STATE OF WASHINGTON

DEPARTMENT OF HEALTH

Olympia, Washington 98504

RE: Scott Ekin, MD
Master Case No. M2009-898
Document: Stipulation to Informal Disposition

Regarding your request for information about the above-named practitioner, certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld: **NONE**

If you have any questions or need additional information regarding the information that was withheld, please contact:

Customer Service Center
P.O. Box 47865
Olympia, WA 98504-7865
Phone: (360) 236-4700
Fax: (360) 586-2171

You may appeal the decision to withhold any information by writing to the Privacy Officer, Department of Health, P.O. Box 47890, Olympia, WA 98504-7890.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

In the Matter of the License to Practice as a Physician and Surgeon of **SCOTT EKIN, MD** License No. MD00037347 Respondent.	**No. M2009-898** **STIPULATION TO INFORMAL DISPOSITION**

1. STIPULATION

Pursuant to the Uniform Disciplinary Act, Chapter 18.130 RCW, the Medical Quality Assurance Commission (Commission) issued a Statement of Allegations and Summary of Evidence (Statement of Allegations) that alleges the circumstances and conduct described below in paragraphs 1.1 through 1.5.

1.1 On May 28, 1999, the state of Washington issued Respondent a license to practice as a physician and surgeon. Respondent is board certified in Emergency Medicine. Respondent's license is currently active.

1.2. On April 11, 2008, Patient A lost control of his motorcycle while traveling an estimated 45 mph and landed 10-15 feet from his bike. An ambulance transported Patient A to Harrison Medical Center ER department where Respondent evaluated and treated Patient A. Five hours later, Respondent discharged Patient A despite Patient A's continued complaints of uncontrolled pain.

1.3 Respondent failed to adequately assess the degree of injury to Patient A's right knee and failed to adequately treat Patient A's pain. Patient A resisted to efforts to extend his leg because of significant pain with maneuvers. X-ray of Patient A's right knee, tibia and fibula revealed what appeared to be an avulsion fracture of the tibial spine. Respondent did not re-evaluate Patient A when Patient A's pain seemed to be out of proportion to his diagnosis.

1.4 Respondent's documentation of history, examination, and medical decision-making is inadequate. Documentation regarding interactions between the physician and patient and family is absent. There is no documentation of a repeat

evaluation prior to discharge. Discharge instructions are pre-printed and are not customized to this patient. The prescription for #15 percocet appears inappropriate for a patient who required 6 mg of IV dilaudid and 10 mg of MS in the emergency room.

1.5 On April 15, 2008, Patient A almost passed out when he attempted to get out of bed. He was transported by ambulance to St Joseph Medical Center ER. Patient A was diagnosed with knee dislocation, multiple ligament tears and fracture of the tibia and fibula with peroneal palsy. On April 18, 2008, Patient A underwent surgery to repair his right knee ligaments and decompress the peroneal nerve.

1.6 The Commission alleges that the conduct described above, if proven, would constitute a violation of RCW 18.130.180(4).

1.7 The parties wish to resolve this matter by means of a Stipulation to Informal Disposition (Stipulation) pursuant to RCW 18.130.172(1).

1.8 Respondent agrees to be bound by the terms and conditions of this Stipulation.

1.9 This Stipulation is of no force and effect and is not binding on the parties unless and until it is accepted by the Commission.

1.10 This Stipulation shall not be construed as a finding of unprofessional conduct or inability to practice.

1.11 This Stipulation is not formal disciplinary action. However, if the Commission accepts it, it will be reported to the Health Integrity and Protection Databank (HIPDB)(45 CFR Part 61), the Federation of State Medical Board's Physician Data Center, and elsewhere as required by law. HIPDB may report this Stipulation to the National Practitioner Data Bank (45 CFR Part 60).

1.12 The Statement of Allegations and this Stipulation are public documents. They will be placed on the Department of Health web site, disseminated via the Commission's listserv, and disseminated according to the Uniform Disciplinary Act (Chapter 18.130 RCW). They are subject to disclosure under the Public Records Act, Chapter 42.56 RCW, and shall remain part of Respondent's file according to the state's records retention law and cannot be expunged.

1.13 The Commission agrees to forego further disciplinary proceedings concerning the allegations.

1.14 Respondent agrees to successfully complete the terms and conditions of this informal disposition.

1.15 A violation of the provisions of Section 2 of this Stipulation, if proved, would constitute grounds for discipline under RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

2. INFORMAL DISPOSITION

The Commission and Respondent stipulate to the following terms.

2.1 **Commission Oversight.** Respondent will be monitored by the Commission regarding his compliance with the following terms and conditions for at least two years from the effective date of this Stipulation to Informal Disposition.

2.2 **Continuing Medical Education**. Respondent agrees to successfully complete continuing medical education (CME) in the following areas: a two day course in High Risk ER Medicine, eight hours in Trauma Medicine, and a course on orthopedic radiology. The CME must be completed within one year of the effective date of this Stipulation. The Commission's Medical Consultant must pre-approve all proposed courses.

2.3 **Practice Review.** Respondent agrees that a representative of the Commission may make announced semi-annual visits to Respondent's practice to review compliance with this Stipulation. The representative will review patient records for appropriate documentation of patient history, examination, and medical decision-making. The representative's review will also focus on documentation of interactions with the patient and management of patient's pain. The representative may copy relevant records for review by the Commission.

2.4 **Reimbursement of Costs**. Respondent agrees to reimburse costs to the Commission in the amount of one thousand dollars ($1,000.00) which must be received by the Commission within ninety (90) days of the effective date of this Stipulation. The reimbursement shall be paid by certified or cashier's check or money order, made payable to the Department of Health and mailed to the Department of Health, Medical Quality Assurance Commission at P.O. Box 1099, Olympia, Washington 98507-1099.

2.5 **Release from Stipulation.** The Commission will release Respondent from this Stipulation to Informal Disposition when Respondent provides written proof that he has successfully completed all the terms, and after two years after the effective date of this Stipulation. A Compliance Officer will send Respondent a letter stating Respondent is released from the Stipulation to Informal Disposition. Respondent will not have to file a petition for release or appear before the Commission.

2.6 **Obey Laws.** Respondent must obey all federal, state and local laws and all administrative rules governing the practice of the profession in Washington.

2.7 **Costs.** Respondent must assume all costs of complying with this Stipulation.

2.8 **Violations.** If Respondent violates any provision of this Stipulation in any respect, the Commission may take further action against Respondent's license.

2.9 **Change of Address.** Respondent must inform the Commission and the Adjudicative Clerk Office in writing, of changes in his residential and/or business address within thirty (30) days of such change.

2.10 **Effective Date.** The effective date of this Stipulation to Informal Disposition is the date the Adjudicative Clerk Office places the signed Stipulation into the U.S. mail. If required, Respondent shall not submit any fees or compliance documents until after the effective date of this Stipulation.

3. COMPLIANCE WITH SANCTION RULES

3.1 The Commission applies WAC 246-16-800, *et seq.*, to determine appropriate sanctions, including stipulations to informal dispositions under RCW 18.130.172. Respondent's alleged conduct falls in Tier B of the "Practice Below Standard of Care" schedule, WAC 246-16-810. Respondent's failure to adequately assess the degree of injury to Patient A's knee or adequately treat Patient A's pain resulted in moderate patient harm.

3.2 Tier B requires the imposition of sanctions ranging from two to five years of oversight. Under WAC 246-16-800(3)(d), the starting point for the duration of the sanctions is the middle of the range. The Commission uses aggravating and mitigating factors to move towards the maximum or minimum ends of the range.

3.3 The aggravating and mitigating factors in this case, listed below, justify moving toward the minimum end of the range. The sanctions in this case include a two year probation period, Continuing Medical Education, and semi-annual practice reviews. These sanctions are appropriate within the Tier B range given the facts of the case and the following aggravating and mitigating factors:

3.4 The following are *mitigating* factors: (a) Respondent is board-certified in emergency medicine and has been practicing in Washington for 10 years with no prior discipline; (b) The conduct involved a single patient; (c) Respondent cooperated with the investigation.

3.5 The following are *aggravating* factors: (a) Respondent's conduct resulted in delayed diagnosis and treatment of Patient A.

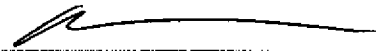
4. RESPONDENT'S ACCEPTANCE

I, SCOTT EKIN, MD, Respondent, certify that I have read this Stipulation to Informal Disposition in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Commission without my appearance. If the Commission accepts the Stipulation to Informal Disposition, I understand that I will receive a signed copy.

SCOTT EKIN, MD
RESPONDENT

19 APR 10

DATE



CHRISTOPHER H. ANDERSON, WSBA #19811
ATTORNEY FOR RESPONDENT

5/7/10

DATE

4. COMMISSION'S ACCEPTANCE

The Commission accepts this Stipulation to Informal Disposition. All parties shall be bound by its terms and conditions.

DATED: 3 JUNE, 2010.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE COMMISSION

PANEL CHAIR

PRESENTED BY:

KAREN M. CAILLE, WSBA #31351
DEPARTMENT OF HEALTH STAFF ATTORNEY