

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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In The Matter Of

RICHARD J. SCHMIDT, M.D.
(Certificate No. 013841),

Respondent.

No. 98-I-059

STIPULATION AND AGREEMENT
FOR VOLUNTARY SURRENDER
OF MEDICAL LICENSE

THIS STIPULATION AND AGREEMENT is made and executed by Richard J. Schmidt, M.D. ("Dr. Schmidt"), a physician, who at all times pertinent was and is licensed as of the date hereof to practice medicine in the state of Louisiana, with and in favor of the Louisiana State Board of Medical Examiners (the "Board").

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

(a) On June 23, 1996, Dr. Schmidt was indicted by a grand jury sitting in the Parish of Lafayette, State of Louisiana, with one felony count¹ of attempting to commit second degree murder of JMT, on August 4, 1994.² In connection with such charge, Ms. Allen, the former mistress of Dr. Schmidt, alleged that on August 4, 1994, she believed that Dr. Schmidt was injecting her with B-12 to treat her chronic fatigue. Instead, she asserted that Dr. Schmidt injected her with the blood drawn from a hepatitis patient and that of a patient suffering from the acquired immune deficiency syndrome ("AIDs") virus. Following a trial on the criminal charges, on October 23, 1998, a jury found Dr. Schmidt guilty as charged.³ As a result of such finding, in February 1999, Dr. Schmidt was sentenced by the Court to incarceration for a period of fifty (50) years.

(b) As a result of the physician's October 23, 1998 conviction, the Investigating Officer concluded that the Board had, for the first time, obtained jurisdiction over this matter and determined that sufficient cause existed to charge Dr. Schmidt with violations of the Louisiana Medical Practice Act; *to wit*, conviction of a crime which arose out of the practice of medicine.⁴ At the Investigating Officer's direction, administrative charges were

¹La. Rev. Stat. § 14:27(30.1).

²Indictment, State vs. Schmidt, Cr. No. 96-73313, Parish of Lafayette, State of Louisiana (June 23, 1996).

³Verdict of the Jury, State vs. Schmidt, Cr. No. 96-73313, Parish of Lafayette, State of Louisiana (Oct. 23, 1998).

⁴La. Rev. Stat. §§ 37:1285A(1) and (2) provide, respectively, that the Board may take action against the license of a physician as a result of the (1) "[C]onviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony

prepared and filed with the Board six (6) days later on October 29, 1998, and a hearing was scheduled to be held at the Board's next meeting, December 8, 1998. Through counsel, Dr. Schmidt requested and was granted a continuance of the hearing. Following the court's denial of the physician's request for a new trial and several pre-trial conferences between legal counsel for the Investigating Officer, Dr. Schmidt and the Board's Independent Legal Advisor, the hearing to adjudicate the charges before the Board was rescheduled for March 23, 1999.

(c) By law, pursuant to the Louisiana Medical Practice Act, La. Rev. Stat. §§ 37:1261, *et. seq.*, and the Louisiana Administrative Procedure Act, La. Rev. Stat. §§ 49:951, *et. seq.*, Dr. Schmidt would be entitled, prior to final disciplinary action against his medical license, to have administrative adjudication of the charges which have been asserted against him by the Investigating Officer of the Board. At such hearing Dr. Schmidt would be entitled to be represented by legal counsel, to call witnesses and present evidence on his own behalf in defense or in mitigation of the charges made and 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.

2. Voluntary Surrender of License. Notwithstanding his right to an administrative hearing respecting such charges and a decision thereon, as provided by La. Rev. Stat. § 49:955, in recognition of the stipulations set forth hereinabove toward final disposition of the investigation now pending in this matter and in lieu of the prosecution of formal administrative proceedings, Dr. Schmidt, without admitting guilt to the underlying criminal charge, nonetheless, acknowledges the accuracy of the charges which have been asserted by the Investigating Officer, and he hereby waives his right to 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. 013841. By his subscription hereto, Dr. Schmidt 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. Schmidt acknowledges, stipulates and agrees that the voluntary surrender of his medical license effected hereby in the presence of an administrative investigation and pending administrative charges shall have and shall be deemed by the Board to have, the same effect as if the Board had entered an order of revocation upon the conclusion of formal administrative proceedings. By his subscription hereto, Dr. Schmidt further 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

under the laws of Louisiana or of the United States'; and (2) '[C]onviction of a crime ... arising out of or in connection with ... the practice of medicine'

obtain any original, reinstated or renewed license to practice medicine in the state of Louisiana; *provided, however*, that should Dr. Schmidt's conviction ultimately be reversed on appeal, then, in that event, this Stipulation and Agreement for Voluntary Surrender of Medical License and all of its terms, conditions and restrictions, shall be and shall be deemed to be, rescinded and void *ab initio*, and any further action against Dr. Schmidt's license as a result of the criminal charge made the basis of this agreement shall be determined by the Board following an administrative hearing or as may otherwise be permitted by the Louisiana Administrative Procedure Act, La. Rev. Stat. §§49:951, et seq.

4. **Termination of Proceedings.** By the voluntary surrender of his medical license, occasioned hereby, Dr. Schmidt, moreover, acknowledges, stipulates and agrees that he hereby waives any right to which he may be entitled pursuant to the Louisiana Administrative Procedure Act, La. Rev. Stat. §§49:951, et. seq., or to which otherwise may be afforded to him by any law, to contest his agreement to, or the force and effect of this document in any court or other forum relating to the stipulations, agreements, acknowledgments and other matters referred to herein.

5. **Advice of Counsel.** Dr. Schmidt acknowledges that he has sought and obtained the advice and guidance of legal counsel with respect to this Stipulation and that he has been explained and fully understands all of the terms, conditions, restrictions and limitations contained herein.

6. **Public Record.** Dr. Schmidt 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**.

* * *

STIPULATION, ACKNOWLEDGMENT
AND AGREEMENT

STATE OF LOUISIANA

PARISH OF Lafayette

I, RICHARD J. SCHMIDT, M.D., hereby stipulate, acknowledge, approve, accept and consent to entry of the above and foregoing Order this _____ day of _____, 1999.

Richard J. Schmidt, M.D.
RICHARD J. SCHMIDT, M.D.

WITNESSES

M.S. Fawcett
Signature

Typed Name

Address

Barbara M. Schmidt
Signature

Typed Name

Address

Sworn to and subscribed before me at Lafayette, Louisiana, this
10th day of March, 1999, in the presence of the two above-
stated witnesses.

Shirley Ann Blair
NOTARY PUBLIC

ACCEPTANCE

CONSIDERING THE ABOVE AND FOREGOING, the Stipulation and Agreement for Voluntary Surrender of Medical License of Richard J. Schmidt, M.D., is hereby APPROVED AND ACCEPTED by the Louisiana State Board of Medical Examiners, this 24th day of March, 1999.

LOUISIANA STATE BOARD OF
MEDICAL EXAMINERS

By: Mary Lou Applewhite, M.D.
MARY LOU APPLEWHITE, M.D.
President

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