

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation)	
Against:)	
)	
)	
DENNIS MICHAEL O'CONNOR, M.D.)	Case No. 03-2011-215151
)	
Physician's and Surgeon's)	
Certificate No. G 23349)	
)	
Respondent.)	
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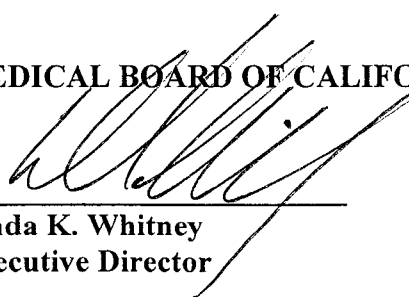
DECISION

The attached Stipulated Surrender of License is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on October 29, 2012 .

IT IS SO ORDERED October 22, 2012 .

MEDICAL BOARD OF CALIFORNIA

By: 

Linda K. Whitney
Executive Director

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 EMILY L. BRINKMAN
Deputy Attorney General
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7 *Attorneys for Complainant*

8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 03-2011-215151

12
13 **Dennis Michael O'Connor, M.D.**
563 Larkin Street
14 **Monterey, CA 93940**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Physician's and Surgeon's Certificate No. G**
23349

16 Respondent.
17

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
20 proceeding that the following matters are true:

21 **PARTIES**
22

23 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of
24 California. She brought this action solely in her official capacity and is represented in this matter
25 by Kamala D. Harris, Attorney General of the State of California, by Emily L. Brinkman, Deputy
26 Attorney General.

27 2. Dennis Michael O'Connor, M.D. (Respondent) is not represented in this proceeding.
28

1 **CULPABILITY**

2 8. Respondent admits that the allegations as set forth in Accusation No. 03-2011-215151
3 are true and agrees that cause exists for discipline against his California medical license pursuant
4 to sections 2227, 2234, 2236, and 2237 of the Business and Professions Code. Respondent no
5 longer wishes to practice medicine in California and hereby surrenders his Physician's and
6 Surgeon's Certificate No. G 23349 for the Board's formal acceptance.

7 9. Respondent understands that by signing this stipulation he enables the Board to issue
8 an order accepting the surrender of his Physician's and Surgeon's license without further process.

9 **RESERVATION**

10 10. The admissions made by Respondent herein are only for the purposes of this
11 proceeding, or any other proceedings in which the Medical Board of California or other
12 professional licensing agency is involved, and shall not be admissible in any other criminal or
13 civil proceeding.

14 **CONTINGENCY**

15 11. This stipulation shall be subject to approval by the Medical Board of California.
16 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
17 Board of California may communicate directly with the Board regarding this stipulation and
18 surrender, without notice to or participation by Respondent or his counsel. By signing the
19 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
20 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
21 to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary
22 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
23 action between the parties, and the Board shall not be disqualified from further action by having
24 considered this matter.

25 12. The parties understand and agree that facsimile copies of this Stipulated Surrender of
26 License and Order, including facsimile signatures thereto, shall have the same force and effect as
27 the originals.
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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have had the opportunity to consult with an attorney. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G 23349. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 10/13/12


Dennis Michael O'Connor, M.D.


ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 10/16/12

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General


EMILY L. BRINKMAN
Deputy Attorney General
Attorneys for Complainant
Medical Board of California

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Exhibit A

Accusation No. 03-2011-215151

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7 *Attorneys for Complainant*

8
9 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 **IN THE MATTER OF THE ACCUSATION**
13 **AGAINST:**

Case No. 03-2011-215151

A C C U S A T I O N

14 **DENNIS MICHAEL O'CONNOR, M.D.**

15 563 Larkin Street
16 Monterey, CA 93940-2609

17 Physician's and Surgeon's Certificate No.
G23349

18
19 Complainant alleges:

20 **PARTIES**

21 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

23 2. On or about September 18, 1972, the Medical Board of California issued a
24 Physician's and Surgeon's Certificate Number G23349 to respondent Dennis Michael O'Connor,
25 M.D. (Respondent). The certificate is delinquent as of April 30, 2012.

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JURISDICTION

3. This Accusation is brought before the Medical Board of California¹ (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118 of the Code states, in relevant part:

“(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancelation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or constitute a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

5. Section 2004 of the Code states, in relevant part:

“The board shall have the responsibility for the following:

“(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

“(b) The administration and hearing of disciplinary actions.

“(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

“(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

“(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.”

6. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked or suspended for a period not to

¹ The term “Board” means the Medical Board of California. “Division of Medical Quality” shall also be deemed to refer to the Board.

1 exceed one year; or the licensee may be placed on probation and may be required to pay the
2 costs of probation monitoring; or may have such other action taken in relation to discipline as the
3 Division deems proper.

4 7. Section 2234 of the Code provides that the Medical Board shall take action against
5 any licensee who is charged with unprofessional conduct. Unprofessional conduct includes, but
6 is not limited to:

7 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
8 violation of, or conspiring to violate, any provision of this chapter [Chapter 5, the Medical
9 Practice Act].”

10 8. Section 2236 of the Code provides that the conviction of any offense substantially
11 related to the qualifications, functions, or duties of a physician and surgeon constitutes
12 unprofessional conduct.

13 9. Section 2237 of the Code states:

14 (a) The conviction of a charge of violating any federal statutes or regulations or any statute
15 or regulation of this state, regulating dangerous drugs or controlled substances, constitutes
16 unprofessional conduct. The record of the conviction is conclusive evidence of such
17 unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo
18 contendere is deemed to be a conviction within the meaning of this section.

19 “(b) Discipline may be ordered in accordance with Section 2227 or the Division of
20 Licensing may order the denial of the license when the time for appeal has elapsed, or the
21 judgment of conviction has been affirmed on appeal, or when an order granting probation is
22 made suspending the imposition of sentence, irrespective of a subsequent order under the
23 provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her
24 plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
25 dismissing the accusation, complaint, information, or indictment.”

26 PERTINENT DRUGS

27 10. Provigil, a trade name for modafinil, is used to treat excessive sleepiness caused by
28 narcolepsy or shift work sleep disorder. It is in a class of medications called wakefulness

1 promoting agents. It is a Schedule IV controlled substance as defined by section 11057 of the
2 Health and Safety Code and Section 1308.14 of Title 21 of the Code of Federal Regulations,
3 and a dangerous drug as defined by Business and Professions Code Section 4022.

4 11. Lithium carbonate, indicated in the treatment of manic episodes of Bipolar Disorder,
5 is a dangerous drug within the meaning of Business and Professions Code Section 4022.

6 12. Paroxetine hydrochloride, is a selective serotonin reuptake inhibitor (SSRI)
7 chemically unrelated to other SSRI's, tricyclic, tetracyclic, or other available antidepressant
8 agents. It is a dangerous drug as defined by Business and Professions Code Section 4022. It is
9 used for the treatment of depression, obsessive compulsive disorder, panic disorder, generalized
10 anxiety disorder, post-traumatic stress disorder, and social anxiety disorder.

11 CAUSE FOR DISCIPLINE

12 (Criminal Conviction)

13 13. Respondent is subject to disciplinary action for unprofessional conduct under sections
14 2234, and/or 2236, and/or 2237 of the Code in that Respondent has been convicted of a crime that
15 is substantially related to the qualifications, functions, or duties of a physician and surgeon. The
16 circumstances are as follows:

17 14. On or about April 19, 2011, Pacific Grove Police Department were dispatched to the
18 Safeway Pharmacy at 1212 Forest Avenue, Pacific Grove, California. At the pharmacy officers
19 spoke with Pharmacist Jennifer Addington. She told police that she received a telephone call for
20 a prescription for Patient AM² from a person identifying himself as Dr. O'Connor. During the
21 phone call, the caller asked if AM could pay for the prescription in cash because he was having
22 problem with his insurance. The prescription was for the following controlled substances:
23 Provigil, lithium carbonate, and Paroxetine.

24 15. Sometime later, Respondent came to the pharmacy and spoke with pharmacy
25 technician Robert Hazlitt. During this conversation Dr. O'Connor identified himself using his
26 passport and attempted to pick up the prescription for AM.

27 ² Patient initials will be used to protect the identity of the patients. Respondent may
28 obtain the name of the patients through the discovery process.

1 16. Ms. Addington then spoke with Respondent at the patient pick-up window.
2 Respondent now identified himself as AM. When asked for identification, Respondent stated he
3 had none. Ms. Addington refused to give Respondent the prescription without identification.
4 Respondent left Safeway.

5 17. Officers showed Ms. Addington a driver's license photo of Respondent and she
6 confirmed Respondent as the person who attempted to pick up the prescription for AM.

7 18. On or about April 20, 2011, Ms. Addington contacted the police again and informed
8 them that Respondent again called the pharmacy requesting to pick up the prescription for AM.
9 Officers had Ms. Addington contact Respondent to tell him the prescription was ready for pick
10 up.

11 19. Later that afternoon, Respondent arrived at Safeway and attempted to pick up the
12 prescription for AM with cash. Officers approached Respondent at the pharmacy patient pick-up
13 window.

14 20. Respondent admitted to officers that he was AM's psychiatrist and was trying to help
15 him by picking up his medication because he was "having problems with his insurance and many
16 other things." Respondent then asked officers if they would let him go if he promised never to go
17 to Safeway again.

18 21. After officers confronted Respondent with the information provided by Addington
19 and that he had been recorded on video surveillance, Respondent amended his statement. He
20 admitted to calling in the prescription for AM to Safeway but the three prescriptions were for his
21 own use. Officers arrested Respondent for violations of the Health and Safety Code and
22 transported him to jail.

23 22. Once at the jail, officers read Respondent his Miranda rights and proceeded to
24 interview him. During the interview, Respondent admitted that he telephoned prescriptions for
25 his own use into Safeway for treatment of bipolar and depression. He also admitted that he
26 previously had prescriptions for these medications but no longer liked his doctor and believed he
27 could write his own prescriptions since he was a doctor. Respondent admitted he entered
28 Safeway for the sole purpose of obtaining prescriptions for personal use.

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23. Respondent also stated that AM was a former patient who no longer lives in the country and had not been a patient "for a long time."

24. Respondent also admitted to writing the same prescriptions for Patient DA three to four weeks ago and picked them up at the Safeway Pharmacy in Del Ray Oaks, California for his personal use.

25. Respondent was charged with three misdemeanor counts of Health and Safety Code section 11173(a) (obtaining controlled substances by fraud, specifically Provigil, lithium carbonate, and Paroxetine) in the Superior Court of California, Monterey County for the April 19, 2011 prescriptions called into the Pacific Grove Safeway for Patient AM.

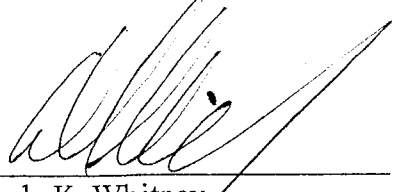
26. On or about May 22, 2012, Respondent pled no contest to two misdemeanor violations of Health and Safety Code section 11170 (prescribing controlled substance to oneself). The remaining counts were dismissed. Respondent was placed on probation for three years, ordered to serve 20 days in county jail, and to pay fines and fees.

PRAYER

Wherefore, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

- 1. Revoking or suspending Physician's and Surgeon's Certificate Number G23349 issued to Dennis Michael O'Connor, M.D. and ordering respondent to pay probation costs in the event he is placed on probation;
- 2. Revoking, suspending, or denying approval or respondent's authority to supervise physician assistant's; and
- 3. Taking such other and further action as deemed necessary and proper.

Dated: October 3, 2012



Linda K. Whitney
Executive Director
Medical Board of California