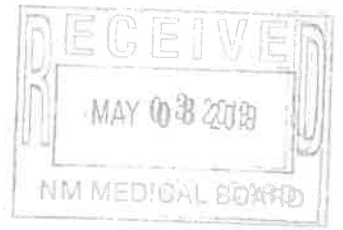


BEFORE THE NEW MEXICO MEDICAL BOARD



**IN THE MATTER OF THE
APPLICATION OF
SHAWN MARK BAKER, M.D.,

Respondent.**

**No. 2019-015
(Inv. No. 2019-C-025)**

**AGREED ORDER FOR STIPULATION ON LICENSE REQUIRING
DIRECT SUPERVISION BY PROCTOR**

The New Mexico Medical Board (“Board”) and Shawn Mark Baker, M.D. (Respondent) (together the “Parties”) have agreed to resolve the Board’s investigation of Respondent’s application for a license to practice medicine in New Mexico under terms of this Agreed Order for Stipulation on License Requiring Direct Supervision by Proctor (“Agreed Order”).

Stipulations by the Parties

1. The Parties stipulate Respondent, having applied for a license to practice medicine in New Mexico, is subject to the jurisdiction of the Board pursuant to the Medical Practice Act (MPA), NMSA 1978, Sections 61-6-1 through -35 (1989, as amended through 2018), the Uniform Licensing Act (ULA), NMSA 1978, Sections 61-1-1 through -34 (1953, as amended through 2018), and rules and regulations of the Board relating to the practice of medicine (“Rules”), Title 16, Chapter 10, NMAC.
2. The Parties stipulate Respondent came under investigation by the Board on or about August 10, 2018, when Respondent applied for a license to practice medicine in New Mexico.
3. The Parties stipulate Respondent previously held a license to practice medicine in New Mexico (license number MD2006-0659), which Respondent voluntarily surrendered

pursuant to a September 19, 2017, order entered by the Board in Case No. 2017-038 (“2017 Voluntary Surrender Order”).

4. The Parties stipulate Respondent, under the terms of the 2017 Voluntary Surrender Order, agreed he would not reapply for a license to practice medicine in New Mexico “without first proving clinical skills competency through a Board[-]approved process and with Board[-]approved evaluators.”

5. The Parties stipulate Respondent underwent a two-day clinical skills assessment by The Center for Personalized Education for Physicians (CPEP) from December 4-5, 2017, to evaluate his competence to practice medicine in the area of orthopedic surgery.

6. The Parties stipulate the CPEP assessment identified certain needs Respondent needed to satisfy before and in connection with his return to the practice of medicine. In particular –

- a. Respondent should complete a class in medical recordkeeping and
- b. Respondent should be directly supervised by a proctor to ensure his technical skills competency.

7. The Parties stipulate Respondent provided the Board with evidence he had completed a Board-approved medical recordkeeping course.

8. The Parties stipulate this Agreed Order –

- a. was mutually negotiated and determined,
- b. contains no provision that is unconscionable, and
- c. will otherwise remain in full force and effect if any portion of it is invalidated by

judgment or court order.

9. The Parties stipulate this Agreed Order is a public document, and its entry will be

reported to the National Practitioner Data Bank (NPDB), the Federation of State Medical Boards (FSMB) and the American Medical Association (AMA).

10. The Parties stipulate the Board has authority to enter into this Agreed Order.

Agreement

11. The Parties agree this Agreed Order is in the best interests of Respondent, the Board and the public.

12. The Board agrees –

a. entry of this Agreed Order will close its investigation and will resolve all outstanding cases pending against Respondent and

b. to issue a Respondent a license to practice medicine in New Mexico subject to the terms of this Agreed Order, specifically, requirements that Respondent –

i) will only practice medicine under the direct supervision of a Board-approved proctor pursuant to a written agreement administratively concluded between the Board, the proctor and Respondent which will provide a detailed proctoring plan (e.g., a schedule detailing the number and type of procedures the proctor will supervise, as well as pre-operative and post-operative examinations, as well as record reviews the proctor will conduct) and will require the proctor to provide written reports to the Board's designee on an as-needed, but not-less-than-monthly basis (unless a different schedule is administratively agreed to by the Board),

ii) will complete in a timely manner any remedial training the proctor may recommend, and

iii) will appear before the Board if requested to do so.

13. In return for the Board's agreement to close its investigation and grant Respondent a license to practice medicine, Respondent agrees to comply with the terms of this

Agreed Order, specifically including requirements that Respondent –

a. will only practice medicine under the direct supervision of a Board-approved proctor pursuant to the written agreement described above,

b. will complete in a timely manner any remedial training the proctor may recommend, and

c. will appear before the Board when requested to do so.

14. By signing this Agreed Order, Respondent agrees to waive –

a. his right to a public evidentiary hearing,

b. his right to any appeal of this Agreed Order, and

c. his right to challenge the factual allegations underlying this Agreed Order in any future Board proceeding and the stipulation on his license resulting from this Agreed Order.

15. The Parties agree this Agreed Order –

a. contains the entire agreement between the Parties with respect to its subject matter, and will not be enlarged, modified, or altered except by written order of the Board after Respondent has been given an the opportunity to be heard,

b. will have full force and effect if executed in counterparts and/or via facsimile or electronic means,

c. will be effective upon entry by the Board, and

d. will remain in force until removed following formal action by the Board.

16. Respondent agrees to report entry of this Agreed Order to any jurisdiction where he may be licensed or apply for licensure.

STATEMENT AND AFFIRMATIONS BY RESPONDENT

17. By signing below, Respondent states and affirms –

- a. he knowingly, voluntarily and intelligently accepts and understands the terms of this Agreed Order,
- b. he knowingly, voluntarily and intelligently is waiving his rights under the MPA and the ULA, including his right to a hearing and his right to an appeal of this Agreed Order,
- c. he accepts the stipulation on his license will remain on his license until removed based on formal action by the Board.
- d. he knows and understands he has the right to consult with an attorney of his choice regarding his rights and the effects of this Agreed Order, and that he is stating he has either consulted an attorney or is waiving his right to counsel,
- e. he is aware that this Agreed Order is a public document, reportable to the NPDB, the FSMB and the AMA, and
- f. he is of sound mind and not impaired by any medication or drug.

5/2/2019
Date


Shawn Mark Baker, M.D.

Acknowledgement of Signature of Respondent

The foregoing was acknowledged before me on this ____ day of _____, 2019, by Shawn Mark Baker in the County and State of _____.

[SEAL]

Notary Public Signature

Printed Name

Commission expires

[Board Order imposing stipulation appears on following page.]

California Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Orange)

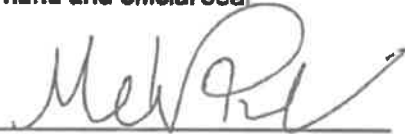
On May 02, 2019 before me, Melissa Marilyn Prado / Notary Public
(insert name and title of the officer)

personally appeared Shawn M. Baker
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

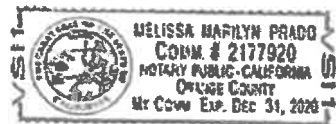
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature



(Seal)



**ORDER IMPOSING STIPULATION ON LICENSE REQUIRING
DIRECT SUPERVISION BY PROCTOR**

THE BOARD, HAVING FOUND that resolving this matter under the terms of this Agreed Order is in the best interests of Respondent, the Board and the public, that it will promote administrative efficiency, and that it will conserve taxpayer resources, and

HAVING FURTHER FOUND that Respondent understands the terms of this Agreed Order, including his waiver of rights,

ORDERS issuance of a license to Respondent to practice medicine in New Mexico under the terms of this Agreed Order.

NEW MEXICO MEDICAL BOARD

5/3/19
Date


Steven M. Jenkusky, M.D., Chairman

Certificate of Service

I certify I transmitted a copy of this Agreed Order, as entered, to Shawn Mark Baker, M.D., at *bakershawn67@gmail.com*, and to the Board's Prosecutor Yvonne Chicoine at *yvonnem.chicoine@state.nm.us*. Transmission occurred at _____ a.m./p.m. on 5/3/19.


Samantha Luckie-Breen
Administrative Assistant



BEFORE THE NEW MEXICO MEDICAL BOARD

IN THE MATTER OF)
SHAWN BAKER, M.D.)
)
License No. MD 2006-0659)
)
Respondent.)
_____)

Case No. 2017-038

STIPULATION AND ORDER FOR VOLUNTARY SURRENDER OF LICENSE AND PERMANENT RESTRICTION ON REAPPLICATION

By mutual agreement and understanding between the New Mexico Medical Board ("Board") and the above-named respondent Shawn Baker, M.D. ("Respondent"), each having agreed to dispose of this matter according to the terms set forth in this Stipulation and Order for Voluntary Surrender of License ("Order"), the Board hereby finds and orders as follows:

FINDINGS OF FACT

1. Respondent holds a license to practice medicine in the State of New Mexico and is therefore subject to the jurisdiction of the Board pursuant to the Medical Practice Act, NMSA 1978, Chapter 61, Article 6 ("MPA"), the Uniform Licensing Act, NMSA 1978, Chapter 61, Article 1 ("ULA"), and certain Board-promulgated rules and regulations, Title 16, Chapter 10, NMAC.
2. The Board is currently investigating Respondent for alleged violations of:
 - a) NMSA 1978, Section 61-6-15(D)(21)(c), failure to report adverse action taken by a healthcare entity;
 - b) NMSA 1978, Section 61-6-15(13), incompetence to practice as a licensee;
 - c) Applicable Board rules found at Title 16, Chapter 10, NMAC; and/or
 - d) Provisions of the Code of Medical Ethics of the American Medical Association (2014-2015 Ed.) as adopted by the Board at Rule 16.10.8.9 NMAC.
3. At the Board's August 2017 meeting, the Board endorsed a complaint committee's recommendation that Respondent be offered an opportunity to resolve these allegations by voluntarily surrendering his license to practice medicine and agreeing to a permanent restriction,

imposed by the Board, precluding Respondent's reinstatement, renewal, restoration, or re-application for any license to practice medicine in the State of New Mexico without first proving clinical skills competency through a Board approved process and with Board approved evaluators.

4. Without admitting any wrongdoing, and solely to avoid delay, uncertainty, inconvenience, and the expense of litigation, Respondent agrees to settle this matter by agreeing to voluntarily and permanently-surrender his license to practice medicine and to a permanent restriction precluding Respondent's reinstatement, renewal, restoration, or re-application for any license to practice medicine in the State of New Mexico without first proving clinical skills competency through a Board approved process and with Board approved evaluators.

5. In order for the Board to have adequate time to consider this proposed settlement, Respondent waives the right to have this matter heard and decided within the time frames set by the ULA, and also waives the time limitations for the Board to bring an action against Respondent as set forth in the ULA at NMSA 1978, Section 6-1-3.1 and/or in the MPA at NMSA 1978, Section 6-6-24.

6. This Order reflects a negotiated settlement, and in the event that the Board does not approve the Order in its entirety and without modification, this Order shall be deemed withdrawn as of the date of any order rejecting the document as proposed.

7. By signing this Order:

a. Respondent confirms that he has received all notice required by law, and all jurisdictional requirements have been satisfied.

b. Respondent acknowledges reading and understanding the contents of this document.

c. Respondent agrees to the entry of this Order and to abide by the terms and conditions described herein.

d. Respondent confirms that he understands the applicable statutory and regulatory provisions setting forth the authority and power of the Board relevant to this Order, and that if this proposed Order is accepted by the Board, such acceptance results in a waiver of

Respondent's rights under the Rules, the ULA, MPA, and/or the IHCPA relating to this Order, including the right to a hearing on this Order and the right to appeal this Order.

e. Respondent understands his right to consult with an attorney and Respondent's signature below signifies that Respondent has either consulted with an attorney or that Respondent knowingly and voluntarily waives his right to counsel.

f. Respondent agrees with the findings and conclusions set forth herein, and Respondent submits to the terms and conditions described herein.

g. Respondent understands that this Order will not become effective until approved by the Board.

h. Respondent understands that the terms set forth in this Order are unique to the evidence in this matter, and that this Order shall have no precedential or binding effect on other Board proceedings.

i. Respondent understands that this Order contains the entire agreement of the parties hereto, and that there is no other agreement of any kind, verbal, written or otherwise.

j. Respondent stipulates and agrees that if the Board accepts and approves the terms of this Order, that any failure by Respondent to comply with the Order shall constitute unprofessional or dishonorable conduct as defined in the MPA and/or the Rules.

k. Respondent asks the Board to accept and approve this Order of his own free will, knowingly and voluntarily.

l. Respondent stipulates and agrees that avoidance of further litigation and prompt resolution of this matter is valuable consideration for Respondent to waive his right to an evidentiary hearing in this matter.

m. Respondent understands that this matter may be reported to the National Practitioner Data Bank as required by law.

CONCLUSIONS OF LAW

8. The Board has jurisdiction over the Respondent and the subject matter hereof, and has authority to enter into this Order.

9. The Board has authority to enter this Order pursuant to NMSA 1978, Section 61-6-15 and

16.10.5.15 NMAC.

10. The Board concludes that Respondent's conduct violated NMSA 1978, Section 61-6-15(D)(21(c), failure to report adverse action taken by a healthcare entity; and NMSA 1978, Section 61-6-15(13), incompetence to practice as a licensee.

11. It is in best interest of the public that Respondent voluntarily and permanently surrender the license to practice medicine in the State of New Mexico, and that Respondent agrees to a permanent restriction precluding his reinstatement, renewal, restoration, or re-application for any license to practice medicine in the State of New Mexico without first proving clinical skills competency through a Board approved process and with Board approved evaluators.

ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that:

- A. The voluntary and permanent surrender of Respondent's license to practice medicine in the State of New Mexico should be, and is, accepted by the Board.
- B. Respondent's New Mexico Medical License No. MD 2006-0659 is permanently cancelled.
- C. Respondent shall immediately cease practice in New Mexico. Respondent's practice in the State of New Mexico after the date of entry of this Order shall constitute a violation of this Order, subjecting Respondent to disciplinary action by the Board and/or criminal prosecution for practicing without a license in New Mexico.
- D. Respondent shall not petition the Board for reinstatement, renewal, restoration, or re-application for any license to practice medicine in the State of New Mexico without first proving clinical skills competency.
- E. By this voluntary and permanent surrender of Respondent's license, Respondent resolves the complaints currently being investigated by the Board.
- F. This Order is a public document available for inspection; therefore, this Order shall be reported to the National Practitioners Data Bank, the Federation of State Medical Boards, and the America Medical Association.

[Signature page follows.]

AGREED AND ACCEPTED BY RESPONDENT:

RESPONDENT


Shawn Baker, M.D.

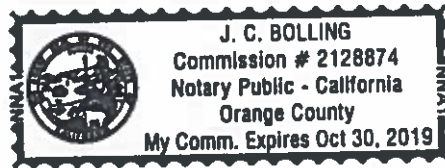
ACKNOWLEDGEMENT FOR SIGNATURE OF RESPONDENT

The foregoing was acknowledged before me this 11th day of September 2016 by Shawn Baker, M.D. in the County of Orange, California.


NOTARY PUBLIC

Commission expires: October 30, 2019

[SEAL]



REVIEWED, APPROVED AND ORDERED BY THE BOARD:

The foregoing Stipulation of Licensure and Order is approved and made immediately effective on this 19th day of September 2017.

NEW MEXICO MEDICAL BOARD

By: 
Steve Jenkusky, M.D.
Chair

ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Orange }

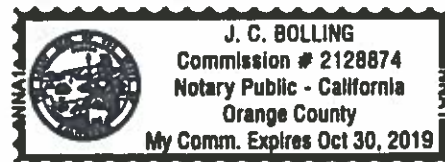
On September 19, 2017 before me, J. C. Bolling, Notary Public,
(Here insert name and title of the officer)

personally appeared Shawn M. Baker,
 who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose
 name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that
 he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by
 his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of
 which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
 the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

J. C. Bolling
 Notary Public Signature (Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Stipulation
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- Individual ~~(s)~~
 Corporate Officer
- _____
(Title)
- Partner(s)
 Attorney-in-Fact
 Trustee(s)
 Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.