

# LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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: IN THE MATTER OF:  
:  
: **BERRY M. CHANDLER, M.D.**  
: (Certificate No. 017810),  
: *Respondent.*  
: -----X

Inv. No.  
01-I-007  
**STIPULATION AND  
AGREEMENT FOR  
VOLUNTARY SURRENDER  
OF MEDICAL LICENSE**

This *Stipulation and Agreement* is made by Berry M. Chandler, M.D. ("Dr. Chandler"), a physician licensed to practice medicine in the state of Louisiana,<sup>1</sup> with and in favor of the Louisiana State Board of Medical Examiners (the "Board").

1. *Acknowledgment and Stipulations.* Dr. Chandler hereby acknowledges, stipulates and agrees that:

(a) Investigation of the captioned matter was docketed for investigation by the Board and was assigned to the Medical Consultant/Director of Investigations for the Board following receipt of apparently reliable information, records and documents indicating that Dr. Chandler had engaged in inappropriate conduct with several female patients and one female parent of a patient while he was to be performing various medical examinations, providing medical treatment, and/or providing other medical services. Furthermore, said investigation revealed that Dr. Chandler was arrested in January 2001 and subsequently charged by way of Bill of Indictment, dated May 21, 2001, with three counts (Counts 1, 2, and 3) of Sexual Battery, in violation of La. Rev. Stat. § 14:43.1(A), a felony under the laws of the State of Louisiana, and one count (Count 4) of Distribution of a Schedule III controlled substance, in violation of La. Rev. Stat. §§ 40:971(C)(1) and 968, a felony under the laws of the State of Louisiana, in the matter of the State of Louisiana versus Berry M. Chandler, Case No.: 01-F-0230, Fourth Judicial District Court, Parish of Ouachita, State of Louisiana. A trial on the merits commenced on

<sup>1</sup> Dr. Chandler's Louisiana medical license expired as of August 31, 2001 for his failure to renew but any rights thereto do not extinguish until August 31, 2005.

January 25, 2004, which resulted in a mistrial on March 17, 2004. Retrial of the matter began on August 25, 2004. On September 27, 2004, pursuant to a plea agreement, Dr. Chandler withdrew his formerly entered plea of not guilty and entered a plea of guilty (Alford plea<sup>2</sup>), which was accepted and entered by the Court, to one count (Count 4) of Dispensing a Schedule III controlled substance for a Non-Medical Purpose, in violation of La. Rev. Stat. § 40:971(A)(2), a misdemeanor under the laws of the State of Louisiana, and a responsive verdict/offense. Also, on September 27, 2004, each of the three counts (Counts 1, 2, and 3) of Sexual Battery were re-filed as three separate matters each with one count of Simple Battery, in violation of La. Rev. Stat. § 14:35, a misdemeanor under the laws of the State of Louisiana, in the matters of the State of Louisiana versus Berry M. Chandler, Case Nos.: 04-M-3027, 04-M-3028, and 04-M-3029, Fourth Judicial District Court, Parish of Ouachita, State of Louisiana. And that same day, pursuant to a plea agreement, Dr. Chandler entered a plea of guilty (Alford plea), which was accepted and entered by the Court, to each of those three counts/matters. As a result, the three counts (Counts 1, 2, and 3) of Sexual Battery, in violation of La. Rev. Stat. § 14:43.1(A), a felony under the laws of the State of Louisiana, were dismissed. The same day, Dr. Chandler was sentenced in each of the 4 matters/counts (one count of Dispensing a Schedule III controlled substance for a Non-Medical Purpose and three counts of Simple Battery) to pay a fine of \$500.00 and to serve 180 days in the Ouachita Parish Jail to run consecutively to all other sentences. The execution of the jail sentence was suspended and Dr. Chandler was placed on supervised probation for 24 months subject to certain written conditions. The probationary periods in Case Nos. 01-F-0230 and 04-M-3027 were to run concurrently but consecutively to the probationary periods in Case Nos. 04-M-3028 and 04-M-3029. And the probationary periods in Case Nos. 04-M-3028 and 04-M-3029 were to run concurrently but consecutively to the probationary periods in Case Nos. 01-F-0230 and 04-M-3027. Dr. Chandler was also ordered to surrender his Louisiana medical license within 15 day, to never again apply for a license to practice medicine in the state of Louisiana and to immediately cease practicing medicine in Louisiana, if he was doing so.

(b) The investigation, review and analysis of the Medical Consultant/Director of

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<sup>2</sup> As the Louisiana Supreme Court explained in *State v. Calhoun*, 694 So.2d 909, 915 (La. 1997), “The ‘best interest’ or *Alford* plea, which derives from the U.S. Supreme Court case, *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970), is one in which the defendant pleads guilty while maintaining his innocence. In that case, the United States Supreme Court ruled that a defendant may plead guilty, without foregoing his protestations of innocence, if ‘the plea represents a voluntary and intelligent choice among the alternative courses of action open to defendant[.] ... especially where the defendant was represented by competent counsel whose advice was that the plea would be to the defendant's advantage.’ *Id.* at 31, 91 S.Ct. at 164.”

Investigations for the Board has confirmed to his satisfaction that just cause exists for recommending that a formal Administrative Complaint be filed charging Dr. Chandler charging him with violation of the Louisiana Medical Practice Act (the "Act") pursuant to La. Rev. Stat. §§ 37:1285(A)(2), (6), (13), (14), and (15).

(c) Pursuant to the Louisiana Medical Practice Act and the Louisiana Administrative Procedure Act, Dr. Chandler would be entitled, prior to final disciplinary action against his medical license, to have notice of the allegations and charges asserted against him, and to administrative adjudication of such charges, pursuant to La. Rev. Stat. §§ 49:955-958. At such hearing, Dr. Chandler would be entitled to be represented by legal counsel, to have those charges proved against him by evidence, to appear and confront adverse witnesses, to call witnesses and present evidence on his own behalf in defense or in mitigation of the charges made, to a decision thereon by the Board based upon written findings of fact and conclusions of law pursuant to La. Rev. Stat. §§ 49:955-965 and to have any further hearing, as well as his rights to appeal the action of the Board or any other right to which he may be afforded by the Louisiana Administrative Procedure Act, La. Rev. Stat. § 49:951, *et seq.*, or otherwise.

2. ***Voluntary Surrender of License.*** Notwithstanding his right to notice of formal charges, administrative hearing and a decision thereon, as provided by La. Rev. Stat. § 49:955, in recognition of the stipulations set forth herein-above toward final disposition of the investigation now pending in this matter and in lieu of the institution and prosecution of formal administrative proceedings, Dr. Chandler, nonetheless, acknowledges the substantial accuracy of the information contained herein and he hereby waives his right to notice of charges and formal adjudication and voluntarily surrenders to the Board, for cancellation, his license to practice medicine in the state of Louisiana, as evidenced by Certificate No. 017810. In acknowledging the substantial accuracy of the information contained herein, Dr. Chandler explicitly reiterates that he denies, as he did at the time of the four (4) Alford pleas, the various allegations brought against him by the complainants. By his subscription hereto, Dr. Chandler also hereby authorizes the Investigating Officer designated by the Board with respect hereto and/or his legal counsel assisting him in that capacity, to present this Stipulation and Agreement for Voluntary Surrender of Medical License to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation, and he waives any objection to such disclosures, under La. Rev. Stat. § 49:960.

3. ***Effect of Voluntary Surrender of License.*** Dr. Chandler acknowledges, stipulates and agrees that as a result of the voluntary surrender of his medical license effected hereby, he shall not have any right or entitlement to reinstatement or renewal of his license to practice medicine in the state of Louisiana nor shall he hereafter be entitled to apply for or otherwise attempt to obtain any original, reinstated or renewal license to practice medicine in the state of Louisiana. Dr. Chandler further waives any right to which he may be entitled by law or otherwise to contest his agreement to, or the force and effect of, this document in any court or other forum relating to the matters referred to herein.

4. ***Surrender of Controlled Substances Privileges.*** As of the effective date of this Stipulation, Dr. Chandler shall not prescribe, dispense or administer in the state of Louisiana any controlled substance as defined, enumerated or included in federal or state statutes or regulations, 21 C.F.R. §1308, La. Rev. Stat. §40:964, or any substance which may hereafter be designated a controlled substance by amendment or supplementation of such regulations and statutes. Within thirty (30) days of the execution of this stipulation, Dr. Chandler shall, if he has not already done so, surrender for cancellation to the issuing authorities, any and all state registrations authorizing Dr. Chandler to prescribe, dispense, or administer any controlled substance.

5. ***Termination of Proceedings.*** By the voluntary surrender of his medical license, and the attendant dismissal of the investigation occasioned hereby, Dr. Chandler, moreover, acknowledges, stipulates and agrees that he hereby waives any right to which he may be entitled pursuant to the Louisiana Administrative Procedure Act or to which otherwise may be afforded to him by law, to contest his agreement to or the force and effect of this document in any court or other forum.

6. ***Advice of Counsel.*** Dr. Chandler acknowledges that he has sought and obtained the advice and guidance of legal counsel with respect to this Stipulation and that his counsel has explained to his satisfaction all of the terms, conditions, restrictions and limitations contained herein or that he has waived his right to legal counsel.

7. ***Public Record.*** Dr. Chandler further acknowledges, stipulates and agrees that this Stipulation and Agreement for Voluntary Surrender of Medical License shall be and shall be deemed to be a public record.

8. ***Effective Date.*** This Stipulation and Agreement for Voluntary Surrender of Medical License shall take effect on the date that it is dated and signed by the Board President.

STATE OF Louisiana

PARISH/  
COUNTY OF Orleans

**STIPULATION, ACKNOWLEDGMENT  
AND AGREEMENT**

Having been duly advised by my legal counsel as to the meaning, scope and effect of the foregoing Stipulation and Agreement for Voluntary Surrender of Medical License or having waived such advices,

I, Berry M. Chandler, M.D., hereby acknowledge, approve, accept and consent to entry of the above and foregoing Stipulation and Agreement for Voluntary Surrender of Medical License by the Louisiana State Board Of Medical Examiners, this 18 day of October, 2004.

Berry M Chandler

Berry M. Chandler, M.D.

WITNESSES:

Gina Mikelonis

Signature

Gina Mikelonis

Typed Name

338 Lafayette St  
NOLA 70130

Address

Christopher H. Sherwood

Signature

Christopher H. Sherwood

Typed Name

338 Lafayette Street  
New Orleans, LA 70130

Address

Sworn to and subscribed before me at New Orleans, LA, this 18<sup>th</sup> day of October, 2004 in the presence of the two stated witnesses.

Regina O. Mauter

Notary Public (19038)

My commission expires at death

ACCEPTANCE

CONSIDERING THE ABOVE AND FOREGOING, the Stipulation and Agreement for Voluntary Surrender of Medical License is hereby **APPROVED AND ACCEPTED** by the Louisiana State Board of Medical Examiners, this 19<sup>th</sup> day of October, 2004.

**LOUISIANA STATE BOARD OF  
MEDICAL EXAMINERS**

By: *KE LeBlanc MD*  
KIM EDWARD LEBLANC, M.D., PH.D.  
*PRESIDENT*