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

In the Matter of the Accusation Against:	)	
JOHN W. ALLEN, M.D.	)	File No. 10-2005-165675
Physician's and Surgeon's Certificate No. C 37706	)	
Respondent	)	

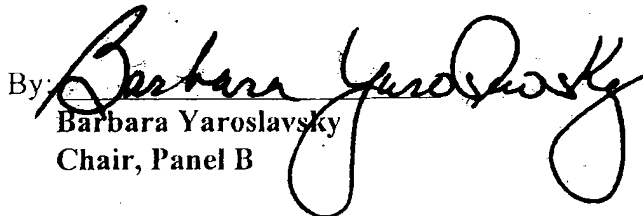
DECISION

The attached Proposed Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order 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 16, 2008.**

IT IS SO ORDERED **September 16, 2008.**

MEDICAL BOARD OF CALIFORNIA

By:

Barbara Yaroslavsky
Chair, Panel B

EDMUND G. BROWN JR., Attorney General
of the State of California
THOMAS S. LAZAR
Supervising Deputy Attorney General
SAMUEL K. HAMMOND, State Bar No. 141135
Deputy Attorney General
California Department of Justice
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Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 10-2005-165675
JOHN W. ALLEN, M.D. 11238 Quail Canyon Road El Cajon, CA 92021	OAH No. L-2007120678
Physician's and Surgeon's Certificate No. C 37706	**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**
Respondent.	

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

PARTIES

1. Barbara Johnston (Complainant) is the Executive Director of the Medical Board of California and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Samuel K. Hammond, Deputy Attorney General.

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1 2. Respondent John W. Allen, M.D. (Respondent) is represented in this
2 proceeding by attorney Robert W. Frank, Esq., Neil, Dymott, Frank, McFall & Trexler, APLC,
3 1010 Second Avenue, Suite 2500, CA 92101-4959.
4 3. On or about October 11, 1977, the Medical Board of California issued
5 Physician's and Surgeon's Certificate No. C 37706 to John W. Allen, M.D. The Certificate
6 was in full force and effect at all times relevant to the charges brought in Accusation
7 No. 10-2005-165675 and will expire on April 30, 2009, unless renewed.
8 JURISDICTION
9 4. On October 10, 2007, Accusation No. 10-2005-165675 was filed against
10 respondent before the Medical Board of California, Department of Consumer Affairs ("Board").
11 A true and correct copy of the Accusation and all other statutorily required documents were
12 properly served on respondent on October 10, 2007, and respondent timely filed his Notice of
13 Defense contesting the Accusation. A true and correct copy of Accusation No. 10-2005-165675
14 is attached hereto as Exhibit A and is incorporated by reference if fully set forth herein.
15 **ADVISEMENTS AND WAIVERS**
16 5. Respondent has carefully read, discussed with counsel, and fully
17 understands the charges and allegations in Accusation No. 10-2005-165675. Respondent has
18 also carefully read, discussed with counsel, and fully understands the effects of this Stipulated
19 Settlement and Disciplinary Order.
20 6. Respondent is fully aware of his legal rights in this matter, including the
21 right to a hearing on the charges and allegations in the Accusation; the right to confront and
22 cross-examine the witnesses against him; the right to present evidence and to testify on his own
23 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
24 production of documents; the right to reconsideration and court review of an adverse decision;
25 and all other rights accorded by the California Administrative Procedure Act and other applicable
26 laws.
27 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
28 each and every right set forth above.

CULPABILITY

8. Respondent does not contest that at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 10-2005-16565, and that he has thereby subjected his Physician's and Surgeon's Certificate No. C 37706 to disciplinary action. Respondent agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

9. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it.

10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving respondent. In the event that the Board, in its discretion, does not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for any reason, respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

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ADDITIONAL PROVISIONS

11. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

12. The parties agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures of the parties, may be used in lieu of original documents and signatures and, further, that facsimile copies shall have the same force and effect as originals.

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

DISCIPLINARY ORDER

A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that respondent John W. Allen, M.D., Physician's and Surgeon's Certificate No. C 37706, shall be Publicly Reprimanded pursuant to California Business and Professions Code section 2227, subdivision (a)(4). This Public Reprimand shall be issued in connection with respondent's care and treatment of patient C.H. as set forth in Accusation No. 10-2005-165675, as follows:

Between about December 19, 2004 and February 22, 2005, you provided psychiatric care to patient C.H. at the Alvarado Parkway Institute (API). Patient C.H. had been transported to API by the police who found him naked on the public street. Patient C.H. had a medical history that included treatment-resistant paranoid schizophrenia and poly-substance abuse, and he had suffered numerous prior admissions to API with poor response to antipsychotic treatments. In about May 2002, patient C.H. was prescribed Clozapine which caused a drop in his white blood cells (WBC). Because of this adverse reaction to Clozapine, patient C.H. was placed on the manufacturer's registry's "Do Not Re-Challenge" list. On January 31, 2005, you initiated treatment with Clozaril (Clozapine) 25 mg. per day because patient C.H.'s auditory hallucinations, delusional thoughts and threatening behavior did not improve despite treatment

with several other anti-psychotic drugs. You increased the Clozaril dosage daily until February 13, 2005, when patient C.H. was administered a maximum daily dosage of 300 mg. per day. The Clozaril medication caused a life-threatening drop of patient C.H.'s WBC requiring admission to the ICU.

You initiated treatment with Clorazil without reviewing patient C.H.'s medical records at API to determine if he had ever been prescribed Clozaril. Also, you failed to adequately supervise and monitor patient C.H.'s WBC between February 11, 2005 and February 22, 2005, and you failed to adequately supervise staff to ensure the "weekly WBC checks" required for patients on Clozaril. Said conduct constitutes unprofessional conduct in violation of Code section 2234, subdivision (c).

B. **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 Board or its designee. Failure to successfully complete the course during the first 6 months of probation is a violation of probation and grounds for further disciplinary action.

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 Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board 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 Board 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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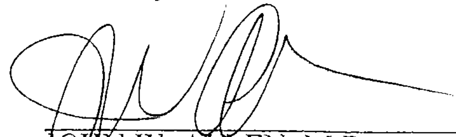
ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert W. Frank, Esq. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. C 37706. With the benefit of counsel, 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 Board.

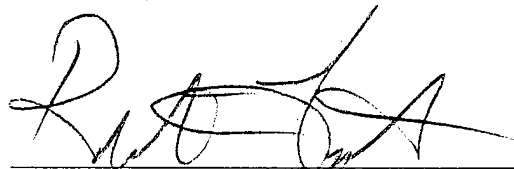
DATED: 7-3-08.



JOHN W. ALLEN, M.D.
Respondent

I have read and fully discussed with respondent John W. Allen, 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: 7-3-08.



ROBERT W. FRANK, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: 7/3/08.

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

THOMAS S. LAZAR
Supervising Deputy Attorney General

SAMUEL K. HAMMOND
Deputy Attorney General

Attorneys for Complainant

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EXHIBIT A

ACCUSATION NO. 10-2005-165675

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 SAMUEL K. HAMMOND, State Bar No. 141135
Deputy Attorney General
4 California Department of Justice
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8
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO October 10, 20 07
BY [illegible] ANALYST

9

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

11
12
13

14 In the Matter of the Accusation Against:

15 JOHN W. ALLEN, M.D.
11238 Quail Canyon Road
16 El Cajon, CA 92021

17 Physician's and Surgeon's Certificate
No. C 37706

18

Respondent.

19

Case No. 10-2005-165675

OAH No.

ACCUSATION

20

21 Complainant alleges:

22 PARTIES

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

25 2. On or about October 11, 1977, the Medical Board of California issued
26 Physician's and Surgeon's Certificate No. C 37706 to John W. Allen, M.D. (Respondent). The
27 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the
28 charges brought herein and will expire on April 30, 2009, unless renewed.

JURISDICTION

3. This Accusation is brought before the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs (Division) under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2220 of the Code states:

"Except as otherwise provided by law, the Division of Medical Quality may take action against all persons guilty of violating this chapter [Chapter 5, the Medical Practice Act]. The division shall enforce and administer this article as to physician and surgeon certificate holders, and the division shall have all the powers granted in this chapter for these purposes including, but not limited to:

"(a) Investigating complaints from the public, from other licensees, from health care facilities, or from a division of the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying any report received pursuant to Section 805 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805.

"(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

"(c) Investigating the nature and causes of injuries from cases which shall be reported of a high number of judgments, settlements, or arbitration awards against a physician and surgeon."

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not

1 to exceed one year, placed on probation and required to pay the costs of probation monitoring, or
2 such other action taken in relation to discipline as the Division deems proper.
3 6. Section 2234 of the Code states:
4 "The Division of Medical Quality shall take action against any licensee who is
5 charged with unprofessional conduct. In addition to other provisions of this article,
6 unprofessional conduct includes, but is not limited to, the following:
7 "(a) Violating or attempting to violate, directly or indirectly, assisting in or
8 abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5,
9 the Medical Practice Act].
10 "(b) Gross negligence.
11 "(c) Repeated negligent acts. To be repeated, there must be two or more
12 negligent acts or omissions. An initial negligent act or omission followed by a separate
13 and distinct departure from the applicable standard of care shall constitute repeated
14 negligent acts.
15 "(1) An initial negligent diagnosis followed by an act or omission medically
16 appropriate for that negligent diagnosis of the patient shall constitute a single negligent
17 act.
18 "(2) When the standard of care requires a change in the diagnosis, act, or
19 omission that constitutes the negligent act described in paragraph (1), including, but not
20 limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's
21 conduct departs from the applicable standard of care, each departure constitutes a separate
22 and distinct breach of the standard of care.
23 "(d) Incompetence.
24 "(e) The commission of any act involving dishonesty or corruption which is
25 substantially related to the qualifications, functions, or duties of a physician and surgeon.
26 "(f) Any action or conduct which would have warranted the denial of a certificate.
27 ". . . ."
28 ///

CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

7. Respondent, John W. Allen, M.D. has subjected his Physician's and Surgeon's Certificate No. C 37706 to disciplinary action under section Code section 2234, as defined by Code section 2234, subdivision (c) in his care, treatment and management of patient C.H. The circumstances are as follows:

A. On or about December 19, 2004, C.H., a 38 year-old patient, was admitted, involuntarily, to the Alvarado Parkway Institute (API), a psychiatric hospital, under respondent's care. The patient had been transported to API by the police who found him naked on the public street. The patient had a medical history that included treatment-resistant paranoid schizophrenia, poly-substance dependence and diabetes mellitus II. He had suffered numerous prior psychiatric admissions at API and elsewhere, with poor response to antipsychotic drug treatments. In about May 2002, C.H. was prescribed Clozapine which caused a drop in his white blood cells (leukopenia). Because of this adverse reaction to Clozapine, C.H. was placed on the manufacturer's registry's "Do Not Re-Challenge" list.[1] C.H. was under a conservatorship.

B. Between December 19, 2004 and January 30, 2005, the patient's agitation, paranoia, suicidal ideation, intense auditory hallucinations, delusional thoughts and threatening behavior continued despite treatment with several antipsychotic drugs including Haldol, Lithium Carbonate and Geodon[2].

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1. Clozaril is the brand name for Clozapine. It is described in the PDR as an "atypical" anti-psychotic drug and is indicated for treatment of the management of severely schizophrenic patients. Because of the substantial risk of agranulocytosis (defined as an absolute neutrophil count of less than 500/mm3), the manufacturer of the drug (as well as manufacturers of its generic form) are required by the FDA to maintain National Registries which contain lists of all patients on the drug or its generic forms. Patients who have suffered adverse reactions to the drug are placed on "Do Not Re-Challenge" list. The Warning Label requires physicians to obtain White Blood Cell (WBC) count before initiation of treatment and to obtain at least weekly WBC counts for the first week of treatment.

2. Haldol is a brand name for Haloperidol. It is indicated for the management of manifestations of psychotic disorders. Lithium Carbonate is indicated for treatment of manic

C. On January 31, 2005, respondent initiated treatment of the patient with Clozaril (Clozapine) 25 mg. a day with the dosage to be increased by 25 mg. a day until a maximum dosage of 300 mg. per day. Respondent initiated treatment with Clozaril without ordering a complete blood count (CBC) to obtain "a baseline" WBC count on the patient.[3] Further, respondent failed to review the patient's medical records of previous admissions at API to determine if the patient ever had been prescribed Clozaril, and failed to check the national registry to determine the patient had ever been prescribed Clozaril. Respondent also failed to inform the patient's family members that he was initiating treatment of the patient with Clozaril.

D. The patient's Clozaril was increased (titrated) daily until the dosage of 300 mg. per day was reached on or about February 13, 2005. Respondent failed to obtain the required weekly WBC count on the patient. On or about February 19, 2005, the Clozaril dosage was decreased to 200 mg. per day. On or about February 21, 2005, the patient's temperature was noted to be 101.2. On or about February 22, 2005, the patient's WBC was obtained for the first time since February 11, 2005. The WBC was 700. Respondent discontinued the Clozaril and ordered the patient transferred to another University Community Medical Center (UCMC) for medical treatment and stabilization. At UCMC, the patient's temperature was noted to be 105 and his WBC was 500. He was diagnosed with Clozaril induced neutropenia with neutropenic sepsis along with schizoaffective disorder. After treatment, the patient was transferred to the Alvarado Medical Center where he remained in the ICU for about three weeks and was discharged on or about March 24, 2005.

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episodes in manic depressive illness. Geodon is a brand name for Ziprasidone, is indicated for the treatment of schizophrenia.

3. The patient's WBC count was 8,700 with 56% neutrophils on December 28, 2004; was 7,400 with 51% neutrophils on January 4, 2005; was 4,500 with 42.6% neutrophils on February 8, 2005; and was 4,200 with 51.5% neutrophils on February 11, 2005.

E. Between about January 31 and February 22, 2005, C.H.'s mother attempted to contact respondent through his social worker and the conservator, to inform respondent about her son's adverse reaction to Clozaril administered during previous hospital admissions. Respondent did not respond to the patient's mother. The patient's mother also left a message with respondent's office informing respondent that C.H. "should not be on Clozaril" and the Clozaril "drops his white cell count and nearly killed him once." The patient's mother requested respondent call her back. Respondent never called her back.

8. Respondent committed repeated negligent acts in his care and treatment of patient C.H. which included, but is not limited to the following:

A. Respondent failed to order a CBC in order to obtain a baseline WBC before initiating treatment with Clozaril.

B. Respondent failed to monitor the patient's WBC at any time between February 11 and February 22, 2001.

C. Respondent failed to perform the required "at least weekly" WBC checks after the initiating treatment with Clozaril.

D. Respondent initiated treatment of the patient with Clozaril without making any inquiry and/or document he made any inquiry, to determine if the patient had ever been prescribed Clozaril, or if the patient was listed on the manufacturer's national registry.

E. Respondent failed to adequately communicate with the patient's family or his conservator before making the important decision to initiate treatment of the patient with Clozaril.

PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Division issue a decision:

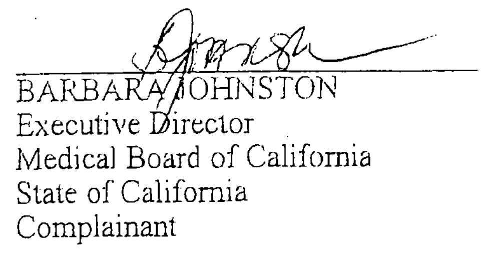
1. Revoking or suspending Physician's and Surgeon's Certificate No. C 37706, issued to John W. Allen, M.D.,

2. Revoking, suspending or denying approval of John W. Allen, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

3. Ordering John W. Allen, M.D. to pay the Board the costs of probation monitoring if placed on probation; and

4. Taking such other and further action as deemed necessary and proper.

DATED: October 10, 2007



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

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