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

In the Matter of the Petition to Revoke Probation Against:	)	
CLEMMIE LEE WILLIAMS, M.D.	)	Case No. 800-2016-027242
Physician's and Surgeon's Certificate No. A 36026	)	
Respondent	)	

DECISION AND ORDER

The attached Proposed Decision 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 February 23, 2018.

IT IS SO ORDERED: January 26, 2018.

MEDICAL BOARD OF CALIFORNIA

Kristina D. Lawson, J.D., Chair
Panel B

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation Against: CLEMMIE LEE WILLIAMS, M.D., Physician's and Surgeon's Certificate Number A36026, Respondent.	Case No. 800-2016-027242 OAH No. 2017051081

PROPOSED DECISION

Administrative Law Judge, Carla L. Garrett, heard this matter in Los Angeles, California on November 8, 2017.

Wendy Widlus, Deputy Attorney General, represented Complainant Kimberly Kirchmeyer, Executive Director of the Medical Board of California (Board). Clemmie Lee Williams, M.D. (Respondent) appeared at hearing and represented himself.

Oral and documentary evidence was received, and argument was heard. The record was closed, and the matter was submitted for decision on November 8, 2017.

FACTUAL FINDINGS

1. Complainant executed the Petition to Revoke Probation on February 22, 2017, in her official capacity as the Executive Director of the Board.

2. On November 3, 1980, the Board issued Physician's and Surgeon's Certificate number A36026 to Respondent. The license expired on April 30, 2014, and has not been renewed.

3. The Board disciplined Respondent's certificate, effective October 19, 1998, pursuant to a Stipulated Decision and Disciplinary Order, in which Respondent admitted to the truth of the allegations set forth in the Accusation filed in Case No. 16-96-64771. In brief,

Respondent admitted that he suffered discipline imposed by the Department of the Navy (Navy), Bureau of Medicine and Surgery. Specifically, the Navy revoked Respondent's clinical privileges at the United States Navy Hospital in Naples, Italy, for failing to render safe, quality patient care, for demonstrating deficits in his medical knowledge, expertise and judgment, for failing to maintain complete, adequate, and accurate documentation in his patients' cases, and for failing to improve his patient skills despite preceptor counseling and recommendations.

4. Respondent's certificate was revoked, but the revocation was stayed, and the certificate was placed on probation for five years upon certain terms and conditions.

5. Condition 7 of Respondent's probation provided, in pertinent part, the following:

> "7. PROBATION SURVEILLANCE PROGRAM COMPLIANCE. Respondent shall comply with the Division's probation surveillance program. Respondent shall, at all times, keep the Division informed of his addresses of business and residence which shall both serve as addresses of record. Changes of such addresses shall be immediately communicated in writing to the Division. Under no circumstances shall a post office box serve as an address of record."

(Exhibit 5, pages 0149 - 0150.)

6. Condition 10 of Respondent's probation provided the following:

> "10. VALID LICENSE STATUS. Respondent shall maintain a current and valid license for the length of probation. Failure to maintain such license and to pay all fees shall constitute a violation of probation."

(Exhibit 5, page 0151.)

7. Condition 9 of Respondent's probation stated that in the event Respondent should leave California for more than 30 days, his probation would be tolled. Respondent has not practiced in California since prior to the effective date of his probation, October 19, 1998. Instead, Respondent has resided in Virginia, where he served in the Navy. As such, Respondent's probation was tolled, of which the Board advised Respondent in a letter dated January 27, 1999.

8. On September 15, 2001, Respondent advised the Board's probation unit in writing that his address of record had changed to P.O. Box 9648, Chesapeake, Virginia 23321, effective immediately.

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9. On October 12, 2002, Respondent advised the Board's probation unit in writing that his current address was 4100 Scotfield Drive, Chesapeake, Virginia 23321, which also served at Respondent's residence. The Board continued to send correspondence to Respondent's post office address thereafter, which Respondent received.

10. On March 19, 2004, Respondent advised the Board's probation unit in writing that his address remained P.O. Box 9648, Chesapeake, Virginia 23321.

11. On July 25, 2011, in response to a request from the Board's probation unit that Respondent update his current name, address, and employment status, Respondent advised the Board in writing that his address was "still" 4100 Scotfield Drive, Chesapeake, Virginia 23321, as well as post office box address of P.O. Box 9648, Chesapeake, Virginia 23321. (Exhibit 5, page AGO 0287.) The Board continued to send correspondence to Respondent's post office address thereafter.

12. Respondent failed to pay his annual license renewal fees due by April 30, 2014. On June 13, 2016, the Board's probation unit sent Respondent a letter to his post office box advising Respondent that his medical license expired on April 30, 2014, and reminded Respondent of his duty to maintain a valid license status, pursuant to Condition 10 of his probationary terms. The letter instructed Respondent to bring his license current by July 18, 2016, and that any failure to comply could result in further discipline of Respondent's license. The letter was returned to sender as undeliverable.

13. On July 20, 2016, the Board's probation unit sent Respondent a letter addressed to his residence at 4100 Scotfield Drive, Chesapeake, Virginia 23321, which advised that its correspondence mailed to Respondent's post office box had been returned as undeliverable. The letter to the 4100 Scotfield Drive address was not returned as undeliverable. In the letter, the Board's probation unit requested Respondent to contact it as soon as possible.[1]

14. On September 11, 2017, the Board's probation unit sent correspondence to Respondent at his post office box, but it was again returned with a handwritten note on the envelope stating that Respondent's post office box had been closed for three years. This factor, in part, prompted the Board to initiate probation revocation proceedings against Respondent. The Board proffered no evidence demonstrating that it sent the September 11, 2017 correspondence to Respondent's residence address at 4100 Scotfield Drive, Chesapeake, Virginia 23321 as well, as it had done with its July 20, 2016 correspondence to Respondent.

15. Ann Potter, who has served as a probation manager for the Board for the last 20 months, testified at hearing. Ms. Potter stated that because the probation unit has such large

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[1] It is unclear from the record whether Respondent contacted the Board's probation unit in response to the Board's July 20, 2016 letter.

caseloads, it is important that probationers maintain "one address of record." Ms. Potter further explained that although the probation unit had knowledge of Respondent's 4100 Scotfield Drive address, it considered the post office address as Respondent's address of record, as the Board never received anything from Respondent "officially" changing his address of record from the post office address.

16. To date, Respondent has not paid his license renewal fees.

Respondent's Testimony

17. At the hearing, Respondent explained that he has resided at 4100 Scotfield Drive, Chesapeake, Virginia 23321, since 2001, and that he advised the probation unit, accordingly. Additionally, Respondent has sent multiple correspondences to the probation unit over the years in which he listed 4100 Scotfield Drive, Chesapeake, Virginia 23321 on the envelopes as his return address, which Ms. Potter acknowledged. Respondent's residence address has not changed.

18. Respondent did not pay his license renewal fees because he has and continues to suffer financial hardship. Specifically, Respondent has not worked as a physician since 1998 and has not had a job since 2002. He serves as the caretaker of an autistic, mentally challenged woman (i.e., his stepdaughter), who is 27-years-old, but he receives no financial support for her care. Consequently, he is forced to support the woman, as well as himself, with money he receives from his military retirement, half of which he must pay to his ex-wife, and from social security payments. Additionally, Respondent suffers physically from pain and fatigue stemming from prostate cancer that he has been managing for the last seven years.

LEGAL CONCLUSION

1. The purpose of administrative license discipline is not to punish, but to protect the public by eliminating practitioners who are dishonest, immoral, disreputable or incompetent. (*Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 817.)

2. While a licensing board is required to prove the allegations in an accusation by clear and convincing evidence, a licensing board is only required to prove the allegations in a petition to revoke probation by a preponderance of the evidence. (*Sandarg v. Dental Bd. of California* (2010) 184 Cal.App.4th 1434, 1442.)

3. A "preponderance of the evidence" is usually defined in terms of "probability of truth," for example, as evidence that, "when weighed with that opposed to it, has more convincing force and the greater probability of truth." In deciding whether a party has met his or her burden of proof, courts consider both direct and circumstantial evidence, and all reasonable inferences to be drawn from both kinds of evidence, giving full consideration to the negative and affirmative

inferences to be drawn from all of the evidence, including that which has been produced by the opposing party. (*Leslie G. v. Perry & Associates* (1996) 43 Cal.App.4th 472, 482-483.)

4. Complainant has not established by a preponderance of the evidence that Respondent has violated Condition 7 of his probation, which required Respondent to keep the probation unit "informed of his addresses of business and residence which shall both serve as addresses of record." (Exhibit 5, pages 0149 - 0150.) The evidence shows that Respondent did, in fact, provide the probation unit with his post office address and/or his residence address of 4100 Scotfield Drive, Chesapeake, Virginia 23321, beginning in 2001, and continued to provide either or both addresses to the probation unit throughout the years. However, when correspondence addressed to Respondent's post office box address, which the probation unit considered his official address of record, was returned to the probation unit as undeliverable, the Board concluded Respondent violated his probation by not maintaining a current address of record. However, the plain reading of Condition 7 states, in part, that "[u]nder no circumstances shall a post office box serve as an address of record." (*Id.*) Given the clear language of the probation condition, it begs the question of why the Board considered and accepted Respondent's post office address as his official address of record, and repeatedly sent correspondence to it, given that Condition 7 expressly prohibited the use of a post office box as an address of record. Equally puzzling is why the Board would choose to initiate probation revocation proceedings stemming from the return of correspondence from Respondent post office address, instead of sending its final correspondence to Respondent at the 4100 Scotfield Drive address, as it had on July 20, 2016, which was not returned as undeliverable. In light of the above, Complainant failed to meet its burden of establishing that Respondent violated Condition 7 of his probation, by reason of Factual Findings 3 through 5, and 8 through 15.

5. Complainant has established by a preponderance of the evidence that Respondent violated Condition 10 of his probation, which required Respondent to maintain a current and valid license for the length of his probation. The evidence shows that Respondent has yet to pay his license renewal fees, which were due on April 30, 2014. (Factual Findings 3, 6, 12, and 16.)

6. Although Complainant has established her burden of demonstrating that Respondent violated a condition of his probation, outright revocation of Respondent's probation, as Complainant has requested, would be overly harsh, unduly punitive, and given the circumstances of this matter, unjustified. An extension of Respondent's probationary period is more appropriate, in order to give Respondent ample time to raise the necessary funds to pay his license renewal fees, particularly given his currently compromised financial state. Such an extension will have no negative impact on the public's health, safety, or welfare, as Respondent is prohibited from practicing medicine until he pays his renewal fees, among other things. As such, Respondent's probationary period shall be extended 24 months.

ORDER

Probation imposed against Physician's and Surgeon's Certificate number A36026, issued to Respondent Clemmie Lee Williams, M.D., under the Board's October 19, 1998 Probation Order, is revoked. Revocation of probation is stayed, however, and Respondent's probation will remain in effect for 24 months from the effective date of the Decision in this matter under the terms and conditions of the October 19, 1998 Stipulated Decision and Disciplinary Order. During that period, Respondent must complete compliance of Condition 10, unless Respondent successfully petitions the Board and receives relief, accordingly. Should Respondent fail to comply with Condition 10 within the proscribed period, the probation revocation stay will be removed, probation will be revoked, the stay on license revocation will be removed, and Respondent's license will be revoked.

Date: December 5, 2017

DocuSigned by:
Carla L. Garrett
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CARLA L. GARRETT
Administrative Law Judge
Office of Administrative Hearings

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb. 22 2017
BY _____ ANALYST

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

In the Matter of the Petition to Revoke Probation Against, **CLEMMIE LEE WILLIAMS, M.D.** **P.O. Box 9648** **Chesapeake, VA 23321** **Physician's and Surgeon's Certificate No. A 36026** Respondent.	Case No. 800-2016-027242 PETITION TO REVOKE PROBATION

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about November 3, 1980, the Medical Board of California issued Physician's and Surgeon's Certificate Number A 36026 to Clemmie Lee Williams, M.D. (Respondent). The Physician's and Surgeon's Certificate expired on April 30, 2014, and has not been renewed.

3. In a disciplinary action entitled "*In the Matter of Accusation Against Clemmie Lee Williams, M.D.,*" Case No. 16-96-64771, the Medical Board of California, issued a decision, effective October 19, 1998, in which Respondent's Physician's and Surgeon's Certificate was

revoked. However, the revocation was stayed and Respondent's Physician's and Surgeon's Certificate was placed on probation for a period of five (5) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

4. Respondent's Physician's and Surgeon's Certificate expired on April 30, 2014, has not been renewed, and is now in a delinquent status.

JURISDICTION

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

6. 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 to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

FIRST CAUSE TO REVOKE PROBATION

(Failure to Maintain Valid License)

7. At all times after the effective date of Respondent's probation, Condition 10 of the Board's Decision and Order "*In the Matter of Accusation Against Clemmie Lee Williams, M.D.,*" Case No. 16-96-64771, which became effective October 19, 1998, stated:

> "**VALID LICENSE STATUS.** Respondent shall maintain a current and valid license for the length of the probation. Failure to maintain such license and to pay all fees shall constitute a violation of probation."

8. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 10, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about June 13, 2016, the Board's Management Services Technician sent a semi-annual contact letter to Respondent to notify him that on April 30, 2014, his California Physician's and Surgeon's License had expired.

B. The June 13, 2016, letter to Respondent reiterated the portion of Condition 10 of the

Board's Probation Order which states "Respondent shall maintain a current and valid license for the length of the probation."

C. The June 13, 2016, letter to Respondent stated Respondent had until July 18, 2016, to renew his Physician's and Surgeon's License.

D. On or about July 13, 2016, the Board's letter to Respondent was returned as "RETURN TO SENDER NOT DELIVERABLE AS ADDRESSED. UNABLE TO FORWARD."

E. On July 18, 2016, the Board's Management Services Technician performed another license verification inquiry and determined Respondent had not renewed his Physician's and Surgeon's Certificate.

F. On July 20, 2016, the Board's Management Services Technician sent letters to Respondent to two previous addresses and requested Respondent to contact the Board regarding his Probation Order and verification of his current address and contact information.

G. Respondent failed to respond to the Board's request.

SECOND CAUSE TO REVOKE PROBATION

(Failure To Maintain Current Address)

9. At all times after the effective date of Respondent's probation, Condition 7 of the Board's Decision and Order "*In the Matter of Accusation Against Clemmie Lee Williams, M.D.,*" Case No. 16-96-64771, which became effective October 19, 1998, stated:

> "**PROBATION SURVEILLANCE PROGRAM COMPLIANCE.** Respondent shall comply with the Division's probation surveillance program. Respondent shall, at all times, keep the Division informed of his addresses of business and residence which shall both serve as addresses of record. Changes of such addresses shall be immediately communicated in writing to the Division. Under no circumstances shall a post office box serve as an address of record."

10. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 7, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about February 20, 2014, the Board's Management Services Technician sent Respondent a semi-annual contact letter informing him of the 2014 reporting periods.

B. Respondent failed to provide the Board with his business and residence addresses for the 2014 reporting periods.

C. On or about February 11, 2015, the Board's Management Services Technician sent Respondent a semi-annual contact letter informing him of the 2015 reporting periods.

D. Respondent failed to provide the Board with his business and residence addresses for the 2015 reporting periods.

DISCIPLINE CONSIDERATIONS

11. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about October 19, 1998, in a prior disciplinary action entitled "*In the Matter of Accusation Against Clemmie Lee Williams, M.D.,*", Respondent's Physician's and Surgeon's Certificate was placed on probation for a period of five (5) years with certain terms and conditions. That decision is now final and is incorporated by reference as if fully set forth.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking the probation that was granted by the Medical Board of California in Case No. 16-96-64771 and imposing the disciplinary order that was stayed thereby revoking Physician's and Surgeon's Certificate No. A 36026 issued to Clemmie Lee Williams, M.D.;

2. Revoking or suspending Physician's and Surgeon's Certificate No. A 36026, issued to Clemmie Lee Williams, M.D.;

3. Revoking, suspending or denying approval of Clemmie Lee Williams, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;

4. Ordering Clemmie Lee Williams, M.D. to pay the Medical Board of California, if placed on probation, the costs of probation monitoring;

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

DATED: February 22, 2017

KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

Decision and Order

Medical Board of California Case No. 16-1996-64771

REDACTED

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

In the Matter of the Accusation Against:	)	
	)	No. 16-96-64771
CLEMMIE LEE WILLIAMS, M.D. Physician & Surgeon Cert. No. A-36026	)	
Respondent	)	

DECISION

The attached Stipulated Decision and Disciplinary Order in case number 16-96-64771 is hereby 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 on October 19, 1998

It is so Ordered September 17, 1998

DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA

By Carole Hurvitz M.D.
CAROLE HURVITZ, M.D.
Chairperson, Panel B

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that this document is a true and correct copy of the original on file in this office.
Cynthia Koenig
Signature
Custodian of records
Title
10/25/2016
Date

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Attorneys for Complainant

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

In the Matter of the Accusation Against: CLEMMIE LEE WILLIAMS, M.D. 2404 Pacific Avenue Long Beach, California 90806 California Physician's and Surgeon's Certificate No. A-36026 Respondent.	Case No. 16-96-64771 **STIPULATED DECISION AND DISCIPLINARY ORDER**

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

1. An Accusation in case number 16-96-64771 was filed with the Division of Medical Quality, of the Medical Board of California Department of Consumer Affairs (the "Division") on September 17, 1996, and is currently pending against Clemmie Lee Williams, M.D. (the "respondent").

2. At all times relevant herein, respondent has been licensed by the Medical Board of California under Physician and Surgeon's Certificate No. A-36026, issued by the Board to respondent on or about November 30, 1980. Said certificate is valid with an expiration date of April 30, 2000.

3. The Accusation, together with all statutorily required documents, was duly served on the respondent on or about September 17, 1996, and respondent filed his Notice of Defense contesting the Accusation on or about January 15, 1998. A copy of Accusation No. 16-96-64771 is attached as Exhibit "A" and hereby incorporated by reference as if fully set forth.

4. The Complainant, Ronald Joseph, is the Executive Director of the Medical Board of California and brought this action solely in his official capacity. The Complainant is represented by the Attorney General of California, Daniel E. Lungren, by and through Supervising Deputy Attorney General, Gail M. Heppell.

5. Respondent is not represented in this matter, however, respondent has received and read Accusation No. 16-96-64771 and fully understands his legal rights and the effects of this stipulation.

6. Respondent understands the nature of the charges alleged in the Accusation and that, if proven at hearing, the charges and allegations would constitute cause for imposing discipline upon his certificate. Respondent is fully aware of his right to a hearing on the charges contained in the Accusation, his right to confront and cross-examine witnesses

against him, his right to the use of subpoenas to compel the attendance of witnesses and the production of documents in both defense and mitigation of the charges, his right to reconsideration, appeal and any and all other rights accorded by the California Administrative Procedure Act and other applicable laws. Respondent knowingly, voluntarily and irrevocably waives and gives up each of these rights.

7. In order to avoid the expense and uncertainty of a hearing, respondent freely and voluntarily waives each and every one of these rights set forth above and admits the truth of each and every allegation contained in paragraphs 4 and 4(A) of Accusation No. 16-96-64771. Respondent agrees that cause exists to discipline his certificate pursuant to Business and Professions Code section 141. Respondent agrees to be bound by the Division's Disciplinary Order as set forth below.

8. Respondent acknowledges that he shall not be permitted to withdraw from this stipulation unless it is rejected by the Division of Medical Quality, Medical Board of California.

9. Based on the foregoing admissions and stipulated matters, the parties agree that the Division shall, without further notice or formal proceeding, issue and enter the following order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate number A-36026 issued to Clemmie Lee Williams, M.D., is revoked. However, such revocation is stayed and respondent is placed on probation for five (5) years with the following terms

and conditions. Within 15 days after the effective date of this decision the respondent shall provide the Division, or its designee, proof of service that respondent has served a true copy of this decision on the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent or where respondent is employed to practice medicine and on the Chief Executive Officer at every insurance carrier where malpractice insurance coverage is extended to respondent.

1. **PHYSICIAN ASSESSMENT AND CLINICAL EDUCATION PROGRAM ("PACE").** Within ninety (90) days from the effective date of this decision, respondent, as his expense, shall enroll in the Physician Assessment and Clinical Education Program at the University of California, San Diego School of Medicine (hereinafter, the "PACE Program") and shall undergo assessment, clinical training and examination. First, the respondent shall undergo the comprehensive assessment program including the measurement of medical skills and knowledge, the appraisal of physical health and psychological testing. After assessment, the PACE Evaluation Committee will review all results and make a recommendation to the Division or its designee, the respondent and other authorized personnel as to what clinical training is required, including scope and length, treatment of any medical or psychological condition, and any other factors affecting the respondent's practice of medicine. The respondent shall undertake whatever clinical training and treatment of any medical or psychological condition as may be recommended by the PACE

Program. Finally, at the completion of the PACE Program, respondent shall submit to an examination on its contents and substance. The examination shall be designed and administered by the PACE faculty. Respondent shall not be deemed to have successfully completed the program unless he passes the examination. Respondent agrees that the determination of the PACE Program faculty as to whether or not he has passed the examination and/or successfully completed the PACE Program shall be binding.

Respondent shall complete the PACE Program no later than six months after his initial enrollment unless the Division or its designee agrees in writing to a later time for completion.

If respondent successfully completes the PACE Program, including the examination referenced above, he agrees to cause the PACE representatives to forward a Certification of Successful Completion of the program to the Division or its designee.

If respondent fails to successfully complete the PACE Program within the time limits outlined above, he shall be suspended from the practice of medicine.

Failure to participate in, and successfully complete all phases of the PACE Program, as outlined above, shall constitute a violation of probation.

2. **SPECIAL PURPOSE EXAMINATION ("SPEX").** Respondent shall take and pass the Special Purpose Examination ("SPEX"). Respondent shall not practice medicine until respondent has passed this examination and has been so notified by the Division or its designee. Respondent agrees that the Federation of State

Medical Boards which administers the SPEX will make respondent's score(s) available to the Division or its designee. Respondent shall pay any costs associated with this examination (s).

3. **MONITORING.** Within thirty (30) days of the effective date of this decision, respondent shall submit to the Division or its designee for its prior approval a plan of practice in which respondent's practice shall be monitored by another physician in respondent's field of practice, who shall provide periodic reports to the Division or its designee.

If the monitor resigns or is no longer available, respondent shall, within 15 days, move to have a new monitor appointed, through nomination by respondent and approval by the Division or its designee.

4. **NON-SUPERVISION OF PHYSICIAN ASSISTANTS.** Respondent is hereby prohibited from any supervision of physician assistants for the length of his probation.

5. **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.

6. **QUARTERLY REPORTS.** 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.

7. **PROBATION SURVEILLANCE PROGRAM COMPLIANCE.** Respondent shall comply with the Division's probation surveillance program. Respondent shall, at all times, keep the Division informed of his

addresses of business and residence which shall both serve as addresses of record. Changes of such addresses shall be immediately communicated in writing to the Division. Under no circumstances shall a post office box serve as an address of record.

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

8. **INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS DESIGNATED PHYSICIAN(S).** Respondent shall appear in person for interviews with the Division, its designee or its designated physician(s) upon request at various intervals and with reasonable notice.

9. **TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-STATE NON-PRACTICE.** In the event respondent should leave California to reside or to practice outside the State or for any reason should respondent stop practicing medicine in California, respondent shall notify the Division or its designee in writing within ten (10) days of the dates of departure and return or the dates of non-practice within California. Non-practice is defined as any period of time exceeding thirty 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 approved by the Division or its designee shall be considered as time spent in the practice of medicine. Periods of temporary or permanent residence or

practice outside California or of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary period.

10. **VALID LICENSE STATUS.** Respondent shall maintain a current and valid license for the length of the probation. Failure to maintain such license and to pay all fees shall constitute a violation of probation.

11. **COMPLETION OF PROBATION.** Upon successful completion of probation, respondent's certificate shall be fully restored.

12. **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 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.

13. **COST RECOVERY.** The respondent is hereby ordered to reimburse the Division the amount of $400.00 within ninety (90) days of the effective date of this decision for its investigative and prosecution costs. Failure to reimburse the Division's cost of investigation and prosecution shall constitute a violation of the probation order, unless the Division agrees in writing to payment by an installment plan because of financial hardship. The filing of bankruptcy by the respondent shall not relieve the respondent of his responsibility to reimburse the Division for its investigative and prosecution costs. Periods of

residence or practice outside California, whether the periods of residency or practice are temporary or permanent, will toll the probation period but will not toll the cost recovery requirement.

14. **PROBATION COSTS.** Respondent shall pay the costs associated with probation monitoring each and every year of probation, which are currently set at $2,304, but may be adjusted on an annual basis. Such costs shall be payable to the Division of Medical Quality and delivered to the designated probation surveillance monitor at the beginning of each calendar year. Failure to pay costs within 30 days of the due date shall constitute a violation of probation.

15. **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 voluntarily tender his certificate to the Board. The Division reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will not longer be subject to the terms and conditions of probation.

CONTINGENCY

This stipulation shall be subject to the approval of the Division. Respondent understands and agrees that Board staff and counsel for complainant may communicate directly with the Division regarding this stipulation and settlement, without notice to or participation by respondent or his counsel. If the

Division fails to adopt this stipulation as its Order, the stipulation shall be of no force or effect, it shall be inadmissible in any legal action between the parties, and the Division shall not be disqualified from further action in this matter by virtue of its consideration of this stipulation.

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ACCEPTANCE

I have read the above Stipulated Settlement and Disciplinary Order. I have understand the terms and conditions and other matters contained therein, and I understand the effect that this Stipulated Settlement and Disciplinary Order will have on my certificate, and agree to be bound thereby. I enter this stipulation freely, knowingly, intelligently and voluntarily.

DATED: 13 August 98

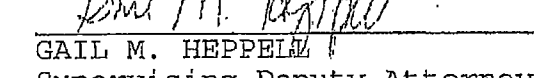
CLEMMIE LEE WILLIAMS, M.D.
Respondent

ENDORSEMENT

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

DATED: August 21, 1999.

DANIEL E. LUNGREN, Attorney General
of the State of California



GAIL M. HEPPELL
Supervising Deputy Attorney General

Attorneys for Complainant

03573160-SA1996AD1238(8/98,cld)
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EXHIBIT

A

DANIEL E. LUNGREN, Attorney General
of the State of California
GAIL M. HEPPELL
Supervising Deputy Attorney General
1300 I Street, Suite 125
P. O. Box 944255
Sacramento, California 94244-2550
Telephone: (916) 324-5336

Attorneys for Complainant

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

In the Matter of the Accusation Against: CLEMMIE LEE WILLIAMS, M.D. U.S. Navy Hospital PSC 810 Box 19 FPO, AE 09619 California Physician's and Surgeon's Certificate No. A36026 Respondent.	Case No. 16-96-64771 ACCUSATION

The Complainant alleges:

PARTIES

1. Complainant, Ronald Joseph, is the Executive Director of the Medical Board of California (hereinafter the "Board") and brings this accusation solely in his official capacity.

2. On or about November 3, 1980, Physician's and Surgeon's Certificate No. A36026 was issued by the Board to Clemmie Lee Williams, M.D. (hereinafter "respondent"). The license will expire April 30, 1998, unless renewed.

JURISDICTION

3. This accusation is brought before the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs (hereinafter the "Division"), under the authority of the following sections of the California Business and Professions Code (hereinafter "Code"):

A. Section 2227 of the Code provides that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act.

B. Section 125.3 of the Code provides, in part, that the Board may request the administrative law judge to direct any licentiate found to have committed a violation or violations of the licensing act, to pay the Board a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

C. Section 118(b) of the Code provides, in part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the time within which the license may be renewed, restored, or reinstated.

D. Section 2428 of the Code provides, in part, that a license which has expired may be renewed any time within five years after expiration.

E. Section 141 of the Code provides:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a

disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

FIRST CAUSE FOR DISCIPLINE

(Discipline, Restriction, or Limitation Imposed By Another State)

4. Respondent Williams is subject to disciplinary action under section 141 of the Business and Professions Code in that on October 24, 1995, the Department of the Navy, Bureau of Medicine and Surgery imposed discipline on respondent's right to practice medicine in the Navy by revoking respndent's clinical privileges at the U.S. Naval Hospital, Naples, Italy. The circumstances are as follows:

A. In or about 1995, respondent failed to render safe, quality patient care, demonstrated deficits in his

medical knowledge, expertise and judgment, documentation in a number of cases is incomplete, inadequate and/or inaccurate, and despite preceptor counselling and recommendations respondent's patient skills failed to improve.

Attached as Exhibit A is a true and correct copy of the Decision from the Department of the Navy.

PRAYER

WHEREFORE, the 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 Number A36026, heretofore issued to respondent Clemmie Lee Williams, M.D.;

2. Revoking, suspending or denying approval of the respondent's authority to supervise physician's assistants, pursuant to Business and Professions Code section 3527;

3. Ordering respondent to pay the Division the actual and reasonable costs of the investigation and enforcement of this case;

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4. Taking such other and further action as the Division deems necessary and proper.

DATED: September 17, 1996

RONALD JOSEPH
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

03573160-SA96AD1238 (SM)

E X H I B I T A

DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY
2300 E STREET NW
WASHINGTON DC 20372-5300

IN REPLY REFER TO
6320/C95-017
Ser 362/96U114001385
19 Jul 96

Beverly Wright
Enforcement Program Analyst
Medical Board of California
357 Van Ness Way, Suite 110
Torrance, CA 90501

Dear Ms. Wright:

Enclosed you will find the information you requested regarding Clemmie Williams, M.D. The privileging authority's action is final. The release of this information is governed by 10 U.S.C. § 1102. Accordingly, the names of individuals associated with the Navy's Medical Quality Assurance Program have been deleted. We recommend you consult 10 U.S.C. § 1102 on the proper handling of this information.

As this command does not hold the originals of the requested documents, we cannot provide certified copies of the originals. We certify, however, that the copies provided to you are true copies of the ones in our file. The file copies are the documents upon which we rely. They are generated and used in the normal course of our business and are considered to be accurate and complete reproductions of the original documents.

Doctor Williams was born [redacted]. His social security number is [redacted]. The address we have on file is his work address which is U.S. Naval Hospital, PSC 810, Box 19, FPO AE 09619-0700

Point of contact is Lieutenant Commander P. M. DeLaney, JAGC, USN (MED-362) at (202) 762-3093.

Sincerely,

T. L. GILEVICH
Commander, Judge Advocate
General's Corps
United States Navy
Director, Medico-Legal
Affairs Division
By direction of the Chief,
Bureau of Medicine and Surgery

Encl:
(1) Documentation ICO Clemmie Williams, M.D. (copy)

Copy to:
Clemmie Williams, M.D. (w/o enclosure)

DEPARTMENT OF THE NAVY
BUREAU OF MEDICINE AND SURGERY
2300 E STREET NW
WASHINGTON DC 20372-5300

IN REPLY REFER TO
6320/C95-017
Ser 362/0003
5 Jan 96

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

From: Chief, Bureau of Medicine and Surgery
To: CAPT Clemmie L. Williams, MC, USNR
Via: Commanding Officer, U.S. Naval Hospital, Naples, Italy

Subj: ADVERSE PRIVILEGING ACTION APPEAL

Ref: (a) CO, U.S. NAVHOSP Naples ltr 6320 Ser 00/100126 of 24 Oct 95
(b) Your ltr of 1 Nov 95
(c) CO, U.S. NAVHOSP Naples ltr 6320 Ser 00/110011 of 6 Nov 95
(d) BUMEDINST 6320.67

Encl: (1) BUMED Adverse Privileging Appeal Committee Report of 18 Dec 95 ICO CAPT Clemmie L. Williams, MC, USNR

1. By reference (a) you were advised of the decision of Commanding Officer, U.S. Naval Hospital, Naples, Italy, to revoke your clinical privileges. By reference (b) you appealed that decision to me. Reference (c) forwarded your letter with comments.

2. I have carefully reviewed your appeal, all relevant documentation, and the recommendation of the Bureau of Medicine and Surgery Adverse Privileging Appeal Committee (enclosure (1)).

3. Based upon my review, I find your rights under reference (d) were protected. The decision of Commanding Officer, U.S. Naval Hospital, Naples, Italy, is approved.

4. This constitutes the final action on your appeal pursuant to reference (d).

[redacted]

BUREAU OF MEDICINE AND SURGERY
ADVERSE PRIVILEGING APPEAL COMMITTEE
REPORT OF
18 DECEMBER 1995
IN THE CASE OF
CAPT CLEMMIE L. WILLIAMS, MC, USNR

1. It is this committee's unanimous opinion that the provider's rights accorded in BUMED Instruction 6320.67 were protected.

2. It is this committee's unanimous finding that Commanding Officer, Naval Hospital, Naples, Italy, did not abuse his discretion in revoking CAPT Clemmie L. Williams' privileges to practice medicine and terminating his professional staff appointment.

3. It is this committee's unanimous recommendation that the actions of Commanding Officer, Naval Hospital, Naples, Italy, be approved and that CAPT Williams' appeal be denied.

[redacted]
CAPT, MC, USN

[redacted]
CAPT, MC, USN

[redacted]
CAPT, MC, USN

[redacted]
LCDR, JAGC, USN
(Non-voting member)

DEPARTMENT OF THE NAVY
U.S. NAVAL HOSPITAL
PSC 810, BOX 19
FPO AE 09619-0700

6320
Ser 00/ 110011
06 Nov 95

From: Commanding Officer, U.S. Naval Hospital, Naples, Italy
To: Chief, Bureau of Medicine and Surgery (Code 36), Navy Department, Washington, DC 20370

Subj: **ENDORSEMENT ON APPEAL OF CAPT CLEMMIE L. WILLIAMS, MC, USNR,** [redacted]

Encl: (1) CO U.S. NAVHOSP Naples ltr 6320 Ser 00/100126 of 24 Oct 95
(2) CAPT Clemmie L. Williams Appeal ltr of 1 Nov 95
(3) CO U.S. NAVHOSP Camp Pendleton ltr 6000 Ser 44/852527 of 31 Oct 85
(4) CO U.S. NAVHOSP Naples ltr 6320 Ser 00/100055 of 12 Oct 95

1. Enclosures (1) through (4) are forwarded for your review.

2. I concur with the recommendations of the Peer Review Panel (enclosure (4)), that CAPT Williams, who has more than 17 years of combined active duty and reserve service, should be given the opportunity for refresher training at another hospital.

3. I recommend that his Family Practice designator be changed to General Medical Officer.

4. Refresher training would be best accomplished at a larger training hospital where he would be able to attend regularly scheduled conferences and interact in a more academic environment.

5. In response to paragraph 4 of CAPT Williams response, (enclosure (2)) it should be pointed out that though he may not have been the subject of any investigation, while at Naval Hospital Camp Pendleton he was removed from all patient care responsibilities and assigned to the library - in effect not permitted to practice, in October 1980 (enclosure (3)).

[redacted]

1 November 1995

From: CAPT Clemmie L. Williams, MC, USNR
To: Chief, Bureau of Medicine and Surgery
Via: Commanding Officer, Naval Hospital Naples

Subj: RESPONSE TO PEER REVIEW FINDINGS AND RECOMMENDATIONS

Ref: (a) BUMEDINST 6320.67

1. As provided for in reference (a), the following comments regarding the peer review panel's findings and recommendations are submitted. I believe the totality of the evidence shows the allegations which the panel declared were true are, in fact, unfounded. Although much of what is submitted was previously submitted to the Commanding Officer, Naval Hospital Naples, I have added additional comments for your consideration.

2. Regarding allegation one, that I failed to render safe, quality care, all patients treated by me at Naval Hospital Naples have done well. There have been no injuries, no inappropriate diagnoses, or incorrect therapy. I invite your attention to pages 37-38, 55-58, 67, 72, and 94 of the transcript of the testimony before the panel. Additionally, the emergency room chart review found no errors in charting, diagnosis, or therapy (pp.52-53, transcript). It makes no sense that A 100% review of my emergency room work would find no errors while only a 20% review of my work in Family Practice would reveal such a high number of errors as alleged by LCDRs [redacted] and [redacted].

3. Much was made of the decision not do rectal examinations of two patients. In the case of Mr. [redacted] I testified under oath I deferred the exam based on his multiple medical problems and his level of discomfort which I observed during the examination. Mr. [redacted] complained to me of blood in his urine. I ordered the appropriate tests and gave him a follow up appointment to return to see me in seven to ten days. Dr. [redacted] told Mr. [redacted] not to return to see me. On page 29 of the transcript, Dr. [redacted], one of the panel members, observed on the record that many doctors defer a rectal exam until a later time, especially if a timely referral is likely. In the case of LTCOL [redacted], I distinctly remember him not wanting a rectal exam, and I did not do one out of respect for his wishes. Although I did not personally check the box on the examination record stating a rectal exam was done, the responsibility for the record is obviously mine, and I accept that. Dr. [redacted], in his written statement and his testimony, inferred LTCOL [redacted] was unhappy with my treatment. LTCOL [redacted] written statement is clear he was completely satisfied with the care I provided.

4. Regarding allegation two, that I demonstrated deficits in my medical knowledge, expertise, and judgment, I note the first time I took the three-day medical licensure exam in California, I

passed. I passed the two-day Board Certification in Family Practice. I have not recertified in Family Practice because I began formal training in medical management at the University of California. I am presently Board Qualified in medical management and am on schedule to take the Board exam. Next year I intend to pursue recertification in Family Practice. I am currently BCLS, ACLS, and ATLS trained and certified. Each year I have accumulated the necessary hours to maintain licensure and receive the Physician Recognition Award. I am a Fellow of the American Academy of Family Practice Physicians. In September 1995, I attended the National Scientific Assembly in California, where the emphasis was on documentation. I have practiced medicine for almost twenty years with no QA issues, patient complaints, adverse privileging actions, lawsuits, or injury to any patient. Twelve years of my practice have been spent in the military community. Part of my military career was spent as Commanding Officer of the reserve unit, Naval Hospital Long Beach where I worked in tandem with then Captain (now Rear Admiral) [redacted]. During five consecutive years of active duty training I was not the subject of any patient care complaints, QA investigations, or any other complaints. I submit my work there and CAPT Ragan's assessment of my work at Twentynine Palms, which was before the panel as an exhibit, are more accurate indicators of my competence than the four-month evaluation of officers who admitted before the panel my refusal to practice obstetrics was the source of tension between them and me.
In all fairness, could any physician withstand an intense review of his or her recordkeeping and come out of it with no errors found? I know of nothing which requires such an intense review under any circumstances.

5. Regarding allegation three, that my documentation in a number of cases is incomplete, inadaequate, and or/inaccurate, in addition to what I stated in paragraph 4 above, I admit to having made occasional documentation errors; however, I reiterate not a single one of these errors resulted in any delay in treatment, any misdiagnosis, therapeutic failure, or injury to any patient. I am absolutely certain these concerns can be adequately addressed simply by sending me to CME in medical documentation.

6. Regarding allegation five, that my patient skills failed to improve despite preceptor counselling and recommendations, I note I was given only two outpatient evaluations. The evaluation dated 26 May 95 contains error. It discusses a child who had suffered a side effect from medication given to his lactating mother. The transcript of the hearing makes it clear there was no reason whatsoever to conclude this child was in any way affected by the medicine I prescribed to his mother. I testified I had used these same medications while in training at USC Women's hospital with no side effects ever noted. The Physicians' Desk Reference does not state these medications are contraindicated for lactating mothers.

7. I welcome the opportunity to receive any training you deem appropriate; however, I am confident I can continue to practice medicine as a GMO during the remaining 19 months of my assignment

to Naval Hospital Naples. In light of my nearly twenty years' experience with no blemishes of any sort on my record, in light of the fact not one patient suffered harm because of anything I did or failed to do, I cannot and do not concur with the peer review panel's findings regarding allegations one, two, three, and five, nor do I concur with their recommendation to revoke my privileges. I find it impossible to fairly and honestly evaluate my perfomance, or any physician's performance, over a period of time as short as four months, as is the case here. This evaluation is particularly suspect in view of the testimony before the panel which alluded to tensions I had with the other physicians over my refusal to practice obstetrics, a refusal I contend was not only in my best interests, but was in the Navy's and the local community's best interests.

8. I strongly believe, as you review the entire case, you will find inequities in its content. I have put forth great effort in preparing myself to be the best physician possible. As an African-American physician, I am painfully aware that sometimes, for one reason or another, more is expected of me. I believe that, when the entire case is considered, you will find my performance and competence has met all expectations. I reiterate, I still find it inconceivable for anyone to accuse me of poor patient care and recommend revocation of my privileges after only four months on site. I must only conclude the real issue was not patient care, and I feel the documentation and testimony before the peer review panel, and now before you, bears that out.

9. I must comment on the suggestion made that for my remaining time at Naval Hospital Naples I be assigned only administrative duties. While many physicians nearing the end of their military careers would welcome such a move, I stronly desire to continue providing what I consider excellent patient care.

11. I will be in the Washington, D.C. area from 27-29 November 1995. If you so desire, I welcome the opportunity to discuss these issues with you personally. Thank you for your attention to this sensitive issue.

Very respectfully,

C. L. Williams

C. L. WILLIAMS
CAPT MC USNR

DEPARTMENT OF THE NAVY
U.S. NAVAL HOSPITAL
PSC 810, BOX 19
FPO AE 09619-0700

6320
Ser 00/ 100126
24 Oct 95

From: Commanding Officer, U.S. Naval Hospital, Naples, Italy
To: Captain Clemmie L. Williams, MC, USNR, [redacted]

Subj: FINAL DECISION IN THE CASE OF CAPT CLEMMIE L. WILLIAMS, MC, USNR, [redacted]

Ref: (a) SECNAVINST 6320.23
(b) BUMEDINST 6320.67
(c) BUMEDINST 6320.67, enclosure (8)
(d) USNH, Naples ltr 6320 Ser 00/070137 of 18 Jul 95
(e) Peer Review Panel Hearing in the case of CAPT C. L. Williams, USN, [redacted] of 27 Sep - 29 Sep 95

1. In accordance with reference (a) through (c), you were provided a copy of the Peer Review Panel report, including a transcript of the hearing, reference (e).

2. In accordance with references (a) through (c), you were instructed per reference (e), to forward written comments on the report to me, including any misstatement or inaccuracies in the facts reported by the Peer Review Panel, on any procedural or evidentiary errors raised during the proceeding, and on the appropriateness of the panel's recommendations.

3. I have received your comments and have reviewed them extensively. I have also reviewed the Peer Review committee findings and recommendations. The committee recommended revocation of privileges. I feel that the recommendations were commensurate with the nature of the allegations and preponderance of the evidence and I have revoked privileges as of 24 October 1995.

4. You have the right to appeal any final decision to deny, limit, or revoke clinical privileges. The appeal must be submitted, in writing, to BUMED via the privileging authority within 14 days of receipt of the privileging authority's final decision. The grounds for the appeal must be stated. The decision of the privileging authority must remain in effect during the appeal.

5. Appeal decisions will ordinarily be limited to a review of the stated grounds for appeal. If a procedural error not raised by you in your appeal is identified during appellate review that affects the fundamental fairness of the peer review process, corrective action may be directed.

6. For new evidence to be considered for the first time on appeal, proof must be shown that the information was not

available at the time of the hearing and could not have been discovered by you at that time even with the exercise of due diligence.

7. BUMED will review the stated grounds for appeal, the evidence of record, and any new information permitted. The standard for decision for appeal is whether the privileging authority abused its discretion. After consultation with the chief of appropriate corps on substantive professional issues and obtaining legal review, BUMED will grant or deny your appeal. You will be informed, in writing, of the decision. BUMED decision is final.

[redacted]

23 October 1995

From: CAPT Clemmie L. Williams, MC, USNR
To: Commanding Officer, United States Naval Hospital Naples

Subj: RESPONSE TO PEER REVIEW FINDINGS AND RECOMMENDATIONS

Ref: (a) BUMEDINST 6320.67

1. As provided for in reference (a), the following comments regarding the peer review panel's findings and recommendations are submitted. I believe the totality of the evidence shows the allegations which the panel declared were true are, in fact, unfounded.

2. Regarding allegation one, that I failed to render safe, quality care, all patients treated by me at Naval Hospital Naples have done well. There have been no injuries, no inappropriate diagnoses, or incorrect therapy. I invite your attention to pages 37-38, 55-58, 67, 72, and 94 of the transcript of the testimony before the panel. Additionally, the emergency room chart review found no errors in charting, diagnosis, or therapy (pp.52-53, transcript). It makes no sense that A 100% review of my emergency room work would find no errors while only a 20% review of my work in Family Practice would reveal such a high number of errors as alleged by LCDRs [redacted] and [redacted]

3. Much was made of the decision not do rectal examinations of two patients. In the case of Mr. [redacted] I testified under oath I deferred the exam based on his multiple medical problems and his level of discomfort which I observed during the examination. Mr. [redacted] complained to me of blood in his urine. I ordered the appropriate tests and gave him a follow up appointment to return to see me in seven to ten days. Dr. [redacted] told Mr. [redacted] not to return to see me. On page 29 of the transcript, Dr. [redacted] one of the panel members, observed on the record that many doctors defer a rectal exam until a later time, especially if a timely referral is likely. In the case of LTCOL [redacted], I distinctly remember him not wanting a rectal exam, and I did not do one out of respect for his wishes. Although I did not personally check the box on the examination record stating a rectal exam was done, the responsibility for the record is obviously mine, and I accept that. Dr. [redacted] in his written statement and his testimony, inferred LTCOL [redacted] was unhappy with my treatment. LTCOL [redacted] written statement is clear he was completely satisfied with the care I provided.

4. Regarding allegation two, that I demonstrated deficits in my medical knowledge, expertise, and judgment, I note the first time I took the three-day medical licensure exam in California, I passed. I passed the two-day Board Certification in Family Practice. I have not recertified in Family Practice because I began formal training in medical management at the University of

California. I am presently Board Qualified in medical management and am on schedule to take the Board exam. Next year I intend to pursue recertification in Family Practice. I am currently BCLS, ACLS, and ATLS trained and certified. Each year I have accumulated the necessary hours to maintain licensure and receive the Physician Recognition Award. I am a Fellow of the American Academy of Family Practice Physicians. In September 1995, I attended the National Scientific Assembly in California, where the emphasis was on documentation. I have practiced medicine for over twenty years with no QA issues, patient complaints, adverse privileging actions, lawsuits, or injury to any patient. Twelve years of my practice have been spent in the military community. I submit CAPT [redacted] assessment of my work at Twentynine Palms, which was before the panel as an exhibit, is more accurate than the four-month evaluation of officers who admitted before the panel my refusal to practice obstetrics was the source of tension between them and me. In all fairness, could any physician withstand an intense review of his or her recordkeeping and come out of it with no errors found? I know of nothing which requires such an intense review under any circumstances.

5. Regarding allegation three, that my documentation in a number of cases is incomplete, inadaequate, and or/inaccurate, in addition to what I stated in paragraph 4 above, I admit to having made occasional documentation errors; however, I reiterate not a single one of these errors resulted in any delay in treatment, any misdiagnosis, therapeutic failure, or injury to any patient. I am absolutely certain these concerns can be adequately addressed simply by sending me to CME in medical documentation.

6. Regarding allegation five, that my patient skills failed to improve despite preceptor counselling and recommendations, I note I was given only two outpatient evaluations. The evaluation dated 26 May 95 contains error. It discusses a child who had suffered a side effect from medication given to his lactating mother. The transcript of the hearing makes it clear there was no reason whatsovever to conclude this child was in any way affected by the medicine I prescribed to his mother. I testified I had used these same medications while in training at USC Women's hospital with no side effects ever noted. The Physicians' Desk Reference does not state these medications are contraindicated for lactating mothers.

7. I welcome the opportunity to receive any training you deem appropriate; however, I am confident I can continue to practice medicine as a GMO/Family Practitioner in the emergency room during the remaining 19 months of my assignment to Naval Hospital Naples. In light of my over twenty years' experience with no blemishes of any sort on my record, in light of the fact not one patient suffered harm because of anything I did or failed to do, I cannot and do not concur with the peer review panel's findings regarding allegations one, two, three, and five, nor do I concur with their recommendation to revoke my privileges. I find it impossible to fairly and honestly evaluate my perfomance, or any physician's performance, over a period of time as short as four months, as is

the case here. This evaluation is particularly suspect in view of the testimony before the panel which alluded to tensions I had with the other physicians over my refusal to practice obstetrics, a refusal I contend was not only in my best interests, but was in the hospital's and the local community's best interests. I contend after you review the entire record, you will agree with me you should recommend to the Bureau of Medicine and Surgery my privileges should not be revoked.

Very respectfully,

C. L. Williams

C. L. WILLIAMS
CAPT MC USNR

DEPARTMENT OF THE NAVY
U.S. NAVAL HOSPITAL
PSC 810, BOX 19
FPO AE 09619 0700

6320
Ser 00/ 100055
12 Oct 95

From: Commanding Officer, U.S. Naval Hospital, Naples, Italy
To: Captain Clemmie L. Williams, MC, USNR, [redacted]

Subj: **PROVISION OF PEER REVIEW PANEL HEARING RESULTS IN THE CASE OF CAPT CLEMMIE L. WILLIAMS, MC, USNR,** [redacted]

Ref: (a) SECNAVINST 6320.23
(b) BUMEDINST 6320.67
(c) BUMEDINST 6320.67, enclosure (8)
(d) USNH, Naples ltr 6320 Ser 00/070137 of 18 Jul 95

Encl: (1) Peer Review Panel Hearing in the case of CAPT C. L. Williams, USN, [redacted] of 27 Sep - 29 Sep 95

1. In accordance with reference (a) through (c), you are hereby provided a copy of the report of the Peer Review Panel which includes a transcript of the hearing, enclosure (1).

2. In accordance with references (a) through (c), you may forward written comments on the report to me. Your comments must be provided to me no later than the seventh day after your receipt of this package. You may comment on any misstatement or inaccuracies in the facts reported by the Peer Review Panel, on any procedural or evidentiary errors raised during the proceedings, and on the appropriateness of the panel's recommendations.

3. I will make my final decision on your privileges after receipt of your comments, or after the passage of 14 days from the date of your receipt of this package, if I have not received any comments from you by that date. Reference (d) remains in effect until such time as my final decision is promulgated.

[redacted]

29 Sep 95

From: Chairman, Peer Review Panel
To: Commanding Officer, U. S. Naval Hospital, Naples

Subj: PEER REVIEW PANEL HEARING IN THE CASE OF CAPT CLEMMIE L. WILLIAMS, MC, USNR [redacted]

Ref: (a) SECNAVINST 6320.23
(b) BUMEDINST 6320.67
(c) USNHNAPINST 6010.15
(d) Your ltr dated 30 AUG 95

Encl: (1) Transcript of peer review panel hearing with exhibits

1. On 27 - 28 Sep 95 per the provisions of references (a) through (c), a peer review panel met as directed by reference (d).

FINDINGS

ALLEGATION 1) CAPT Williams failed to render safe, quality patient care.

FINDINGS: a) Failed to perform generally-indicated exams - **TRUE** (Undisputed testimony that no rectal exam was performed in a patient presenting with hemospermia.)

b) Prescribed inappropriate antibiotics - **FALSE** - (No substantiating evidence presented.)

c) Injured patients through application of excessive cryotherapy - **FALSE** (Evidence of a cryotherapy injury is documented in Management Variance Report 95-53 and JAG Manual investigation in the case. Dr. Williams testimony indicated that warts had been treated several times which may prompt more aggressive application of liquid nitrogen. This would be an instance of an unexpected outcome, but not necessarily evidence that liquid nitrogen was improperly used. The other case noted in Occurrence Screen 22 May 95 has accompanying ETR which shows a small vesicle consistent with proper use of liquid nitrogen. Blistering is a known and frequently encountered complication of this procedure.)

d) Made differential diagnoses unsupported by the weight of the medical evidence - **FALSE** (Insufficient evidence presented. The most relavent case presented was Management Variance Report 95-40. CAPT Williams noted that "R/O MI" was written prior to discussion with the consultant and was not removed through an error on his part.)

e) Made incomplete and/or inaccurate patient medical record entries - **TRUE** (Documentary evidence from Col. [redacted] that a rectal exam was not performed when a rectal exam is recorded on the physical, and by implication, on the urology consult by CAPT Williams. Chart reviews and accompanying statements by DR. Lemme note a trend of insufficient documentation.)

ALLEGATION 2) CAPT Williams demonstrated deficits in his medical knowledge, expertise and judgement.

FINDINGS: a) Failed to perform generally-indicated examinations - TRUE (CAPT Williams admits that he did not perform a rectal exam in a patient with presenting complaint of hemospermia. CAPT Williams testified that the patient actually noted hematuria, but a rectal exam was still indicated in this patient.)

b) Failed to take complete patient histories and failed to perform complete medical examinations - TRUE (CAPT Williams indicated that he ordered a repeat CT scan in a patient who did not need the study. The allegation that no medical record was available places the burden for a careful history more clearly upon the physician. An example of an incomplete medical examination is noted in finding 2a above.)

c) Inadequately considered differential diagnoses - FALSE (No documentation offered.)

d) Iatrogenically injured cryotherapy patients through excessive application of cryotherapy - FALSE (As previously noted the application of cryotherapy may have been appropriate.)

e) Failure to prescribe appropriate treatment of diagnosed problems - FALSE (No significant documentation was offered.)

ALLEGATION 3) CAPT Williams' documentation in a number of cases is incomplete, inadequate, and/or inaccurate.

FINDINGS: a) Failed to recognize, or take note of, a recent CT scan on a patient and ordered a second CT scan within 45 days of first CT scan - TRUE (CAPT Williams testified that this did occur.)

b) Failed to annotate any vital signs or history other than "premarital exam: PE WNL" - FALSE (Literally true but documentation is consistent with common practice for this type of exam.)

c) Noted "rectal/genital exam deferred" on a patient where the patient denies any such exam done and where CAPT Williams indicated to his preceptor that the patient "refused" the exam - FALSE (CAPT Williams testified he did defer his rectal exam on Mr. T[redacted], but there is no documentation that this patient refused this exam. This allegation appears to be a mixture of two cases.)

d) Removed warts with liquid nitrogen, causing significant tissue necrosis with no health record entry made of the visit or treatment - TRUE (Testimony from Dr. Biddulph and CAPT Williams indicates that the chart was easily available and that no notes were present.)

ALLEGATION 4) CAPT Williams' overly aggressive use of cryotherapy resulted in iatrogenic injury to two patients. FALSE (See 1c above.)

ALLEGATION 5) Despite preceptor counselling and recommendations, CAPT Williams' clinical patient skills failed to improve, as evidenced by Head , Family Practice Department memorandum to CAPT Williams, dated 18 April 1995; the Head, Family Practice Department memorandum to Capt Williams, dated 26 May 1995, and the second cryotherapy injury case occurring on 2 Jun 1995. - TRUE

FINDINGS: a) (The above noted memoranda, in conjunction with the chart review conducted by the Department of Family Practice demonstrates a persistent and unacceptable rate of chart deficiencies of 22 to 39% over a four month period. It has been noted that the concurrent review of Emergency Department records demonstrated no charting deficiencies. The cryotherapy case mentioned has been discussed earlier.)

CONCLUSIONS

ALLEGATION 1) CAPT Williams failed to render safe, quality patient care. TRUE

ALLEGATION 2) CAPT Williams demonstrated deficits in his medical knowledge, expertise and judgement. TRUE

ALLEGATION 3) CAPT Williams' documentation in a number of cases is incomplete, inadequate, and/or inaccurate. TRUE

ALLEGATION 4) CAPT Williams' overly aggressive use of cryotherapy resulted in iatrogenic injury to two patients. FALSE

ALLEGATION 5) Despite preceptor counselling and recommendations, CAPT Williams' clinical patient skills failed to improve. TRUE

RECOMMENDATIONS

1) It is recommended that CAPT Williams have his credentials revoked.

2) CAPT Williams should be allowed to participate in refresher training until such time as he demonstrates proficiency in his clinical skills. This should be done in a formalized training setting and should allow sufficient time and rotations through clinical specialties. Such training should provide regularly scheduled feedback. The duration should not be less than six months. In the interest of CAPT Williams and the US Navy it would be best if the training was not attempted at NH Naples.

[redacted]
CDR, MC, USN

DEPARTMENT OF THE NAVY
U.S. NAVAL HOSPITAL
PSC 810, BOX 19
FPO AE 09619-0700

6320
Ser 00/ 070137
18 Jul 95

From: Commanding Officer, U. S. Naval Hospital, Naples
To: CAPT Clemmie L. Williams, MC, USNR [redacted]

Subj: NOTICE OF CLINICAL PRIVILEGES SUSPENSION AND ADVICE OF RIGHTS

Ref: (a) SECNAVINST 6320.33
(b) BUMEDINST 6320.67

1. I have determined that there is sufficient evidence indicating a professional impairment on your part. All your clinical privileges at Naval Hospital, Naples, and including any branch medical clinics under my command, are suspended, effective immediately. Authority to engage in any off-duty remunerative employment is hereby withdrawn.

2. Per references (a) and (b), you are advised of the following rights:

a. In cases of partial suspension, (not applicable in this case,) all clinical privileges could be revoked based upon additional investigative findings or peer review recommendations.

b. Your staff appointment could be revoked.

c. The grounds for suspension are as follows:

1) You failed to render safe, quality patient care as evidenced by cases where you failed to perform generally-indicated examinations; where you prescribed inappropriate antibiotics; where you injured patients through application of excessive cryotherapy; where you made differential diagnoses unsupported by the weight of medical evidence; and where you made incomplete and/or inaccurate patient medical record entries.

2) You demonstrate deficits in your medical knowledge, expertise and judgement, as evidenced by your failure to perform generally-indicated examinations; by your failure to take complete patient histories and your failure to perform complete medical examinations; by your inadequate consideration of differential diagnoses; by your iatrogenic injury of cryotherapy patients through excessive application of cryotherapy; and by your failure to prescribe appropriate treatment for diagnosed problems.

Subj: NOTICE OF CLINICAL PRIVILEGES SUSPENSION AND ADVICE OF RIGHTS

3) Your patient documentation in a number of cases is incomplete, inadequate and/or inaccurate, as evidenced by cases where you failed to recognize, or take note of, a recent CT scan on a patient and ordered a second CT scan within 45 days of first CT scan; where you failed to annotate any vital signs or history other than "pre-marital exam: PE:WNL"; where you notated "rectal/genital exam deferred" on a patient where the patient denies any such exam done and where you indicated to your preceptor that the patient "refused" the exam; and where you removed warts with liquid nitrogen, causing significant tissue necrosis with no health record entry made of the visit or treatment.

4) Your overly aggressive use of cryotherapy resulted in iatrogenic injury to two patients.

5) Despite preceptor counselling and recommendations, your clinical patient skills failed to improve, as evidenced by Head, Family Practice Department memorandum to you, dated 18 April 1995; the Head, Family Practice Department memorandum to you, dated 26 May 1995, and the second cryotherapy injury case occurring on 2 JUN 1995.

d. The right to a reasonable opportunity (normally within 7 days) to consult with counsel before electing or waiving any the rights in this paragraph.

e. The right to have the case heard at a peer review panel hearing and to be present at the hearing.

f. The right to representation by counsel at the hearing.

g. The right to present evidence at the hearing.

h. The right to waive the rights in paragraph 2.d. through 2.g. of this letter.

i. If the final action after completion of all appeal procedures is to deny, limit or revoke clinical privileges or terminate staff appointment, that fact must be reported to the Federation of State medical Boards, States of licensure, the National practitioner Data Bank or other professional clearinghouses as applicable, the Office of the Secretary of Defense (Health Affairs), and the other organizations or agencies as required by references (a) and (b).

Subj: NOTICE OF CLINICAL PRIVILEGES SUSPENSION AND ADVICE OF RIGHTS

j. That failure to respond after a reasonable opportunity to consult with counsel constitutes a waiver of the rights in paragraph 2.d. through 2.g. of this letter.

k. That failure to appear without good cause at the hearing constitutes waiver of the right to be present at the hearing.

3. This action may result in permanent suspension, limitation, or revocation of your clinical privileges. Per references (a) and (b), you are entitled to request the case be referred to a peer review panel for an administrative hearing. Any request for a peer review panel hearing should be made, in writing, within 7 days from the date of receipt of this letter.

[redacted]

Copy to:
Chairman, ECOMS

RETURN ENDORSEMENT

From: CAPT C. L. Williams, MC, USNR, [redacted]
To: Commanding Officer, U.S. Naval Hospital, Naples

1. I acknowledge receipt of the above letter on 18 July, 1995.

C. L. Williams
C. L. WILLIAMS