BOARD OF PODIATRIC MEDICINE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: Charles Berk, D.P.M. Certificate # E-1790 Respondent.	D-4435

DECISION

The attached Stipulation is hereby adopted by the Board of Podiatric Medicine of the Medical Board of California as its Decision in the above-entitled matter.

This Decision shall become effective on October 28, 1991.

IT IS SO ORDERED September 27, 1991.

BOARD OF PODIATRIC MEDICINE
MEDICAL BOARD OF CALIFORNIA

Karen McElliott

KAREN MC ELLIOTT
Chairperson

DANIEL E. LUNGREN, Attorney General
of the State of California
JANA L. TUTON
Supervising Deputy Attorney General
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Sacramento, California 94244-2550
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Attorneys for Complainant

BEFORE THE
BOARD OF PODIATRIC MEDICINE
DIVISION OF ALLIED HEALTH PROFESSIONS
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: CHARLES BERK 7337 St. Auburn Drive Birminghamfield, MI 48010 Podiatric Medicine Certificate No. E-1790 Respondent.	No. D-4435 STIPULATION

Respondent Charles Berk, D.P.M., by and through his attorney, Irving Tannenhaus, and the Board of Podiatric Medicine, through its attorney Deputy Attorney General Jana L. Tuton, do hereby enter into the following stipulation:

1. Respondent Charles Berk, D.P.M., hereby acknowledges receipt of Accusation No. D-4435, Statement to Respondent, and copies of the Notice of Defense form. He has filed a timely notice of defense.

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2. Respondent is represented by Irving Tannenhaus, and has reviewed the accusation and this stipulation with Mr. Tannenhaus.

3. Respondent is fully aware of his right to a hearing on the charges and allegations contained in Accusation No. D-4435, his right to reconsideration, appeal, and any and all rights which may be accorded pursuant to the California Administrative Procedure Act and the laws of the State of California.

4. Respondent hereby freely and voluntarily waives his right to a hearing, reconsideration, appeal and any and all other rights which may be accorded by the California Administrative Procedure Act and the laws of the State of California with regard to Accusation No. D-4435.

5. Respondent admits that he is subject to disciplinary action for violation of Business and Professions Code section 2305 in that on May 6, 1987, the Michigan State Board of Podiatry suspended his license to practice podiatry in that state for three months and imposed probation for a period of one year subsequent to reinstatement.

6. Respondent has satisfactorily completed his Michigan probation and his Michigan license has been fully restored.

Based on the foregoing stipulation, the Board of Podiatric Medicine may issue the following order:

A. The license to practice podiatric medicine in the State of California heretofore issued to respondent is hereby

revoked; provided, however, that execution of this order of revocation is stayed and respondent is placed on probation for five (5) years upon the following terms and conditions:

1. As part of probation, respondent is suspended from the practice of podiatric medicine for 30 days beginning the effective date of this decision.

2. Within 90 days of the effective date of this decision, respondent shall take and pass an oral clinical examination to be administered by the Board of Podiatric Medicine or its designee. If respondent fails this examination, respondent must wait three months between re-examinations; except that after three failures, respondent must wait one year to take each necessary re-examination thereafter. The respondent shall pay the cost of the examination(s).

If respondent fails to take and pass this examination within 180 days of the effective date of this decision or within two attempts, whichever occurs first, respondent shall cease the practice of podiatric medicine until respondent takes and successfully passes an oral clinical examination and is so notified by the Board of Podiatric Medicine in writing. Failure to pass the required examination no later than 100 days prior to the first scheduled termination of probation shall constitute a violation of probation.

3. Respondent is hereby ordered to pay to the Board of Podiatric Medicine the amount of $142.00 on or before 60 days from the effective date of this decision for recovery of the actual and reasonable costs of the investigation and prosecution

of this matter as provided for in Business and Professions Code section 2497.5.

If the amount due as set forth above is not paid in total as of that date, respondent's license shall be suspended until payment is received by the Board of Podiatric Medicine. Respondent's license to engage in the practice of podiatric medicine shall not be renewed or reinstated if respondent has failed to pay all of the costs authorized under Business and Professions Code section 2497.5 as specified above.

4. Respondent shall obey all federal, state and local laws, and all rules governing the practice of podiatric medicine in California.

5. Respondent shall submit quarterly declarations, under penalty of perjury, on forms provided by the Board of Podiatric Medicine, stating whether there has been compliance with all the conditions of probation.

Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice respondent shall continue to submit quarterly declarations under penalty of perjury.

6. Respondent shall comply with the Board of Podiatric Medicine's probation surveillance program.

7. Respondent shall appear in person for interviews with the Board of Podiatric Medicine's medical consultant, upon request, at various intervals and with reasonable notice.

8. In the event the respondent fails to satisfactorily complete any provision of the order of probation, which results

in the cessation of practice, all other provisions of probation other than the submission of quarterly reports shall be held in abeyance until respondent is permitted to resume the practice of podiatry. All provisions of probation shall recommence on the effective date of resumption of practice. Periods of cessation of practice will not apply to the reduction of the probationary period.

9. In the event respondent should leave California to reside or to practice outside the State, respondent must notify the Board of Podiatric Medicine in writing of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

10. Upon successful completion of probation, respondent's certificate will be fully restored.

11. If respondent violates probation in any respect, the Board of Podiatric Medicine, 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 Board of Podiatric Medicine shall have continuing jurisdiction until the matter is final, the period of probation shall be extended until the matter is final and no petition for modification of penalty shall be considered while there is an accusation or petition to revoke probation pending against respondent.

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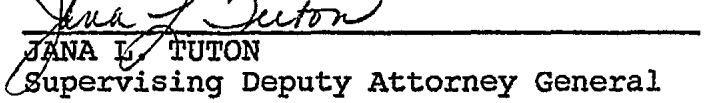
12. Respondent shall submit satisfactory proof biennially to the Board of Podiatric Medicine of compliance with the requirement to complete fifty hours of approved continuing medical education for re-licensure during each two (2) year renewal period.

It is agreed that the terms set forth herein shall be null and void and not binding upon the parties unless approved by the Board of Podiatric Medicine.

DATED:

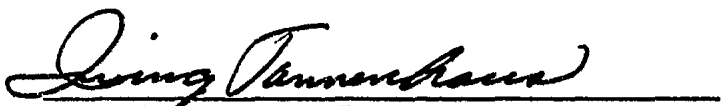
DANIEL E. LUNGREN, Attorney General
of the State of California
JANA L. TUTON
Supervising Deputy Attorney General



JANA L. TUTON
Supervising Deputy Attorney General

Attorneys for Complainant

DATED: 7-22-91



IRVING TANNENHAUS
Attorney at Law

Attorney for Respondent

DATED: 7-23-91

CHARLES BERK, D.P.M.
Respondent

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of the State of California
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Attorneys for Complainant

BEFORE THE
CALIFORNIA BOARD OF PODIATRIC MEDICINE
DIVISION OF ALLIED HEALTH PROFESSIONS
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

In the Matter of the Accusation Against: CHARLES BERK 7337 St. Auburn Drive Birminghamfield, MI 48010 Podiatric Medicine Certificate No. E-1790, Respondent.	NO. D-4435 ACCUSATION

James H. Rathlesberger, Executive Officer, for causes for discipline, alleges:

1. Complainant James H. Rathlesberger makes and files this accusation in his official capacity as Executive Officer, Board of Podiatric Medicine, Allied Health Professions of the Medical Board of California, Department of Consumer Affairs, State of California.

2. On January 1, 1974, the Division of Allied Health Services, upon the recommendation of the Board of

Podiatric Medicine, issued podiatric medicine certificate number E-1790 to Charles Berk, D.P.M. The license was in full force and effect at all times pertinent herein and has been renewed through November 30, 1992.

3. Under Business and Professions Code section 2497, the Board of Podiatric Medicine may revoke, suspend or impose probationary conditions upon any certificate holder for unprofessional conduct. The revocation, suspension, or other discipline by another state of a license or certificate to practice medicine issued by that state, or the revocation, suspension or restriction of the authority to practice medicine by any agency of the federal government constitutes grounds for disciplinary action for unprofessional conduct against a licensee under Business and Professions Code section 2305.

Under Business and Professions Code section 2497.5, the Board of Podiatric Medicine may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the Board a sum not to exceed the actual and reasonable cost of the investigation and prosecution of the case.

4. Respondent has subjected his certificate to discipline under Business and Professions Code section 2305 on the grounds of unprofessional conduct in that on May 6, 1987, the Michigan State Board of Podiatry suspended respondent's license to practice podiatry in that state for

three months and imposed probation for a period of one year subsequent to reinstatement.

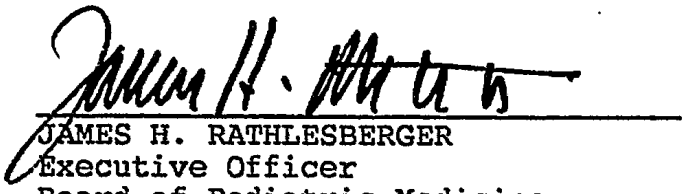
WHEREFORE, complainant prays that a hearing be held and that the Board of Podiatric Medicine issue an order:

1. Revoking or suspending podiatric medicine certificate number E-1790, issued to Charles Berk.

2. Ordering Charles Berk to pay to the Board of Podiatric Medicine its costs and charges in investigating, presenting and processing the case according to proof at the hearing.

3. Taking such other and further action as may be deemed proper and appropriate.

DATED: January 28, 1991



JAMES H. RATHLESBERGER
Executive Officer
Board of Podiatric Medicine
Division of Allied Health Professions
Medical Board of California
Department of Consumer Affairs

Complainant

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(Judith A. Rose)