. Vladimir Shalkevich, counsel for Complainant, forwarded a settlement stipulation to Respondent's counsel, Henry Fenton, on or about November 18, 2004. In December 2004, after receiving no response, Mr. Shalkevich telephoned Mr. Fenton and was informed that Mr. Fenton did not believe the settlement stipulation accurately reflected the agreement in that, as written, the stipulation required Respondent to surrender his DEA certificate and obtain a substitute certificate. That process would necessitate the suspension of Respondent's script writing privileges for several months, a condition that was not part of the original agreement.

4. After checking with the DEA and his supervisor, Mr. Shalkevich redrafted the settlement stipulation to reflect that Respondent's current DEA certificate would be limited in conformity with the settlement agreement. On December 9, 2004, Mr. Shalkevich faxed the corrected settlement stipulation to Mr. Fenton.

5. On February 2, 2005, having received no response to the corrected settlement stipulation, Mr. Shalkevich again telephoned Mr. Fenton. Mr. Fenton stated he no longer represented Respondent, and that Respondent was then represented by attorney Carlos Negrete. On February 8, 2005, after leaving two messages for Mr. Negrete, Mr. Shalkevich reached Mr. Negrete by telephone. Mr. Negrete informed Mr. Shalkevich that he was reviewing the settlement agreement and the transcript, and that he would contact Mr. Shalkevich by February 14, 2005. At the end of the day of February 14, 2005, having not heard from Mr. Negrete, Mr. Shalkevich left another telephone message for him. On February 15, 2005, Mr. Negrete faxed a letter to Mr. Shalkevich objecting to the standard terms and conditions in the settlement agreement.

6. Complainant brought the Motion for Issuance of Proposed Decision and Respondent's counsel served and filed opposition papers. The motion was heard on March 28, 2005.

7. After consideration of the points and authorities and argument submitted by both sides, the Motion was granted. This Proposed Decision is therefore issued without a trial, and is based upon the transcript of the settlement conference, a copy of which is attached.

LEGAL CONCLUSIONS

1. Pursuant to the agreement of the parties, Respondent admits that Complainant has sufficient evidence to establish a prima facie case at trial, and that, should Respondent be subjected to another Accusation or a Petition to Revoke Probation by the Medical Board of California, all of the allegations and assertions in the Accusation in the instant case will be deemed admitted. In addition, pursuant to the agreement of the parties, should Respondent ever seek penalty relief, the allegations in the Accusation in the instant case will be deemed admitted at that time and for those purposes only.

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2. Pursuant to the agreement of the parties, cause exists to enter the Order set forth below, including the payment of costs of investigation and prosecution.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Physician and Surgeon Certificate No. G22316 issued to Respondent, Murray Susser, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for five years on the following terms and conditions:

1. Controlled Substances-Partial Restriction

Respondent shall not order, prescribe, dispense, administer, or possess any controlled substances as defined by the California Uniform Controlled Substances Act, except for those drugs listed in Schedules IV and V of the Act.

Respondent shall not issue an oral or written recommendation or approval to a patient or a patient's primary caregiver for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. If Respondent forms the medical opinion, after a good faith prior examination, that a patient's medical condition may benefit from the use of marijuana, Respondent shall so inform the patient and shall refer the patient to another physician who, following a good faith examination, may independently issue a medically appropriate recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that Respondent is prohibited from issuing a recommendation or approval for the possession or cultivation of marijuana for the personal medical purposes of the patient and that the patient or the patient's primary caregiver may not rely on Respondent's statements to legally possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully document in the patient's chart that the patient or the patient's primary caregiver was so informed. Nothing in this condition prohibits Respondent from providing the patient or the patient's primary caregiver information about the possible medical benefits resulting from the use of marijuana.

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2. Controlled Substances-Maintain Records and Access to Records and Inventories

Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all the following: 1) the name and address of patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Division or its designee at all times during business hours and shall be retained for the entire term of probation.

Failure to maintain all records, to provide immediate access to the inventory, or to make all records available for immediate inspection and copying on the premises, is a violation of probation.

3. Prescribing Practices Course

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices, at Respondent's expense, approved in advance by the Division or its designee. Failure to successfully complete the course during the first six months of probation is a violation of probation.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Division or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Division or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Division or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

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4. Clinical Training Program

Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical training or educational program equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the University of California - San Diego School of Medicine (Program).

The Program shall consist of a Comprehensive Assessment program comprised of a two-day assessment of Respondent's physical and mental health; basic clinical and communication skills common to all clinicians; and medical knowledge, skill and judgment pertaining to Respondent's specialty or sub-specialty, and at minimum, a 40 hour program of clinical education in the area of practice in which Respondent was alleged to be deficient and which takes into account data obtained from the assessment, Decision(s), Accusation(s), and any other information that the Division or its designee deems relevant. Respondent shall pay all expenses associated with the clinical training program.

Based on Respondent's performance and test results in the assessment and clinical education, the Program will advise the Division or its designee of its recommendation(s) for the scope and length of any additional educational or clinical training, treatment for any medical condition, treatment for any psychological condition, or anything else affecting Respondent's practice of medicine. Respondent shall comply with Program recommendations.

At the completion of any additional educational or clinical training, Respondent shall submit to and pass an examination. The Program's determination whether or not Respondent passed the examination or successfully completed the Program shall be binding.

Respondent shall complete the Program not later than six months after Respondent's initial enrollment unless the Division or its designee agrees in writing to a later time for completion.

Failure to participate in and complete successfully all phases of the clinical training program outlined above is a violation of probation.

If Respondent fails to complete the clinical training program within the designated time period, Respondent shall cease the practice of medicine within 72 hours after being notified by the Division or its designee that Respondent failed to complete the clinical training program.

Failure to participate in and complete successfully the professional enhancement program outlined above is a violation of probation.

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5. Monitoring - Practice/Billing

Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Division or its designee for prior approval as a practice and billing monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Division, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Division or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice and billing shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

The monitor(s) shall submit a quarterly written report to the Division or its designee which includes an evaluation of Respondent's performance, indicating whether Respondent's practices are within the standards of practice of medicine or billing, or both, and whether Respondent is practicing medicine safely, billing appropriately or both.

It shall be the sole responsibility of Respondent to ensure that the monitor submits the quarterly written reports to the Division or its designee within 10 calendar days after the end of the preceding quarter.

If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of such resignation or unavailability, submit to the Division or its designee, for prior approval, the name and qualifications of a replacement monitor who will be assuming that responsibility within 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 days of the resignation or unavailability of the monitor, Respondent shall be suspended from the practice of medicine until a replacement monitor is approved and prepared to assume immediate monitoring responsibility. Respondent shall cease the practice of medicine within 3 calendar days after being so notified by the Division or designee.

Failure to maintain all records, or to make all appropriate records available for immediate inspection and copying on the premises, or to comply with this condition as outlined above is a violation of probation.

6. Notification

Prior to engaging in the practice of medicine, Respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Division or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

7. Supervision of Physician Assistants

During probation, Respondent is prohibited from supervising physician assistants.

8. Obey All Laws

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

9. Quarterly Declarations

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

10. Probation Unit Compliance

Respondent shall comply with the Division's probation unit. Respondent shall, at all times, keep the Division informed of Respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Division or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021, subdivision (b).

Respondent shall not engage in the practice of medicine in Respondent's place of residence. Respondent shall maintain a current and renewed California physician's and surgeon's license.

Respondent shall immediately inform the Division or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

11. Interview with the Division or Its Designee

Respondent shall be available in person for interviews either at Respondent's place of business or at the probation unit office, with the Division or its designee upon request at various intervals and either with or without prior notice throughout the term of probation.

12. Residing or Practicing Out-of-State

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Division or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Division or its designee shall be considered as time spent in the practice of medicine within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

Respondent's license shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California totals two years. However, Respondent's license shall not be cancelled as long as Respondent is residing and practicing medicine in another state of the United States and is on active probation with the medical licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

13. Failure to Practice Medicine - California Resident

In the event Respondent resides in the State of California and, for any reason, Respondent stops practicing medicine in California, Respondent shall notify the Division or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 2051 and 2052 of the Business and Professions Code.

All time spent in an intensive training program which has been approved by the Division or its designee shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board-ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice.

Respondent's license shall be automatically cancelled if Respondent resides in California and for a total of two years, fails to engage in California in any of the activities described in Business and Professions Code sections 2051 and 2052.

14. Violation of Probation

Failure to fully comply with any term or condition of probation is a 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, or an Interim Suspension Order 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.

15. Cost Recovery

Within 90 calendar days from the effective date of the Decision or other period agreed to by the Division or its designee, Respondent shall reimburse the Division the amount of \$5,000.00 for its investigative and prosecution costs. The filing of bankruptcy or period of non-practice by Respondent shall not relieve Respondent his obligation to reimburse the Division for its costs.

16. License Surrender

Following the effective date of this Decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request the voluntary surrender of his license. The Division reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall, within 15 calendar days, deliver his wallet and wall certificate to the Division or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

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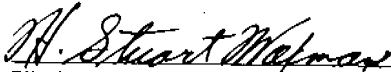
17. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Division, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Division or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

18. Completion of Probation

Respondent shall comply with all financial obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon completion successful of probation, Respondent's certificate shall be fully restored.

DATED: April 20, 2005


H. STUART WAXMAN
Administrative Law Judge
Office of Administrative Hearings

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

DAVID B. ROSENMAN, ADMINISTRATIVE LAW JUDGE

In the Matter of the)
Accusation Against:)
MURRAY SUSSER, M.D.,) No. 17-2002-133925
Respondent.) L-2003050261

TRANSCRIPT OF PROCEEDINGS, taken at
320 West Fourth Street, Room 630,
Los Angeles, California, commencing at
11:26 a.m., on Friday, November 5, 2004,
heard before DAVID B. ROSENMAN, Administrative
Law Judge, reported by MAXINE MILLER,
Hearing Reporter.

APPEARANCES:

For the DEPARTMENT: DEPARTMENT OF JUSTICE
BY: VLADIMIR SHALKEVICH
DEPUTY ATTORNEY GENERAL
300 South Spring Street
Suite 5000
Los Angeles, California
90013

For the RESPONDENT: LAW OFFICES OF HENRY R. FENTON
BY: HENRY R. FENTON
Attorney at Law
11835 West Olympic Boulevard
Suite 705
Los Angeles, California
90064

I N D E X

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Terms agreed to by Dr. Susser	10

E X H I B I T S

(None)

1 Los Angeles, California, Friday, November 5, 2004

2 11:26 a.m.

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5 THE COURT: We're on the record.

6 This is in the matter of the Accusation
7 before the Medical Board of California against
8 Dr. Murray Susser. The Board's Case Number is
9 17-2002-133925. The Office of Administrative
10 Hearings Case Number is L-2003050261.

11 My name is David Rosenman. I'm an
12 Administrative Law Judge with the Office of
13 Administrative Hearings, and we have a settlement in
14 the case that is going to be placed on the record.

15 Let me get the appearance on behalf of
16 Complainant.

17 MR. SHALKEVICH: Good morning, Your Honor.
18 Vladimir Shalkevich, Deputy Attorney General on
19 behalf of the Complainant.

20 THE COURT: Thank you.

21 And the appearance for the Respondent.

22 MR. FENTON: Henry Fenton, attorney for Dr. Susser.

23 THE COURT: And let's note for the record
24 that Dr. Susser is present.

25 Good morning, Doctor.

1 MR. SUSSER: Good morning.

2 THE COURT: Thank you.

3 All right. We have had significant
4 discussion today to resolve the case. I want to thank
5 everyone for their participation in that process today.

6 Doctor, I've already gone through this with
7 you off the record, but we're going to cover it again. I
8 want you to listen carefully while Mr. Shalkevich recites
9 the terms of the settlement, because when he's done, I
10 have several questions for you.

11 I'm going to ask you if you've heard
12 the terms, if you understand them, if you've had a
13 chance to discuss them with your attorney, if you
14 agree with them, if you understand you'll be waiving
15 your right to a hearing, and that if a written
16 agreement is prepared and you don't sign it, that a
17 Proposed Decision can be written upon motion of the
18 Deputy Attorney General.

19 So keep those questions in mind as
20 Mr. Shalkevich goes through his recitation of the
21 settlement terms.

22 Are you ready, Mr. Shalkevich?

23 MR. SHALKEVICH: Yes, Your Honor, and thank
24 you very much.

25 In deciding on the terms of the

1 settlement, we looked at and utilized the "Manual of
2 Modern Disciplinary Orders and Disciplinary
3 Guidelines," 9th edition of 2003 vintage that was
4 prepared by the Medical Board of California,
5 Division of Medical Quality and Judge Rosenman was
6 kind enough to let us borrow for this purpose.

7 THE COURT: So as you refer to terms, you
8 might be using either the title or a short-term
9 reference, but you mean to use the language as set
10 forth in those guidelines; is that correct?

11 MR. SHALKEVICH: That is correct, Your Honor.
12 And Mr. Fenton and I spent some time looking at
13 these things, and we came to an agreement that, for
14 the most part, the agreement is going to be as it is
15 set forth in this booklet except some of the things
16 that are going to be modified. I will indicate
17 those during the recitation.

18 THE COURT: Very good. Go ahead.

19 MR. SHALKEVICH: In terms of the admissions,
20 we have agreed that the Medical Board, the
21 Complainant, has sufficient evidence to establish a
22 prima facie case at trial, and that is what our
23 stipulation is going to reflect. However, should
24 Dr. Susser be subjected to another proceeding, a
25 disciplinary proceeding by the Board, be it a new

1 Accusation or a petition to revoke probation that
2 we're talking about here, all of the allegations and
3 assertions in the currently pending Accusation will
4 be deemed to have been admitted. Likewise, should
5 Dr. Susser ever seek penalty relief, the allegations
6 of the Accusation will be deemed admitted at that
7 time and for those purposes only.

8 And in terms of the conditions of the
9 probation, we have agreed that Dr. Susser's license is
10 going to be revoked. However, the revocation is going to
11 be stayed, and his license will be placed on probation for
12 a period of five years. And there will be additional
13 conditions on that probation as well.

14 First of all, Dr. Susser has agreed
15 that he will enroll in a full PACE course as it is
16 given at the University of San Diego and that he
17 will complete it within the time as specified by the
18 standard language of the manual. Also, he'll take a
19 prescribing practices course also within the same
20 temporal guidelines as the manual recommends.

21 MR. MR. FENTON: And as I recall, the time
22 for completion is six months from the date of the
23 effective date of the decision.

24 MR. SHALKEVICH: I believe that's correct,
25 and also that he would have to show that he had

1 enrolled within 60 days.

2 MR. MR. FENTON: I think that is correct.

3 MR. SHALKEVICH: He will agree to have his billing
4 and practice monitored by a practice monitor who will be
5 selected by Dr. Susser and submit a plan, and the Board
6 will approve the monitor and the plan and proceed
7 according to the standard language of the manual.

8 Dr. Susser has also agreed that his
9 prescribing privileges under his D.A. certificate
10 will be restricted partially and that he will be
11 unable to prescribe Schedule 1, Schedule 2, and
12 Schedule 3 substances, which means that he will be
13 allowed to prescribe Schedule 4 and higher.

14 We also agree that Dr. Susser will pay
15 \$5,000 in cost recovery in this case.

16 Additionally, there are standard conditions
17 that are listed in the manual that usually apply to all of
18 the settlements, and in this particular case, I will
19 simply refer to them as their headings are listed in the
20 manual. And that is notification, supervision of
21 physician assistants, obey all laws, quarterly
22 declarations, probation unit compliance, interview with
23 the Division or its designee, residing or practicing out
24 of state, failure to practice medicine for a California
25 resident, completion of probation, violation of probation,

1 license surrender. And probation monitoring costs will be
2 a part of this order -- or rather the stipulation and the
3 resultant order, and the cost recovery is another standard
4 term which I already discussed previously.

5 And that encompasses the entire agreement as
6 far as I understand.

7 THE COURT: Very good.

8 Mr. Fenton, any modification of those
9 terms other than what you've suggested already?

10 MR. FENTON: No.

11 Just one second.

12 THE COURT: All right.

13 MR. FENTON: No, I have nothing.

14 THE COURT: All right. And, Doctor, and
15 we're at the point that I had indicated earlier
16 where I would be asking you some questions. First,
17 have you heard the terms of the settlement?

18 DR. SUSSER: Yes.

19 THE COURT: Do you understand the terms of
20 the settlement?

21 DR. SUSSER: Yes, I think so.

22 THE COURT: All right. Have you had a chance
23 to discuss those terms with your attorney?

24 DR. SUSSER: Yes, I have.

25 THE COURT: Do you agree with the terms of

1 the settlement?

2 DR. SUSSER: Yes, I do.

3 THE COURT: All right. Do you understand
4 that by settling the case you're waiving the right
5 to a hearing?

6 DR. SUSSER: Yes, I do.

7 THE COURT: All right. And also, if a
8 written agreement is prepared that conforms with the
9 terms and you refuse to sign, do you agree that a
10 written Proposed Decision can be prepared by an
11 Administrative Law Judge in conformity with the
12 terms that are on the record here today if the
13 Complainant makes a written motion, then attaches a
14 transcript of the proceeding, and the motion is to
15 be served on you and set for a hearing?

16 DR. SUSSER: Yes, I understand.

17 THE COURT: And, Mr. Fenton, do you also agree?

18 MR. MR. FENTON: Yes.

19 THE COURT: Mr. Shalkevich, do you agree?

20 MR. SHALKEVICH: Yes, Your Honor.

21 THE COURT: Very good. All right.

22 And you understand, do you, Doctor, that
23 Mr. Shalkevich will be preparing a written stipulation;
24 that once you've signed that, it goes to the Board which
25 has the discretion to accept or not accept it?

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DR. SUSSER: Yes, sir.

THE COURT: Very good.

Mr. Shalkevich, anything else that you feel needs to be placed upon the record this morning?

MR. SHALKEVICH: That is all, Your Honor.
Thank you.

THE COURT: Mr. Fenton, anything?

MR. FENTON: No, nothing further.

THE COURT: Doctor, I very much appreciate your assistance today. With this stipulation on the record, we will take the pending trial dates off calendar and they'll be vacated. The trial will remain open pending receipt of a signed stipulation by Dr. Susser and Mr. Fenton.

MR. FENTON: Very well.

MR. SHALKEVICH: Thank you.

THE COURT: Thank you all.

Off the record.

(Proceedings concluded at 11:35 a.m.)

REPORTER'S CERTIFICATE

I, MAXINE MILLER, HEARING REPORTER, DO HEREBY
CERTIFY:

THAT THE FOREGOING TRANSCRIPT OF PROCEEDINGS WAS
TAKEN BEFORE ME ON FRIDAY, NOVEMBER 5, 2004,
AT THE TIME AND PLACE THEREIN SET FORTH, AND WAS TAKEN
DOWN BY ME IN SHORTHAND, AND THEREAFTER TRANSCRIBED INTO
TYPEWRITING UNDER MY DIRECTION AND SUPERVISION;

AND I HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT
OF PROCEEDINGS IS A FULL, TRUE AND CORRECT TRANSCRIPT OF
MY SHORTHAND NOTES SO TAKEN.

I FURTHER CERTIFY THAT I AM NEITHER COUNSEL FOR NOR
RELATED TO ANY PARTY TO SAID ACTION, NOR IN ANYWISE
INTERESTED IN THE OUTCOME THEREOF.

IN WITNESS THEREOF, I HAVE HEREUNTO SUBSCRIBED MY
NAME THIS 17TH DAY OF JANUARY, 2005.

Maxine Miller
MAXINE MILLER,
HEARING REPORTER