THE SOUTH DAKOTA BOARD OF MEDICAL AND

OSTEOPATHIC EXAMINERS

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IN THE MATTER OF THE SD MEDICAL LICENSE OF BRIAN J. TJARKS, MD,	*	STIPLULATION ON AGREED DISPOSITION
license #2786	*	
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This Stipulation on Agreed Disposition, made and entered into by the South Dakota Board of Medical and Osteopathic Examiners, hereinafter referred to as Board, BY AND THROUGH ITS DULY APPOINTED Investigative Committee consisting of Board Member Mary Carpenter, MD, Executive Director Margaret Hansen, General Counsel Donald Srstka, and licensee Brian J. Tjarks, MD, hereinafter referred to as Dr. Tjarks, and his attorney Don E. Petersen, WITNESSETH:

WHEREAS, Dr. Tjarks is duly licensed by the Board, and that he signed an agreement to cease medical practice and prescribing on November 20, 2006 due to a criminal investigation regarding his illegal use of controlled substances; and

WHEREAS, the Board is in receipt of information regarding criminal charges relating to Dr. Tjarks illegal

acquisition and use of controlled substances, which constitutes grounds for the cancellation, revocation, or suspension of license #2786, and

WHEREAS, Dr. Tjarks has waived his rights pursuant to SDCL 1-26-29, to meet with the Board in order to permit him an opportunity to show compliance with all lawful requirements for retention of his medical license, and

WHEREAS, the parties have reached agreement as to the terms and conditions whereby the Board would enter a Stipulation on Agreed Disposition Order relative to the imposition of certain terms and conditions upon Dr. Tjark's license to practice medicine in the State of South Dakota;

NOW, THEREFORE, based upon the foregoing, the parties stipulate and agree as follows:

That Dr. Tjarks waives any and all rights, administrative and judicial, that he may enjoy pursuant to SDCL Chapter 1-26 or SDCL Chapter 36-4.

That license #2786 issued to Dr. Tjarks be placed on probation for as long as he is the holder of a medical license issued by the Board, and in the event that any conduct of Dr. Tjarks violates the provisions set forth in this agreement, or in the event that Dr. Tjarks is convicted of any Class 1 misdemeanor or felony, whether or not it is related to alcohol or controlled substances, the Board shall

have the right to summarily revoke and suspend medical license #2786 without further hearing thereon and without additional notice to Dr. Tjarks other than service on him of a copy of its Order of Summary Revocation and Suspension thereon.

That Dr. Tjarks shall abide by and comply with all the following terms and conditions:

a) That Dr. Tjarks shall comply with all laws applicable and relating to the practice of medicine as set forth in SDCL Chapter 36-4 as well as all rules and regulations pertaining to such practice in South Dakota, and shall comply with all court orders or requirements of the court currently imposed upon Dr. Tjarks.

b) That Dr. Tjarks will permit the Board or its authorized agents to have free access to all records relating to medical services provided by him to patients, to answer questions and disclose information thereon as requested by the Board or its authorized agents, and shall comply with and cooperate with requests from the Board or its authorized agents.

c) That Dr. Tjarks shall make every effort to assure that no false or untrue information is entered in to the record of any patient under his care.

d) That Dr. Tjarks shall make appearances upon request before the Board. Dr. Tjarks shall be given reasonable notice of the date, time and place for appearances.

e) That Dr. Tjarks shall not engage in the personal use of alcohol or any controlled substance unless prescribed by a physician other than himself licensed under SDCL Chapter 36-4 or by a physician other than himself licensed by a similar examining Board.

f) That Dr. Tjarks is required to comply with and cooperate with requests from the Board to prove that he has not exhibited habits of alcohol use or drug use, or alcohol or drug addiction.

g) That Dr. Tjarks agrees to provide the Board with independent verification of regular attendance of 2 times per week at Narcotics Anonymous (NA)and/or Alcoholics Anonymous (AA) meetings in his home community on a least a monthly basis.

h) That Dr. Tjarks submit to random blood and/or urinalysis tests at times requested by the Board or its authorized agents, that Dr. Tjarks is responsible for all costs associated with the testing, and this Stipulation on Agreed Disposition shall constitute a waiver of confidentiality and the physician patient privilege and be

sufficient authority for any facility conducting tests to transmit such test results directly to the Board or its authorized agents without any additional authorization from Dr. Tjarks.

i) That laboratory personnel shall submit to the Board or its authorized agents a written final analysis of the samples within 30 days of testing.

j) That any positive drug or alcohol test results shall permit the Board to summarily revoke and suspend license #2786 issued to Dr. Tjarks.

k) That in the event that Dr. Tjarks leaves South Dakota to reside or practice outside the state, he shall notify the Board in writing of all changes of address as well as the dates of departure and return. Should Dr. Tjarks desire to relocate within the state of South Dakota, he shall notify the Board in writing of such desired relocation, and the Board shall have authority to approve, disapprove, or place such other conditions upon the relocation of Dr. Tjarks as the Board deems necessary to protect the public. Such other conditions referred to above shall be in addition to those imposed by this agreement.

l) Dr. Tjarks shall report all civil lawsuits in which he, or any business entity in which he is a member, is a party along with all monetary settlements made by him to

any person.

m) That this Stipulation on Agreed Disposition is a matter of public record as defined by South Dakota law and shall be reported to all parties and entities that the Board deems appropriate under the circumstances.

n) That any recommendations made by the representatives to the Board are not considered as binding upon the full membership of the Board, and this Stipulation on Agreed Disposition must be accepted by the Board at one of its regularly scheduled meetings.

o) That Dr. Tjarks agrees that there have been no inducements, threats or promises made in order to obtain his acceptance of this Stipulation on Agreed Disposition and that he signs it of his own free will and under no duress.

p) That the charges on file with the Board shall remain a part of the Board's file relative to the licensure of Dr. Tjarks and are not, in any manner, waived upon any future matters relating to the right of Dr. Tjarks to practice medicine in South Dakota, or upon any application for licensure in another state by reciprocity, nor is such information waived upon any future application of Dr. Tjarks for South Dakota licensure.

q) That the parties further agree that all statements contained herein are based upon the facts known to the Board on the date as follows:

Dated this 5 day of June, 2007.

THE SOUTH DAKOTA BOARD
OF MEDICAL AND OSTEOPATHIC
EXAMINERS

By _____
Robert Ferrell, MD
President, SDBMOE

By _____
Mary Carpenter, MD
Board Member-Investigative Committee

By _____
Margaret B. Hansen
Executive Director

By _____
Donald Srstka
Board General Counsel

By _____
Brian Tjarks, MD
SD Licensee: #2786

By _____
Donald E. Petersen
Attorney for Dr. Tjarks

THE SOUTH DAKOTA BOARD OF MEDICAL AND

OSTEOPATHIC EXAMINERS

* *

IN THE MATTER OF THE SD MEDICAL LICENSE OF BRIAN J. TJARKS, MD,	*	ORDER
license #2786	*	OF
	*	RE-ACTIVATION

* *

This matter came before the South Dakota Board of Medical and Osteopathic Examiners, and the Stipulation on Agreed Disposition having been executed, and for good cause showing, it is hereby ordered that the medical license #2786 be re-activated to Dr. Brian J. Tjarks effective June 5, 2007.

Signed: _____

Robert L. Ferrell, MD
President, SDBMOE