

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

In the Matter of the Accusation

Against:

JAMES M. HAWK, M.D.

Certificate #G-75265

Respondent.

File No: 18-1998-88088

DECISION

The attached Stipulation in Settlement and Decision is hereby adopted by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on April 26, 1999.

DATED March 25, 1999

**DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA**



**Ira Lubell, M.D., President
Division of Medical Quality**

1 BILL LOCKYER, Attorney General
of the State of California
2 STEVEN V. ADLER,
Deputy Attorney General, State Bar No. 55392
3 Department of Justice
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4 Post Office Box 85266
San Diego, California 92186-5266
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6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation) NO. 18-98-88088
14 Against:)
15 JAMES M. HAWK, M.D.) **STIPULATION IN**
16 1700 Waterman Street) **SETTLEMENT AND DECISION**
17 San Bernardino, CA 92404)
Physician's and Surgeon's)
Certificate No. G 75265)
Respondent.)

18 **IT IS HEREBY STIPULATED AND AGREED** by and between the
19 parties to the above-captioned proceedings that the following
20 matters are true:

- 21 1. An Accusation, No. 18-98-88088, has been filed
22 against James M. Hawk, M.D. ("respondent"), and is currently
23 pending before the Division of Medical Quality ("Division") of
24 the Medical Board of California ("Board").
25 2. The Accusation, together with all other
26 statutorily required documents, has been duly served on the
27 respondent. A copy of Accusation No. 18-98-88088 is attached as

1 Attachment "A" and incorporated by reference as if fully set
2 forth.

3 3. Complainant, Ron Joseph, is the Executive Director
4 for the Board. Complainant is represented by Bill Lockyer,
5 Attorney General of California, and Steven V. Adler, Deputy
6 Attorney General.

7 4. At all times relevant herein, respondent has been
8 licensed by the Board under Physician's and Surgeon's Certificate
9 No. G 75265.

10 5. Respondent is not represented by counsel in this
11 matter. Respondent understands that he has the right to retain
12 and consult with counsel in this matter, freely and voluntarily
13 waives and gives up that right, and desires to proceed without
14 counsel.

15 6. Respondent understands the nature of the charges
16 alleged in the Accusation and that the charges and allegations
17 constitute cause for imposing discipline upon his license to
18 practice medicine. Respondent is fully aware of his right to a
19 hearing on the charges and allegations contained in said
20 Accusation, his right to reconsideration, appeal and all other
21 rights accorded to him pursuant to the California Business and
22 Professions Code and Government Code.

23 7. Respondent knowingly, voluntarily and irrevocably
24 waives and gives up each of these rights.

25 8. Respondent admits the truth of each and every
26 allegation of the Accusation No. 18-98-88088, and agrees that
27 respondent has thereby subjected his license to discipline.

1 Respondent agrees to the Board's imposition of penalty as set
2 forth in the Order below.

3 9. The admissions made by respondent herein are for
4 the purpose of this proceeding and any other proceedings in which
5 the Division or other professional licensing agency is involved,
6 and shall not be admissible in any other criminal or civil
7 proceedings.

8 10. The parties agree that facsimile copies of this
9 Stipulation, including facsimile signatures of the parties, may
10 be used in lieu of original documents and signatures. The
11 facsimile copies will have the same force and effect as
12 originals.

13 11. In consideration of the foregoing admissions and
14 findings, the parties agree that the Board may, without further
15 notice, issue and enter an Order as follows:

16 **DISCIPLINARY ORDER**

17 A. IT IS HEREBY ORDERED that Physician's and
18 Surgeon's Certificate number G 75265 issued to James M. Hawk,
19 M.D. is revoked. However, the revocation is stayed and
20 respondent is placed on probation for 15 years on the following
21 terms and conditions.

22 Within 15 days after the effective date of this
23 decision the respondent shall provide the Division, or its
24 designee, proof of service that respondent has served a true copy
25 of this decision on the Chief of Staff or the Chief Executive
26 Officer at every hospital where privileges or membership are
27 extended to respondent or where respondent is employed to

1 practice medicine and on the Chief Executive Officer at every
2 insurance carrier where malpractice insurance coverage is
3 extended to respondent.

4 B. ABSTAIN FROM DRUG USE Respondent shall abstain
5 completely from the personal use or possession of controlled
6 substances as defined in the California Uniform Controlled
7 Substances Act, and dangerous drugs as defined by Section 4211 of
8 the Business and Professions Code, or any drugs requiring a
9 prescription. This prohibition does not apply to medications
10 lawfully prescribed to respondent for a bona fide illness or
11 condition by another practitioner.

12 C. BIOLOGICAL FLUID TESTING Respondent shall
13 immediately submit to biological fluid testing, at respondent's
14 cost, upon the request of the Division or its designee.

15 D. PSYCHOTHERAPY Within 60 (sixty) days of the
16 effective date of this Decision, respondent shall submit to the
17 Division for its prior approval the name and qualifications of a
18 psychiatrist of respondent's choice. Respondent shall undergo
19 and continue psychiatric treatment until further notice from the
20 Division or its designee. Respondent shall have his treating
21 psychiatrist submit monthly status reports to the Division or its
22 designee for the first six months of probation, and quarterly
23 reports thereafter, which shall certify the following:

24 1. That respondent is in compliance with his
25 treatment program; and

26 2. Whether, with due regard for the public
27 health and safety, respondent is capable of practicing

1 medicine safely.

2 E. OBEY ALL LAWS Respondent shall obey all federal,
3 state and local laws, all rules governing the practice of
4 medicine in California, and remain in full compliance with any
5 court orders.

6 F. QUARTERLY REPORTS Respondent shall submit
7 quarterly declarations under penalty of perjury on forms provided
8 by the Division, stating whether there has been compliance with
9 all the conditions of probation.

10 G. PROBATION SURVEILLANCE PROGRAM COMPLIANCE
11 Respondent shall comply with the Division's probation
12 surveillance program. Respondent shall, at all times, keep the
13 Division informed of his or her address of business and residence
14 which shall both serve as addresses of record. Changes of such
15 addresses shall be immediately communicated in writing to the
16 Division. Under no circumstances shall a post office box serve
17 as an address of record.

18 Respondent shall also immediately inform the Division,
19 in writing, of any travel to any areas outside the jurisdiction
20 of California which lasts, or is contemplated to last, more than
21 30 (thirty) days.

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

27 I. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR

1 **IN-STATE NON-PRACTICE** In the event respondent should leave
2 California to reside or to practice outside the State or for any
3 reason should respondent stop practicing medicine in California,
4 respondent shall notify the Division or its designee in writing
5 within ten days of the dates of departure and return or the dates
6 of non-practice within California. Non-practice is defined as
7 any period of time exceeding thirty days in which respondent is
8 not engaging in any activities defined in sections 2051 and 2052
9 of the Business and Professions Code. All time spent in an
10 intensive training program approved by the Division or its
11 designee shall be considered as time spent in the practice of
12 medicine. Periods of temporary or permanent residence or
13 practice outside California or of non-practice within California,
14 as defined in this condition, will not apply to the reduction of
15 the probationary period.

16 J. **COMPLETION OF PROBATION** Upon successful
17 completion of probation, respondent's certificate shall be
18 restored.

19 K. **VIOLATION OF PROBATION** If respondent violates
20 probation in any respect, the Division, after giving respondent
21 notice and the opportunity to be heard, may revoke probation and
22 carry out the disciplinary order that was stayed. If an
23 accusation or petition to revoke probation is filed against
24 respondent during probation, the Division shall have continuing
25 jurisdiction until the matter is final, and the period of
26 probation shall be extended until the matter is final.

27 L. **COST RECOVERY** The respondent is hereby ordered to

1 reimburse the Division the amount of \$3,000 within 90 days from
2 the effective date of this decision for its investigative and
3 prosecution costs. Failure to reimburse the Division's cost of
4 its investigation and prosecution shall constitute a violation of
5 the probation order, unless the Division agrees in writing to
6 payment by an installment plan because of financial hardship.
7 The filing of bankruptcy by respondent shall not relieve the
8 respondent of his responsibility to reimburse the Division for
9 its investigative and prosecution costs.

10 M. PROBATION COSTS Respondent shall pay the costs
11 associated with probation monitoring each and every year of
12 probation in an amount not to exceed \$1,000. Such costs shall be
13 payable to the Division and delivered to the designated probation
14 surveillance monitor at the beginning of each calendar year.
15 Failure to pay costs within 30 days of the due date shall
16 constitute a violation of probation.

17 N. LICENSE SURRENDER Following the effective date of
18 this decision, if respondent ceases practicing due to retirement,
19 health reasons or is otherwise unable to satisfy the terms and
20 conditions of probation, respondent may voluntarily tender his
21 certificate to the Board. The Division reserves the right to
22 evaluate the respondent's request and to exercise its discretion
23 whether to grant the request, or to take any other action deemed
24 appropriate and reasonable under the circumstances. Upon formal
25 acceptance of the tendered license, respondent will no longer be
26 subject to the terms and conditions of probation.

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CONTINGENCY

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2 This Stipulation shall be subject to the approval of
3 the Division. Respondent understands and agrees that Board staff
4 and counsel for complainant may communicate directly with the
5 Division regarding this Stipulation and Settlement, without
6 notice to or participation by respondent or his counsel. If the
7 Division fails to adopt this Stipulation as its Order, the
8 Stipulation shall be of no force or effect, it shall be
9 inadmissible in any legal action between the parties, and the
10 Division shall not be disqualified from further action in this
11 matter by virtue of its consideration of this Stipulation.

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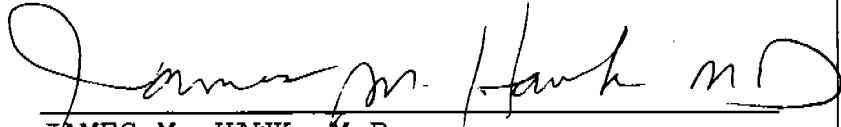
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1 I have carefully read and fully understand the
2 Stipulation and Order set forth above. I understand my right to
3 consult with an attorney and retain counsel to represent me in
4 this matter, and have decided to proceed without counsel. I
5 understand that in signing this Stipulation I am waiving my right
6 to a hearing on the charges set forth in the Accusation on file
7 in this matter. I further understand that in signing this
8 Stipulation the Board may enter the foregoing Order placing
9 certain requirements, restrictions and limitations on my right to
10 practice medicine in the State of California. I agree that a
11 facsimile copy of this Stipulation, including a facsimile copy of
12 my signature may be used with the same force and effect as the
13 originals. I enter into this Stipulation freely, knowingly,
14 intelligently and voluntarily.

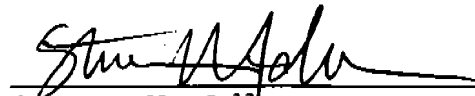
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17 JAMES M. HAWK, M.D.
Respondent

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19 The foregoing Stipulated Settlement and Disciplinary
20 Order is respectfully submitted for the consideration of the
21 Division.

22 DATED: 3/8/99

23 BILL LOCKYER, Attorney General
of the State of California

24 
25 Steven V. Adler
26 Deputy Attorney General

27 Attorneys for Complainant

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO, March 8 1998
BY William B. [Signature] ANALYST

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of the State of California
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BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation) NO. 18-98-88088
Against:)
)
JAMES M. HAWK, M.D.) ACCUSATION
1700 North Waterman Street)
San Bernardino, CA 92404)
)
Physician's and Surgeon's)
Certificate No. G 75265)
)
Respondent.)

Complainant Ron Joseph, as cause for disciplinary
action, alleges as follows:

PARTIES

1. Complainant is the Executive Director of the
Medical Board of California ("Board") and makes and files this
Accusation solely in his official capacity.

License Status

2. On or about September 29, 1992, Physician's and
Surgeon's Certificate No. G 75265 was issued by the Board to
James M. Hawk, M.D. ("respondent"), and at all times relevant

1 herein, said Physician's and Surgeon's Certificate was, and
2 currently is, in full force and effect. Unless renewed, said
3 license will expire on February 29, 2000.

4 JURISDICTION

5 3. This Accusation is made in reference to section 822
6 of the California Business and Professions Code ("Code"), which
7 provides as follows:

8 "If a licensing agency determines that its licentiate's
9 ability to practice his or her profession safely is impaired
10 because the licentiate is mentally ill, or physically ill
11 affecting competency, the licensing agency may take action
12 by any one of the following methods:

13 (a) Revoking the licentiate's certificate or
14 license.

15 (b) Suspending the licentiate's right to
16 practice.

17 (c) Placing the licentiate on probation.

18 (d) Taking such other action in relation to the
19 licentiate as the licensing agency in its discretion
20 deems proper.

21 The licensing agency shall not reinstate a revoked or
22 suspended certificate or license until it has received
23 competent evidence of the absence or control of the
24 condition which caused its action and until it is satisfied
25 that with due regard for the public health and safety the
26 person's right to practice his or her profession may be
27 safely reinstated."

1 the Board may request the administrative law judge to direct any
2 licentiate found to have committed a violation or violations of
3 the licensing act, to pay to the Board a sum not to exceed the
4 reasonable costs of the investigation and enforcement of the
5 case.

6 CAUSE FOR DISCIPLINE

7 (Impairment)

8 5. Respondent James M. Hawk, M.D. is subject to
9 disciplinary action on account of the following:

10 a. In or about March, 1998, respondent was
11 diagnosed with depression.

12 b. Respondent was being treated with Paxil for
13 depression by Dr. J., a family practitioner.

14 c. On June 26, 1998, while working at the San
15 Bernardino Medical Group, respondent experienced a manic
16 episode and was hospitalized. He had a four-day inpatient
17 stay at Loma Linda Behavioral Medical center, and then was
18 followed as an outpatient by Dr. D.S., respondent's
19 psychiatrist. Respondent used the alias of "Diego Paul
20 Maradonna."

21 d. On or about July 8, 1998, Dr. D.S. reported
22 respondent to the Board. Dr. D.S. reported that respondent
23 had been under treatment for treatment of a bipolar manic
24 episode, and that respondent was not able to treat patients
25 safely at that time.

26 e. After treating respondent between June, 1998,
27 and September, 1998, Dr. D.S. decided that respondent was

1 fit to resume the practice of medicine and cleared
2 respondent to return to work. Dr. D.S. prepared a letter
3 dated September 30, 1998, reporting his conclusions, and
4 forwarded in to the Board.

5 f. At the Board's request and with respondent's
6 consent, respondent's case was reviewed by Dr. M.S., a
7 Board-certified psychiatrist. After a review of
8 respondent's medical records and other pertinent
9 information, Dr. M.S. recommended a psychiatric evaluation
10 of respondent be conducted.

11 g. Respondent was then evaluated with
12 psychological testing by Dr. W.B., Ph.D., (a clinical
13 psychologist) and then by interview and a review of testing
14 results and medical records by Dr. B.P., a Board-certified
15 psychiatrist. They concluded that respondent was suffering
16 from a treatable mental illness and could return to work as
17 an emergency room physician if respondent continued a
18 program of medication under the care of a psychiatrist and
19 continued in therapy.

20 6. As a result of the conduct described in paragraph 5
21 above, respondent's license is subject to discipline pursuant to
22 Code section 822. Although respondent is suffering from a
23 treatable mental illness, he can practice safely only if he
24 follows a program of medication under the care and supervision of
25 a psychiatrist, as well as therapy.

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PRAYER

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

1. Revoking, suspending, or otherwise imposing terms and conditions of probation, pursuant to Code section 822, upon Physician's and Surgeon's Certificate Number G 75265 issued to respondent James M. Hawk, M.D.;

2. Awarding the Board its costs of investigation and prosecution as provided by statute; and,

3. Taking such other and further action as the Board deems proper.

DATED: March 8, 1999



Ron Joseph
Executive Director
Medical Board of California

Complainant