September 10, 2007

Denise Bertone, Investigator
Los Angeles County Coroner
1104 N. Mission Road
Los Angeles, CA 90033

RE: HEARING COMPLETED
In the Matter of the Accusation Against:
PAUL FLEISS, M.D., Respondent
OAH No. L2006100478
Medical Board of California Case No. 17-2005-169843

Dear Investigator Bertone:

This office and the Medical Board of California would like to thank you for the important public service you performed in this case. Our system of consumer protection through professional discipline and accountability could not function without the participation of people like you.

Enclosed please find a copy of the Division’s decision which will be effective on October 8, 2007. Your cooperation helped us to achieve this worthwhile outcome.

Sincerely,

E. A. JONES III
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

EAJ:clg
Enclosure: Copy of Medical Board of California’s decision
50185539.wpd
BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

PAUL FLEISS, M.D.

Physician's and Surgeon's Certificate No. A28858

Respondent.

File No. 17-2005-169843

DECISION

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

This Decision shall become effective at 5:00 p.m. on October 8, 2007.


MEDICAL BOARD OF CALIFORNIA

By: Cesar A. Aristeiguieta, M.D., F.A.C.E.P.
Chair Panel A
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:

PAUL FLEISS, M.D.
1824 Hilhurst Avenue
Los Angeles, CA 90027

Physician's and Surgeon's Certificate No.
A28858

Respondent.

Case No. 17-2005-169843
OAH No. L2006100478
STIPULATED SETTLEMENT AND DISCIPLINARY ORDER

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs (Division), the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Division for approval and adoption as the final disposition of the Accusation.

PARTIES

1. David T. Thornton (Complainant) is the Executive Director of the Medical Board of California. He brought this action solely in his official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by E. A. Jones III, Deputy Attorney General.
2. Respondent Paul Fleiss, M.D. (respondent) is represented in this proceeding by attorney Gary Wittenberg, whose address is Baranov & Wittenberg, LLP, 2049 Century Park East, Suite 2250, Los Angeles, CA. 90067.

3. On or about March 21, 1975, the Medical Board of California issued Physician’s and Surgeon’s Certificate No. A28858 to. The certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 17-2005-169843 and will expire on September 30, 2007, unless renewed.

JURISDICTION

4. Accusation No. 17-2005-169843 was filed before the Division and is currently pending against. A true and correct copy of the Accusation and all other statutorily required documents were properly served on on September 13, 2006. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 17-2005-169843 is attached as exhibit A and incorporated herein by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, discussed with counsel, and fully understands the charges and allegations in Accusation No. 17-2005-169843. Respondent has also carefully read, discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.
CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in the Fifth Cause for Discipline (Failure to Maintain Adequate Records) in Accusation No. 17-2005-169843.

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

CIRCUMSTANCES IN MITIGATION

10. Respondent reaffirms his policy of referring to a specialist patients who present with HIV/AIDS issues. Respondent voluntarily successfully completed the 17.25 hour medical record keeping course of the Physician Assessment and Clinical Education Program at the University of California, San Diego Medical School early in these proceedings. The Medical Board of California received over a hundred letters from generations of patients and parents supporting Respondent, including declarations from the mothers of the two patients who are the subjects of the accusation. Respondent maintains that he properly counseled the parents of the patients regarding the standard of care for dealing with HIV/AIDS issues.

RESERVATION

11. The admissions made by herein are only for the purposes of this proceeding, or any other proceedings in which the Division, or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. This stipulation shall be subject to approval by the Division. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Division regarding this stipulation and settlement, without notice to or participation by or his counsel. By signing the stipulation, understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Division considers and acts upon it. If the Division fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Division shall not be disqualified from further action by having considered this matter.

OTHER MATTERS

13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Division may, without further notice or opportunity to be heard by respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A28858 issued to Paul Fleiss, M.D. is revoked. However, the revocation is stayed and respondent is placed on probation for thirty-five (35) months on the following terms and conditions.

1. EDUCATION COURSE Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, respondent shall submit to the Division or its designee for its prior approval educational program(s) or course(s) which shall not be less than 15 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge as noted in the accusation and shall be Category I certified, limited to classroom, conference, or seminar settings. The educational program(s) or course(s) shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Division or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 40 hours of continuing medical education for each year of probation of which 15 hours were in satisfaction of this condition.

2. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of the effective date of this decision, respondent shall enroll in a course in medical record keeping,
at respondent’s expense, approved in advance by the Division or its designee. Failure to
successfully complete the course during the first 6 months of probation is a violation of
probation.

A medical record keeping 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.

3. MONITORING - PRACTICE  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 monitor 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 shall be monitored on a quarterly basis 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 and whether respondent is
practicing medicine safely.

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 five
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 three calendar days after being so notified by the Division or designee.

In lieu of a monitor, respondent may participate in a professional enhancement
program equivalent to the one offered by the Physician Assessment and Clinical Education
Program at the University of California, San Diego School of Medicine, that includes, at
minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of
professional growth and education. Respondent shall participate in the professional enhancement
program at respondent's expense during the term of probation.

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.
4. **NOTIFICATION** Prior to engaging in the practice of medicine, the 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.

5. **SUPERVISION OF PHYSICIAN ASSISTANTS** During probation, respondent is prohibited from supervising physician assistants.

6. **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.

7. **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.

8. **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(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
tavel to any areas outside the jurisdiction of California which lasts, or is contemplated to last,
more than 30 calendar days.

9. **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.

10. **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 and Probation Unit
Compliance.

Respondent’s license shall be automatically cancelled if respondent’s periods of
temporary or permanent residence or practice outside California total 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.
11. **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.

12. **COMPLETION OF PROBATION** Respondent shall comply with all financial obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, respondent's certificate shall be fully restored.

13. **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, 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.

14. **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
respondent’s license. The Division reserves the right to evaluate respondent’s request and to
examine 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 respondent’s 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.

15. **PROBATION MONITORING COSTS** Respondent shall pay the costs
associated with probation monitoring each and every year of probation, as designated by the
Division. Such costs, which may be adjusted on an annual basis, 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.

**ACCEPTANCE**

I have carefully read the above Stipulated Settlement and Disciplinary Order and
have fully discussed it with my attorney, Gary Wittenberg. I understand the stipulation and the
effect it will have on my Physician and Surgeon’s Certificate. I enter into this Stipulated
Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
bound by the Decision and Order of the Division of Medical Quality, Medical Board of
California.

DATED: **07/13/2007**

[Signature]

PAUL FLEISS, M.D.,
Respondent
I have read and fully discussed with Paul Fleiss, M.D. the terms and conditions
and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
its form and content.

DATED: 7-6-07

GARY WITTIENBERG
Attorney for Respondent

ENDORSEMENT

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

DATED: 7/16/07

EDMUND G. BROWN JR., Attorney General
of the State of California

PAUL C. AMENT
Supervising Deputy Attorney General

E. A. JONES III
Deputy Attorney General

Attorneys for Complainant
I have read and fully discussed with Paul Fleiss, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: ____________________

GARY WITTEMBERG
Attorney for Respondent

ENDORSEMENT

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

DATED: 7/16/07

EDMUND G. BROWN JR., Attorney General of the State of California

PAUL C. AMENT
Supervising Deputy Attorney General

E. A. JONES III
Deputy Attorney General

Attorneys for Complainant