**BEFORE THE WEST VIRGINIA BOARD OF MEDICINE**

**IN RE:**

**ADIN L. TIMBAYAN, M.D.**

## CONSENT ORDER

The West Virginia Board of Medicine ("Board") and Adin L. Timbayan, M.D., ("Dr. Timbayan") freely and voluntarily enter into the following Order pursuant to West Virginia Code §30-3-1, *et seq.*:

## FINDINGS OF FACT

1. Dr. Timbayan currently holds a license to practice medicine and surgery in the State of West Virginia, License No. 11489, issued originally in 1978. Dr. Timbayan's address of record with the Board is in Montgomery, West Virginia.

2. In January, 2010, the Physician Assistant Committee of the Board discussed with Dr. Timbayan the fact that Deborah Brown, the physician assistant he had been supervising from January, 2009, until December 24, 2009 had been writing prescriptions for almost a year without having been granted prescriptive writing privileges by the Board.

3. Dr. Timbayan stated to the Physician Assistant Committee that he had not been aware that the physician assistant had not been granted prescriptive writing privileges by the Board. He further stated that this was an unintentional mistake and that he had no desire to supervise a physician assistant at any time in the future.

4. Continuing to practice medicine without the Board attaching conditions and limitations upon Dr. Timbayan's license to practice medicine and surgery could adversely affect the health and welfare of a patient.

## CONCLUSIONS OF LAW

1. The West Virginia Medical Practice Act declares that the practice of medicine is a privilege and that as a matter of public policy, the provisions in the act are necessary to protect the public interest (West Virginia Code §30-3-1).

2. Probable cause exists to file charges against Dr. Timbayan pursuant to the provisions of West Virginia Code §30-3-14(c)(16), delegating professional responsibilities to a person when the physician delegating such responsibilities knows or has reason to know that such person is not qualified by licensure to perform them.

3. The Board has determined that it is appropriate to waive the commencement of proceedings against Dr. Timbayan and to proceed without the filing of charges or a formal Complaint and Notice of Hearing, provided that Dr. Timbayan agrees to comply with all laws and rules of the Board.

## CONSENT

Adin L. Timbayan, M.D., by affixing his signature hereon, agrees solely and exclusively for purposes of this agreement and the entry of the Order provided for and stated herein, and proceedings conducted in accordance with this Order to the following:

1. Dr. Timbayan acknowledges that he is fully aware that, without his consent, no permanent legal action may be taken against him except after a hearing held in accordance with West Virginia Code §30-3-14(h) and §29A-5-1, *et seq.*;

2. Dr. Timbayan acknowledges that he has the following rights, among others: the right to a formal hearing before the West Virginia Board of Medicine, the right to reasonable notice of said hearing, the right to be represented by counsel at his own expense, the right to cross-examine witnesses against him, and the right to appeal under Chapter 29A of the West Virginia Code in the event of a final order or decision adverse to him;

3. Dr. Timbayan waives all such rights;

4. Dr. Timbayan consents to the entry of this Order relative to his practice of medicine in the State of West Virginia; and,

5. Dr. Timbayan understands that this Order is considered public information, and that matters contained herein may be reported, as required by law, to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

## ORDER

**WHEREFORE**, on the basis of the foregoing Findings of Fact and Conclusions of Law of the Board, and on the basis of the consent of Dr. Timbayan, the West Virginia Board of Medicine hereby **ORDERS** that:

1. Should he determine in the future that he wishes to supervise a physician assistant again, Dr. Timbayan first agrees to read, and then if he is granted the privilege of such supervision, comply with all laws and rules of the Board pertaining to

physician assistants, West Virginia Code §30-3-16 and 11 CSR 1B, so that he is fully aware of his responsibilities and performs them properly as a supervising physician.

2. Dr. Timbayan is **PUBLICLY REPRIMANDED** for supervising a physician assistant while the physician assistant was writing prescriptions with no authority to do so having been given by the Board..

3. Within five (5) days of entry of this Consent Order, Dr. Timbayan shall provide a copy of this Order to any employer or health care or medical facility where Dr. Timbayan is practicing medicine.

The failure of Dr. Timbayan to comply with the terms of this Consent Order, as determined by the Board, may constitute grounds for additional discipline with regard to his medical license in the State of West Virginia.

Entered this 1st day of February, 2010.

WEST VIRGINIA BOARD OF MEDICINE

John A. Wade, Jr., M.D.
President

Catherine Slemp, M.D., M.P.H.
Secretary

Adin L. Timbayan, M.D.

Date: 1-22-10

STATE OF WV

COUNTY OF Fayette, to-wit:

I, Judith Ann Shawkey, a Notary Public for said county and state do hereby certify that Adin L. Timbayan, M.D., whose name is signed on the previous page, has this day acknowledged the same before me.

Given under my hand this 22 day of Jan, 2010.

My Commission expires 3/16/18.

Official Seal
Notary Public
State of West Virginia
Judith A. Shawkey
City National Bank
P. O. Box 1109
Montgomery, WV 25136
My commission expires March 16, 2018

Judith Ann Shawkey
NOTARY PUBLIC