New York State Board for Professional Medical Conduct



Corning Tower • Empire State Plaza • Albany, NY 12237 • (518) 474-8357

Barbara A. DeBuono, M.D., M.P.H. Commissioner of Health

Charles J. Vacanti, M.D. Chair

May 21, 1996

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Chun Chung Chan, M.D. Madera Family Medical Group Department of Pediatrics 1111 W. 4th Street Madera, California 93637

119055

RE: License No. 1109

Dear Dr. Chan:

Effective Date: 05/28/96

Enclosed please find Order #BPMC 96-121 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

> Board for Professional Medical Conduct New York State Department of Health **Empire State Plaza** Tower Building-Room 438 Albany, New York 12237-0756

Sincerely, Charles Val Ande

Charles Vacanti, M.D. Chair Board for Professional Medical Conduct

Enclosure

cc: Donald R. Fischback, Esq. Baker, Manock & Jensen Fig Garden Financial Center 5260 North Palm Avenue, 4th Floor Fresno, California 93704-2209

E. Marta Sachey, Esq.

STATE OF NEW YORK : DEPARTMENT OF HEALTH STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT IN THE MATTER : OF : ORDER CHUN C. CHAN, M.D. : BPMC # 96-121

Upon the application of CHUN C. CHAN, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall take effect as of the date of the personal service of this order upon Respondent, upon receipt by Respondent of this order via certified mail, or seven days after mailing of this order by certified mail, whichever is earliest.

SO ORDERED,

DATED: 17 104 1996

John J. Kacanta

Charles J. Vacanti, M.D. Chairperson State Board for Professional Medical Conduct

STATE OF CALIFORNIA) ss.: COUNTY OF MADERA)

CHUN CHUNG CHAN, M.D., being duly sworn, deposes and says:

I was licensed to practice as a physician in the State of New York, having been issued License No. 110955 by the New York State Education Department.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York. My address is 1111 W. 4th Street, Madera, California, 93637.

I understand that the New York State Board for Professional Medical Conduct has charged me with one specification of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit "A". I admit guilt to the specification of professional misconduct as set forth in the Statement of Charges. I hereby agree to the penalty that my license to practice medicine in the State of New York be suspended for five years, said suspension be stayed, and that I will be placed on probation under the Terms of Probation, attached hereto and made a part hereof.

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.

(tie - l' f lin Wer.

CHUN CHUNG CHAN, M.D. RESPONDENT

Sworn to before me this First , day of may , 1996. ates ĨL. NOTARY PUBLIC



The undersigned agree to the attached Application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

<u>Dray 1. 1996</u> DATE:

1996 DATE: May 14

DATE: Mary 1486

DATE: 11 May 1991

CHUN CHUNG CHAN, M.D. Respondent

E. MARTA SACHEY ASSOCIATE COUNSEL Bureau of Professional Medical Conduct

ANNE F. SAILE

ACTING DIRECTOR Office of Professional Medical Conduct

CHARLES J. VACANTI, M.D. CHAIRPERSON State Board for Professional Medical Conduct

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California	
County of Madera	
On May 1/996 before	me, Milly N. Cate, Dolary Tuble, , NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"
personally appeared	Chan m.D.
	NAME(S) OF SIGNER(S)
X personally known to me - OR -	proved to me on the basis of satisfactory evidence
	to be the person(x) whose name(x) is/are subscribed to the within instrument and ac-
	knowledged to me that he/spe/they executed
	the same in his/ber/their authorized
	capacity (bes), and that by his/ber/their
	signature(s) on the instrument the person(s), or the entity upon behalf of which the
BETTY R. CATES	person(c) acted, executed the instrument.
COMM. # 987538	F (·) - · · ·
MADERA COUNTY Wy Comm. Expires APR 16, 1997	WITNESS my hand and official seal.
	SIGNATURE DE NOTARY
	SIGNATURE OF NOTARY
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No. 5907

STATE OF NEW YORK : DEPARTMENT OF HEALTH STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN	THE M	ATTER		•	SIAIEMENI
	OF			:	OF
CHUN	CHUNG	CHAN,	M.D.	:	CHARGES

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CHUN CHUNG CHAN, M.D., the Respondent, was authorized to practice medicine in New York State on March 1, 1974 by the issuance of license number 119055 by the New York State Education Department. Respondent is not currently registered with the New York State Education Department to practice medicine in New York State.

FACTUAL ALLEGATIONS

- The Medical Board of California, by Decision and Order effective July 27, 1995, pursuant to a Stipulation in Settlement entered into with Respondent, <u>inter alia:</u>
 - Revoked Respondent's certificate and stayed the revocation;
 - Placed Respondent on probation for five years;
 - Required Respondent to take and pass an examination in pediatric medicine;
 - Required Respondent to complete not less than forty hours of education programs or courses each year of the probation;

EXMIBIT H

- Required Respondent to complete an intensive clinical training program in pediatric medicine:
- Required Respondent to provide free medical service to a community or charitable facility or agency for at least 480 hours during the probation period;
- Required that Respondent's practice be monitored by another physician;
- Required Respondent to procure membership in a group practice and prohibited Respondent from engaging in solo practice thereafter; and
- Suspended Respondent from practicing medicine for thirty days if Respondent did not procure membership in a group practice acceptable to the Board within 180 days of the Board's order.
- 2. The conduct underlying the California Board's imposition of disciplinary action upon Respondent consisted of gross negligence and repeated negligent acts as set forth in Calif. Business and Professions Code §\$2234(b) and(c). More specifically, it concerned the office and hospital care of an eleven year old patient who eventually suffered cardiac arrest and irreversible brain damage from oxygen deprivation. The conduct included, <u>inter alia</u>, failing to order adequate IV and electrolytes, blood gas determinations and cardiac and fluid input/output catherization monitoring and failing to seek a pediatric consultation.
- 3. The conduct underlying the California Board's imposition of disciplinary action upon Respondent would, if

committed in New York State, constitute professional misconduct under N.Y. Educ. Law §6530(4) [gross negligence on a particular occasion] and/or §6530(3) [negligence on more than one occasion] (McKinney Supp. 1996).

SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(9)(d) (McKinney Supp. 1996) by reason of having his license to practice revoked, suspended or having other disciplinary action taken,, or having his application for a license refused, revoked or suspended or having voluntarily or otherwise surrendered his license after a disciplinary action was instituted by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the revocation, suspension or other disciplinary action involving the license or refusal, revocation, suspension of an application for license or the surrender of the license would, if committed in New York State, constitute professional misconduct under the laws of New York State, in that Petitioner charges the facts in Paragraphs 1 through 3.

DATED: Albany, New York

PETER D. VAN BUREN Deputy Counsel Bureau of Professional Medical Conduct

TERMS OF PROBATION

- 1. Respondent will personally meet with a member of the Office of Professional Medical Conduct staff on a annual basis at the discretion of the Director of the Office or designee.
- 2. Respondent will conform fully:
 - a. to the professional standards of conduct imposed by law and by his profession;
 - b. with all civil and criminal laws, rules and regulations.
- 3. Respondent will notify the Office of Professional Medical Conduct of:
 - a. any and all investigations, charges, convictions or disciplinary actions taken by any local, state or federal agency, institution or facility, within thirty days of each action;
 - b. any and all changes in personal and professional addresses and telephone numbers and facility affiliations, within 30 days of such changes. This will include any change in practice location, within or outside of New York State. The date of departure from New York State, and the date of return, if any, must be reported in writing.

Failure to notify the Office of Professional Medical Conduct of any of the above will be considered a violation of probation.

- 4. Respondent will maintain legible and complete medical records which accurately reflect evaluation and treatment of patients. Records will contain a comprehensive history, physical examination findings, chief complaint, present illness, diagnosis and treatment. In cases of prescribing, dispensing, or administering of controlled substances, the medical record will contain all information required by state rules and regulations regarding controlled substances.
- 5. Respondent will renew the Registration of his license with the New York State Department of Education and will submit proof of this payment and the renewal of his Registration to the Director of OPMC within 30 days of the date of this Order. Respondent will maintain the Registration of his license during the period of Stayed Suspension imposed by this Order. Failure to maintain a Current Registration will be considered a violation of the terms of the Order and of this Probation.

6. a. Respondent shall comply fully with the Decision and Order, effective July 27, 1995, of the Medical Board of California and any subsequent modification thereof. A copy of the Decision and Order is attached hereto as Exhibit B.

b. Respondent shall provide the Medical Board of California a written authorization to provide the Director of the Office of Professional Medical Conduct with any/all information or documentation as deemed necessary and semi-annual compliance reports. Such reports will verify the Respondent's compliance with the Decision and Order of the California Medical Board.

- c. Respondent shall submit quarterly a signed Compliance Declaration to the Office of Professional medical Conduct, which will attest that Respondent has been in compliance with the Decision and Order of the California Medical Board during the declaration period specified. Misrepresentation of compliance will be considered a violation of this term of probation.
- d. Respondent's failure to comply with any of the above requirements will be considered a violation of probation, subject to a violation proceeding as authorized by law.
- e. Should Respondent wish to resume practice in New York State, he must notify the Director of the Office of Professional Medical Conduct of his intention to do so and submit a statement to the Director from the California Medical Board attesting that he is in full compliance with the terms and conditions of the Decision and Order of the California Medical Board.
- 7. So long as there is full compliance with every term herein set forth, Respondent may continue to practice his profession in accordance with the terms of probation. Upon receipt of evidence of non compliance with, or any violation of these terms, the Director of the Office of Professional Medical Conduct and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized by law.
 - a. Respondent shall assume and bear all costs related to compliance with the terms of probation.
 - b. If Respondent does not practice medicine in New York State, the probation period will be tolled and the period will then be extended by the length of the period outside of New York. Any terms of probation which were not fulfilled while Respondent was in New York State, must be fulfilled upon return to New York State. Terms of

Probation 1 through 6 above, are not tolled if the Respondent does not practice medicine in New York State.

- 8. If Respondent practices medicine in New York State during the probation period, his practice of medicine shall be monitored by a physician monitor, board certified in an appropriate specialty, ("practice monitor") approved in advance, in writing, by the Director of the Office of Professional Medical Conduct or designee. Respondent may not practice medicine until an approved practice monitor and monitoring program is in place. When submitting the name of the practice monitor, the name and curriculum vitae shall be submitted to OPMC. Any practice of medicine prior to the submission and approval of a proposed practice monitor will be determined to be a violation of probation.
 - The practice monitor shall report in writing to the a. Director of the Office of Professional Medical Conduct or designee, on a schedule to be determined by the The practice monitor shall visit Respondent's office. medical practice at each and every location, on a random basis at least quarterly and shall examine a random (no less than 10) selection of records maintained by Respondent, including patient histories, prescribing information and billing records. Respondent will make available to the monitor any and all records or access to the practice requested by the The review monitor, including on-site observation. will determine whether Respondent's medical practice is conducted in accordance with the generally accepted standards of professional medical care. Any perceived deviation of accepted standards of medical care or refusal to cooperate with the monitor shall immediately be reported to the Office of Professional Medical Conduct by the monitor.
 - b. Any change in practice monitor must be approved in writing, in advance, by the Office of Professional Medical Conduct.
 - c. All expenses associated with monitoring, including fees to the monitoring physician, shall be the sole responsibility of Respondent.
 - d. It is the responsibility of Respondent to ensure that the reports of the practice monitor are submitted in a timely manner. A failure of the practice monitor to submit required reports on a timely basis will be considered a possible violation of the terms of probation.
 - e. If Respondent practices medicine in New York State during the probation period, Respondent must maintain medical malpractice insurance coverage with limits no

less than \$2 million per occurrence and \$6 million per policy year, in accordance with Section 230(18)(b) of the Public Health Law. Proof of coverage shall be submitted to the Director or designee prior to the placement of a practice monitor.

• • •						
l	DANIEL E. LUNGREN, Attorney General					
2	of the State of California JANA L. TUTON					
3	Supervising Deputy Attorney General FRED A. SIMP II					
4	Deputy Attorney General 1515 K Street, Suite 511					
5	P.O. Box 944225 Sacramento, California 94244-2550 Telephone: (916) 324-7861					
6	Telephone: (916) 324-7861 p_{357}^{-1}					
7	Attorneys for Complainant					
8	-					
9	BEFORE THE DIVISION OF MEDICAL QUALITY					
10	- MEDICAL BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS					
11	STATE OF CALIFORNIA					
. 12	In the Matter of the Accusation)					
13	Against:) No. D-5538)					
14	CHUN CHUNG CHAN, M.D.) STIPULATION IN SETTLEMENT; 1130 Country Club Dr., Ste. E) DECISION AND AWARD					
15	Madera, CA 93638)					
16	Physician's and Surgeon's) Certificate No. A-30506)					
17) Respondent.)					
18)					
19	Respondent, Chun Chung Chan, M.D., by and through his					
20	counsel Donald R. Fischbach and Baker, Manock & Jensen, and the					
21	Division of Medical Quality, Medical Board of California					
22	(hereinafter "Board"), through its counsel Deputy Attorney General					
23	Fred A. Slimp II, do hereby enter into the following stipulation:					
24	1. Respondent Chun Chung Chan, M.D. (hereinafter					
25	"respondent") was heretofore issued physician's and surgeon's					
26	certificate number A-30506 under the laws of the State of					
27	California. At all times pertinent hereto, said certificate was					
28	in full force and effect, and will expire on November 30, 1995.					
	_					

EXME - C

On or about November 9, 1993, an Accusation bearing 2. number D-5538 was filed by Dixon Arnett, Executive Director of the Board, in his official capacity as such. Said Accusation alleges causes for disciplinary action against respondent. Respondent was duly and properly served with Accusation No. D-5538 by certified mail, and respondent filed a timely Notice of Defense requesting a hearing on the charges contained in the Accusation. 7

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Respondent has retained as counsel Donald R. 3. 8 Fischbach and Baker, Manock & Jensen, who have made respondent 9 fully aware of the charges and allegations of violation of the 10 California Business and Professions Code contained in Accusation 11 No. D-5538, and have also made him fully aware of his rights under 12 the Administrative Procedure Act of the State of California, 13 including his right to a formal hearing and opportunity to defend 14 against the charges contained in Accusation No. D-5538, and 15 reconsideration and appeal of any adverse decision that might be 16 rendered following said hearing. Respondent knowingly and 17 intelligently waives his rights to a hearing, reconsideration, 18 appeal, and to any and all other rights which may be accorded him 19 pursuant to the Administrative Procedure Act regarding the charges 20 contained in Accusation No. D-5538. 21

4. Since the filing and service of Accusation No. D5538, 22 an additional investigation has commenced concerning respondent's 23 treatment in 1990 of patient A.R. It is the intent of the parties 24 to this stipulation to settle the outstanding investigation 25 concerning patient A.R. and any and all other outstanding 26 investigations, if any there be, by means of this stipulation 27 also, and therefore the parties explicitly incorporate said 28

investigation herein.

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5. For the purposes of this settlement only, and denying said allegations for any other purpose or in any other forum or proceeding, respondent admits the truth of the allegations in Accusation No. D-5538.

6. Based on the foregoing, the Division of Medical
7 Quality, Medical Board of California, may issue the following
8 order: Certificate number A-30506 issued to respondent Chun Chung
9 Chan is revoked. However, revocation is stayed and respondent is
10 placed on probation for five (5) years upon the following terms
11 and conditions:

Within sixty (60) days from the effective date (A) 12 of the Board's decision herein, respondent shall take and pass an 13 oral or written examination in pediatric medicine administered by 14 the Division or its designee. If respondent fails this 15 examination, respondent must take and pass a reexamination 16 consisting of a written as well as an oral examination. The 17 waiting period between repeat examinations shall be three (3) 18 months until success is achieved. Respondent shall pay the cost 19 of the first examination and any subsequent re-examinations, if 20 necessary. If respondent fails the first examination, respondent 21 shall cease the practice of medicine until the re-examination has 22 been successfully passed, as evidenced by written notice to 23 respondent from the Division. Failure to pass the required 24 examination no later than 100 days prior to the termination date 25 of probation shall constitute a violation of probation; 26

(B) Within ninety (90) days of the effective date
of the Board's decision herein, and on an annual basis thereafter,

respondent shall submit to the Division for its prior approval an 1 educational program or course to be designated by the Division 2 which shall not be less than 40 hours per year for each year of 3 This program shall be in addition to the continuing probation. 4 medical education requirements for re-licensure. Following the 5 completion of each course, the Division or its designee may 6 administer an examination to test respondent's knowledge of the 7 course. Respondent shall provide proof of attendance for 65 hours 8 of continuing medical education of which 40 hours were in 9 satisfaction of this condition and were approved in advance by the 10 11 Division;

Within ninety (90) days of the effective date 12 (C) of the Board's decision herein, respondent shall submit to the 13 Division for its prior approval an intensive clinical training 14 program in pediatric medicine. The exact number of hours and the 15 specific content of the program shall be determined by the 16 Division or its designee. Respondent shall successfully complete 17 the training program and may be required to pass an examination 18 administered by the Division or its designee related to the 19 20 program's contents;

(D) Within sixty (60) days of the effective date 21 of the Board's decision herein, respondent shall submit to the 22 Division for its prior approval a community service program in 23 which respondent shall provide free medical services on a regular 24 basis to a community or charitable facility or agency for at least 25 480 hours during probation. Such provision of free medical 26 services shall not commence prior to respondent's successful 27 completion of all of the three (3) following conditions: (1) 28

passing of the oral clinical examination required by paragraph 6(A), supra; (2) successful completion of 40 hours of continuing medical education coursework during the first year of probation in addition to the hours required for maintenance of licensure; and (3) successful completion of the intensive clinical training program required by paragraph 6 (C), supra;

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Within thirty (30) days of the effective date 7 (E) of the Board's decision herein, respondent shall submit to the 8 Division for its prior approval a plan of practice in which 9 respondent's practice shall be monitored by another physician in 10 respondent's' field of practice, who shall provide quarterly 11 reports to the Division. Said monitoring shall continue from the 12 date of the Division's approval of respondent's monitoring plan 13 until the termination of a period of twelve (12) months from 14 respondent's successful completion of all of the three (3) 15 following conditions: (1) passing of the oral clinical examination 16 required by paragraph 6(A), supra; (2) successful completion of 40 17 hours of continuing medical education coursework in the first year 18 of probation in addition to the hours required for maintenance of 19 licensure; and (3) successful completion of the intensive clinical 20 training program required by paragraph 6(C), supra. If the 21 monitor resigns or is no longer available, respondent shall within 22 fifteen (15) days move to have a new monitor appointed through 23 nomination by respondent and approval by the Division. Respondent 24 shall bear all costs generated by this provision; 25

(F) Respondent shall procure membership in a group
practice acceptable to the Board within one hundred eighty (180)
days from the effective date of the Board's decision herein, and

shall be prohibited from engaging in solo practice thereafter. Ιf 1 respondent has not procured membership in a group practice 2 acceptable to the Board within 180 days from the effective date of 3 the Board's decision herein, respondent is suspended from the 4 practice of medicine for a period of thirty days commencing on the 5 one hundred eighty-first (181st) day from the effective date of 6 the Board's decision herein. 7 (G) Respondent shall obey all federal, state and 8

9 local laws and all rules governing the practice of medicine in 10 California;

(H) 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;

(I) Respondent shall comply with the Division'ssurveillance program;

(J) Respondent shall appear in person for
interviews with the Division's medical consultant upon request at
various intervals and with reasonable notice;

The period of probation shall not run during 20 (K) the time respondent is residing or practicing outside the 21 jurisdiction of California. If, during probation, respondent 22 moves out of California to reside or practice elsewhere, 23 respondent is required to immediately notify the Division in 24 writing of the date of departure and the date of return, if any; 25 Upon successful completion of probation, 26 (L) respondent's certificate will be fully restored; 27 28 111

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If respondent violates probation in any (M) respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final; and

9 (N) Commencing thirty (30) days from the effective date 10 of the Board's decision herein, respondent shall pay the sum of 11 two thousand five hundred dollars (\$2500) to the Division at the 12 rate of one hundred dollars (\$100) per month as contribution to 13 the actual and reasonable costs of the investigation and 14 prosecution of this matter.

IT IS FURTHER STIPULATED AND AGREED that the terms 7. set forth herein shall be null and void and not binding upon the parties hereto unless approved by the Medical Board of California, but that after respondent has signed the stipulation herein he

shall not be permitted to withdraw from the stipulation unless or 1 until it is rejected by the Board. 2 my 26,1795 3 DATED: DANIEL E. LUNGREN, Attorney General 4 of the State of California JANA L. TUTON, Supervising Deputy 5 Attorney General 6 -1 SLIMP FRED A. II 7 Deputy Attorney General 8 Attorneys for Complainant 9 DATED: May 18, 1995 10 R. ESQ. DONALD FISCHBACH, BAKER, MANOCK & JENSEN 11 Attorneys for Respondent 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

1	I HAVE READ the stipulation, decision and order. I
2	understand that I have the right to a hearing on the charges
3	contained in the Accusation, the right to cross-examine witnesses,
4	and the right to introduce evidence in my favor. I knowingly,
5	voluntarily, and intelligently waive all of these rights, and
6	understand that by signing this stipulation I am permitting the
7	Board to impose discipline against my license. I understand the
8	terms and ramifications of the stipulation, decision and order,
9	and agree to be bound by those terms.
10	DATED: May 17, 1995
11	A Day of the
12	CHUN CHUNG CHAN, M.D.
13	CHUN CHUNG CHAM, M.D. Respondent
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1	DECISION AND ORDER
2	The foregoing is adopted as the Decision of the Division
3	of Medical Quality, Medical Board of California, in this matter
4	and shall become effective on the <u>27thday of</u> July 1995.
5	IT IS SO ORDERED this 27th day of 1995.
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7	DIVISION OF MEDICAL QUALITY
8	Medical Board of California Department of Consumer Affairs
9	State of California
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