RECEIVED
SEP 15 2006
BOARD OF HEALING ARTS

BEFORE THE STATE BOARD OF REGISTRATION FOR THE HEALING ARTS

STATE BOARD OF REGISTRATION FOR THE HEALING ARTS, Board, v. BRIAN D. BARASH, M.D. 305 N.W. Englewood Court, Suite 300 Gladstone, Missouri 64118 Licensee.	))))))))))))	Case No. 2004-002545

SETTLEMENT AGREEMENT

Comes now Brian D. Barash, M.D. ("Licensee") and the State Board of Registration for the Healing Arts (the "Board') and enter into this Agreement for the purpose of resolving the question of whether Brian D. Barash, M.D.'s license as a psychiatrist will be subject to discipline. Licensee and the Board jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to Section 621.045, RSMo.

1. Licensee acknowledges that he understands the various rights and privileges afforded by law, including the right to a hearing of the charges against Licensee; the right to appear and be represented by legal counsel; the right to have all charges against Licensee proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Licensee; the right to present evidence on Licensee's own behalf; the right to a decision based upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against Licensee; and subsequently, the right to a disciplinary hearing before the Board at which time evidence may be presented in mitigation of discipline. Having been advised of these rights provided Licensee by operation of law, Licensee

knowingly and voluntarily waives each and every one of these rights and freely enters into this Agreement and agrees to abide by the terms of this document as they pertain to Licensee.

2. Licensee acknowledges that he may, at the time this Agreement is effective or within fifteen days thereafter, submit this Agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitutes grounds for discipline of Licensee's license.

3. Licensee acknowledges that he has been informed of his right to consult legal counsel in this matter.

4. The parties stipulate and agree that the disciplinary order agreed to by the Board and Licensee in Part II herein is based only on the Agreement set out in Part I herein. Licensee understands that the Board may take further disciplinary action against Licensee based on facts or conduct not specifically mentioned in this document that are either now known to the Board or may be discovered.

5. Licensee understands and agrees that the Missouri State Board of Registration for the Healing Arts will maintain this Agreement as an open record of the Board as required by Chapters 334, 610, 620 and 621, RSMo, as amended.

I.

Based upon the foregoing, Board and Licensee herein jointly stipulate to the following:

JOINT PROPOSED FINDINGS OF FACT

1. The Board is an agency of the State of Missouri created and established pursuant to Section 334.120, RSMO, for the purpose of executing and enforcing the provisions of Chapter 334, RSMO.

2. Licensee is licensed by the Board as a physician and surgeon, license number 111668, which was first issued on September 10, 1996. Licensee's certificate of registration is and was current and active at all times mentioned herein.

3. Licensee does business as Comprehensive Psychiatric Associates ("CPA").

4. From October 24, 2002, until June, 2004, Licensee was the treating psychiatrist of record for patient JB.

5. JG is an advanced practice nurse in collaborative practice with Licensee at CPA. RN CW/CD is a registered nurse not in collaborative practice with Licensee at CPA.

6. During patient JB's course of treatment with CPA, patient JB was primarily seen by JG, who provided prescriptions for patient JB including Klonopin, as Schedule IV controlled substance, using blank prescription forms pre-signed by Licensee.

7. During the course of his treatment at CPA, Licensee personally saw patient JG on three occasions.

8. Patient JB was admitted to hospital on November 27, 2002 overdosed on Klonopin. The decision to prescribe Klonopin for patient JB was made by JG after a telephonic consultation with Licensee.

9. Prior to the implementation of the collaborative practice agreements with two advanced practice nurses, Licensee did not sign and date protocols and standing orders.

10. Licensee failed to properly supervise JG during the course of treatment of patient JB in that JG treatment of patient JB was provided without signed and dated protocols and standing orders from Licensee.

11. On July 7, 2003, FJB, mother of JB, was first seen at CPA as a patient of Licensee.

12. At her first appointment at CPA, FJB signed an agreement agreeing to be seen by a "physician extender," in this case RN CW/CD. Licensee did not have a collaborative practice agreement with RN CW/CD, nor did he have signed and dated written protocols and/or standing orders for patient treatment. RN CW/CD was not an advanced practice nurse and was certified and licensed only as a Registered Nurse. Licensee provided no specific training for RN CW/CD as a "physician extender."

13. RN CW/CD provided drugs for patient FJB, including anti-psychotic medication, Seroquel, using blank prescription forms pre-signed by Licensee. RN CW/CD also provided Zonegran, a prescription drug approved as an anti-seizure medication, for patient FJB's bipolar disorder.

14. Zonegran is frequently used for the treatment of bipolar disorder. However, the Food and Drug Administration (FDA) has not approved Zonegran for bipolar disorder, and its use for the treatment of bipolar disorder is an "off-label" use of Zonegran.

15. Patient FJB developed ringing in her ears, hearing loss in her right ear and constipation. Constipation and ringing in the ears are frequent (occurring in 1:100 patients) side effects of Zonegran. Hearing loss is an infrequent (occurring in 1:00 to 1:1000 patients) side effect of Zonegran.

16. Licensee recollects having personally seen patient FJB on two occasions during the course of her treatment at CPA. However, there is no indication in the medical records of patient FJB that Licensee did in fact personally see patient FJB during the course of her treatment at CPA.

17. Licensee did not properly supervise RN CW/CD and allowed RN CW/CD to act outside the scope of her nursing authority during the treatment of patient FJB in that Licensee

allowed RN CW/CD to provide patient FJB with mediation using the blank prescription forms pre-signed by Licensee.

JOINT PROPOSED CONCLUSIONS OF LAW

1. Based on the foregoing, the Board has determined that Licensee's license is subject to disciplinary action pursuant to Section 334.100.2(4)(h) RSMo 2005 and Section 334.100.3 RSMo 2005, which provide, in relevant part:

> 2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:
>
> (4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to, the following:
>
> (h) Signing a blank prescription form;
>
> 3. Collaborative practice arrangements, protocols and standing orders shall be in writing and signed and dated by a physician prior to their implementation.

2. The Board has determined that Licensee's conduct, as established by the foregoing facts, falls within the intendments of Section 334.100.2(4)(h) RSMo 2005 and Section 334.100.3 RSMo 2005.

3. Cause exists for Board to take disciplinary action against Licensee's license under Section 334.100.2(4)(h) RSMo 2005 and Section 334.100.3 RSMo 2005.

II.

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the State Board of Registration for the Healing Arts

in this matter under the authority of Section 621.110, RSMo 1994. This Agreement will be effective immediately on the date entered and finalized by the Board.

A. Effective the date the Board enters into the Agreement:

1. The license to practice the healing arts , number 111668, issued to Licensee is hereby **PUBLICLY REPRIMANDED**.

2. Licensee, within six (6) months of the effective date of this Agreement, shall attend and successfully complete a records keeping course approved by the Board. Licensee shall provide written documentation confirming Licensee's attendance and successful completion within 30 days of completing the course.

3. Licensee shall notify, within fifteen (15) days of the effective date of this Agreement, all hospitals, nursing homes, out-patient centers, surgical centers, clinics, and all other facilities where Licensee practices or has privileges of Licensee's disciplinary status. Licensee shall notify any physician assistants or other allied health care professionals she/he supervises of the disciplinary action imposed. Notification shall be in writing and Licensee shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Board for verification by the Board or its designated representative.

4. For purposes of this Agreement, unless otherwise specified in this Agreement, all reports, documentation, evaluations, notices, or other materials required to be submitted to the Board in this Agreement shall be forwarded to the State Board of Registration for the Healing Arts, Attention: Investigations, P.O. Box 4, Jefferson City, Missouri 65102.

5. This Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 334, RSMo, by Licensee not specifically mentioned in this document.

B. Upon the expiration of the disciplinary period, Licensee's license shall be fully restored if all requirements of law have been satisfied; provided however, that in the event the Board determines that Licensee has violated any term or condition of this Agreement, the Board may in its discretion, vacate this Agreement and impose such further discipline as the Board shall deem appropriate.

C. No additional order shall be entered by this Board pursuant to the preceding paragraph of this Agreement without notice and an opportunity for hearing before this Board as a contested case in accordance with the provisions of Chapter 536, RSMo. If any alleged violation of this Agreement occurred during the disciplinary period, the parties agree that the Board may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Licensee agrees and stipulates that the Board has continuing jurisdiction to hold a hearing to determine if a violation of this Agreement has occurred.

D. If the Board determines that the Licensee has violated a term or condition of the disciplinary period which violation would also be actionable in a proceeding before the Administrative Hearing Commission or in the circuit court, the Board may elect to pursue any lawful remedies afforded it and is not bound by this Agreement in its election of remedies concerning that violation.

E. Licensee hereby waives and releases the Board, its members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to any claims for attorneys fees and expenses, including any claims pursuant to Section 536.087, RSMo, or any claim arising under 42 USC 1983, which

may be based upon, arise out of, or relate to any of the matters raised in this agreement, or from the negotiation or execution of this agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this agreement in that it survives in perpetuity even in the event that any court of law deems this agreement or any portion thereof void or unenforceable.

F. In consideration of the foregoing, the parties consent to the termination of any further proceedings based upon the facts set forth herein.

LICENSEE

Brian D. Barash, M.D.

Date: 09/05/2006

Dennis L. Davis, Mo Bar No. 22590
STINSON MORRISON HECKER L.L.P.

1201 Walnut Street
Suite 2900
Kansas City MO 64106
816-691-2753 Fax: 816-691-3495
Attorney for Brian D. Barash, M.D.

BOARD

Tina Steinman
Executive Director

Date: 9/15/06

Glenn E. Bradford, Mo Bar No. 27396
GLENN E. BRADFORD & ASSOCIATES, P.C.
The Palace Building
1150 Grand Blvd., Suite 230
Kansas City, MO 64106
816-283-0400 Fax: 816-283-0820
Attorney for Board of Registration for the Healing Arts

EFFECTIVE THIS 15 DAY OF Sept, 2006.