

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

In the Matter of the Accusation Against:)
)
)
ELLIS MICHAEL SCHWIED, M.D.) Case No. 04-2010-209319
)
Physician's and Surgeon's)
Certificate No. A 39245)
)
Respondent.)
_____)

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, State of California, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on September 19, 2014.

IT IS SO ORDERED August 22, 2014.

MEDICAL BOARD OF CALIFORNIA



By: _____
Dev Gnanadev, M.D., Chair
Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 COLLEEN M. MCGURRIN
Deputy Attorney General
4 State Bar Number 147250
300 South Spring Street, Suite 1702
5 Los Angeles, California 90013
Telephone: (213) 620-2511
6 Facsimile: (213) 897-9395
Attorneys for Complainant

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 **ELLIS MICHAEL SCHWIED, M.D.**
12 **30100 Town Center Drive, Suite O**
Laguna Niguel, California 92677

13 **Physician's and Surgeon's Certificate**
14 **Number A 39245**

15 Respondent.

Case No. 04-2010-209319

OAH No. 2013080684

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
17 entitled proceedings that the following matters are true:

18 PARTIES

19 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
20 Board of California. She brings this action solely in her official capacity and is represented in
21 this matter by Kamala D. Harris, Attorney General of the State of California, by Colleen M.
22 McGurrin, Deputy Attorney General.

23 2. Respondent ELLIS MICHAEL SCHWIED, M.D. is represented in this proceeding by
24 attorney Joel Bruce Douglas, whose address is: 3699 Wilshire Boulevard, 10th Floor, Los
25 Angeles, California 90010-2719.

26 3. On or about October 26, 1982, the Medical Board of California issued Physician's and
27 Surgeon's Certificate Number A 39245 to Respondent. Said Certificate was in full force and
28 effect at all times relevant to the charges brought in Accusation No. 04-2010-209319 and will

1 expire on October 31, 2014, unless renewed.

2 4. In a previous disciplinary action entitled *In the Matter of the Accusation Against Ellis*
3 *Michael Schwied, M.D.* before the Board in Case Number 04-2000-114569, Respondent's license
4 was previously disciplined (revocation stayed) and placed on probation for five years for repeated
5 negligent acts, a violation of section 2234, subdivision (c), for having prescribed drugs to a
6 patient who was not directly under his care. That decision is now final and Respondent has
7 completed the conditions set forth in that matter.

8 JURISDICTION

9 5. Accusation No. 04-2010-209319 was filed before the Medical Board of California
10 (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The
11 Accusation and all other statutorily required documents were properly served on Respondent on
12 March 19, 2013. Respondent timely filed his Notice of Defense contesting the Accusation.

13 6. A copy of Accusation No. 04-2010-209319 is attached as Exhibit A and incorporated
14 herein by reference.

15 ADVISEMENT AND WAIVERS

16 7. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 04-2010-209319. Respondent has also carefully read,
18 fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and
19 Disciplinary Order.

20 8. Respondent is fully aware of his legal rights in this matter, including the right to a
21 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
22 his own expense; the right to confront and cross-examine the witnesses against him; the right to
23 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
24 the attendance of witnesses and the production of documents; the right to reconsideration and
25 court review of an adverse decision; and all other rights accorded by the California
26 Administrative Procedure Act and other applicable laws.

27 9. Respondent freely, voluntarily, knowingly, and intelligently waives and gives up each
28 and every right set forth above.

1 CULPABILITY

2 10. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 04-2010-209319, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 11. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a *prima*
7 *facie* factual basis for the charges in the Accusation No. 04-2010-209319, and that Respondent
8 hereby gives up his right to contest those charges.

9 12. Further, Respondent agrees that if he ever petitions to modify or terminate any term
10 or condition set forth herein, including but not limited to probation, or should the Board or any
11 other California regulatory agency institute any other action or proceeding against Respondent,
12 including, but not limited to, a Accusation and/or Petition to Revoke Probation, all of the
13 allegations and facts set forth in Accusation No. 04-2010-209319 shall be deemed true, correct
14 and fully admitted by Respondent for purposes of any such proceeding or any other licensing
15 proceeding involving Respondent and the State of California.

16 13. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
17 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
18 Disciplinary Order below.

19 CONTINGENCY

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

1 considered this matter.

2 15. The parties understand and agree that Portable Document Format (PDF) and facsimile
3 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
4 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

5 16. In consideration of the foregoing admissions and stipulations, the parties agree that
6 the Board may, without further notice or formal proceeding, issue and enter the following
7 Disciplinary Order:

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that:

10 1. REVOCATION. Physician's and Surgeon's Certificate No. A 39245 issued to
11 Respondent Ellis Michael Schwied, M.D. is revoked.

12 2. STAY ORDER. However, revocation stayed and Respondent is placed on probation
13 for seven (7) years upon the following terms and conditions.

14 3. ACTUAL SUSPENSION. As part of probation, Respondent is suspended from the
15 practice of medicine for fifteen (15) days beginning the sixteenth (16th) day after the effective
16 date of this decision.

17 4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
18 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to
19 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education
20 Program, University of California, San Diego School of Medicine (Program), approved in
21 advance by the Board or its designee. Respondent shall provide the program with any information
22 and documents that the Program may deem pertinent. Respondent shall participate in and
23 successfully complete the classroom component of the course not later than six (6) months after
24 Respondent's initial enrollment. Respondent shall successfully complete any other component of
25 the course within one (1) year of enrollment. The medical record keeping course shall be at
26 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
27 requirements for renewal of licensure.

28 A medical record keeping course taken after the acts that gave rise to the charges in the

1 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
2 or its designee, be accepted towards the fulfillment of this condition if the course would have
3 been approved by the Board or its designee had the course been taken after the effective date of
4 this Decision.

5 Respondent shall submit a certification of successful completion to the Board or its
6 designee not later than 15 calendar days after successfully completing the course, or not later than
7 15 calendar days after the effective date of the Decision, whichever is later.

8 5. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
9 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
10 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.

11 Respondent shall participate in and successfully complete that program. Respondent shall
12 provide any information and documents that the program may deem pertinent. Respondent shall
13 successfully complete the classroom component of the program not later than six (6) months after
14 Respondent's initial enrollment, and the longitudinal component of the program not later than the
15 time specified by the program, but no later than one (1) year after attending the classroom
16 component. The professionalism program shall be at Respondent's expense and shall be in
17 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

18 A professionalism program taken after the acts that gave rise to the charges in the
19 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
20 or its designee, be accepted towards the fulfillment of this condition if the program would have
21 been approved by the Board or its designee had the program been taken after the effective date of
22 this Decision.

23 Respondent shall submit a certification of successful completion to the Board or its
24 designee not later than 15 calendar days after successfully completing the program or not later
25 than 15 calendar days after the effective date of the Decision, whichever is later.

26 6. PROFESSIONAL BOUNDARIES PROGRAM. Within 60 calendar days from the
27 effective date of this Decision, Respondent shall enroll in a professional boundaries program
28 equivalent to the Professional Boundaries Program offered by the Physician Assessment and

1 Clinical Education Program at the University of California, San Diego School of Medicine
2 (“Program”). Respondent, at the Program’s discretion, shall undergo and complete the Program’s
3 assessment of Respondent’s competency, mental health and/or neuropsychological performance,
4 and at minimum, a 24 hour program of interactive education and training in the area of
5 boundaries, which takes into account data obtained from the assessment and from the Decision(s),
6 Accusation(s) and any other information that the Board or its designee deems relevant. The
7 Program shall evaluate Respondent at the end of the training and the Program shall provide any
8 data from the assessment and training as well as the results of the evaluation to the Board or its
9 designee.

10 Failure to complete the entire Program not later than six (6) months after Respondent’s
11 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees
12 in writing to a later time for completion. Based on Respondent’s performance in and evaluations
13 from the assessment, education, and training, the Program shall advise the Board or its designee
14 of its recommendation(s) for additional education, training, psychotherapy and other measures
15 necessary to ensure that Respondent can practice medicine safely. Respondent shall comply with
16 Program recommendations. At the completion of the Program, Respondent shall submit to a final
17 evaluation. The Program shall provide the results of the evaluation to the Board or its designee.
18 The professional boundaries program shall be at Respondent’s expense and shall be in addition to
19 the Continuing Medical Education (CME) requirements for renewal of licensure.

20 The Program has the authority to determine whether or not Respondent successfully
21 completed the Program.

22 A professional boundaries course taken after the acts that gave rise to the charges in the
23 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
24 or its designee, be accepted towards the fulfillment of this condition if the course would have
25 been approved by the Board or its designee had the course been taken after the effective date of
26 this Decision.

27 7. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of
28 this Decision, and on whatever periodic basis thereafter may be required by the Board or its

1 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
2 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
3 consider any information provided by the Board or designee and any other information the
4 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
5 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
6 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
7 psychiatric evaluations and psychological testing.

8 Respondent shall comply with all restrictions or conditions recommended by the evaluating
9 psychiatrist within 15 calendar days after being notified by the Board or its designee.

10 8. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
11 Respondent shall submit to the Board or its designee for prior approval the name and
12 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who
13 has a doctoral degree in psychology and at least five years of postgraduate experience in the
14 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall
15 undergo and continue psychotherapy treatment, including any modifications to the frequency of
16 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

17 The psychotherapist shall consider any information provided by the Board or its designee
18 and any other information the psychotherapist deems relevant and shall furnish a written
19 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
20 psychotherapist any information and documents that the psychotherapist may deem pertinent.

21 Respondent shall have the treating psychotherapist submit quarterly status reports to the
22 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric
23 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
24 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
25 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
26 period of probation shall be extended until the Board determines that Respondent is mentally fit
27 to resume the practice of medicine without restrictions.

28 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

1 9. MONITORING – PRACTICE. Within 30 calendar days of the effective date of this
2 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
3 monitor, the name and qualifications of one or more licensed physician and surgeon whose
4 licenses are valid and in good standing, and who are preferably American Board of Medical
5 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
6 relationship with Respondent, or other relationship that could reasonably be expected to
7 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
8 but not limited to any form of bartering, shall be in Respondent’s field of practice, and must agree
9 to serve as Respondent’s monitor. Respondent shall pay all monitoring costs.

10 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
11 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
12 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
13 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
14 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
15 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
16 signed statement for approval by the Board or its designee.

17 Within 60 calendar days of the effective date of this Decision, and continuing throughout
18 probation, Respondent’s practice shall be monitored by the approved monitor. Respondent shall
19 make all records available for immediate inspection and copying on the premises by the monitor
20 at all times during business hours and shall retain the records for the entire term of probation.

21 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
22 date of this Decision, Respondent shall receive a notification from the Board or its designee to
23 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
24 shall cease the practice of medicine until a monitor is approved to provide monitoring
25 responsibility.

26 The monitor(s) shall submit a quarterly written report to the Board or its designee which
27 includes an evaluation of Respondent’s performance, indicating whether Respondent’s practices
28 are within the standards of practice of practice, and whether Respondent is practicing medicine

1 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
2 that the monitor submits the quarterly written reports to the Board or its designee within 10
3 calendar days after the end of the preceding quarter.

4 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
5 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
6 name and qualifications of a replacement monitor who will be assuming that responsibility within
7 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
8 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
9 notification from the Board or its designee to cease the practice of medicine within three (3)
10 calendar days after being so notified Respondent shall cease the practice of medicine until a
11 replacement monitor is approved and assumes monitoring responsibility.

12 In lieu of a monitor, Respondent may participate in a professional enhancement program
13 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the
14 University of California, San Diego School of Medicine, that includes, at minimum, quarterly
15 chart review, semi-annual practice assessment, and semi-annual review of professional growth
16 and education. Respondent shall participate in the professional enhancement program at
17 Respondent's expense during the term of probation.

18 10. PROHIBITED PRACTICE. During probation, Respondent is prohibited from
19 accepting, consulting, treating, examining or rendering any psychiatric care, psychotherapy or
20 treatment to any new female who is eighteen years of age or older, and to any new couples
21 involving a female over the age of eighteen (e.g., spouses, domestic partners, or partners in a
22 committed relationship), who are not presently under Respondent's care and treatment.

23 Respondent shall within 30 days of the effective date of the decision, provide the Board, or
24 its designees, a log of all female patients who are currently under his care and treatment. The log
25 shall contain the: 1) patient's initials, and patient's medical record number, if available; 2) the
26 patient's date of birth; and 3) the date Respondent first began treating the patient. Respondent
27 shall keep this log in a separate file or ledger, in chronological order, shall make the log available
28 for immediate inspection and copying on the premises at all times during business hours by the

1 Board or its designee, and shall retain the log for the entire term of probation.

2 11. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
3 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
4 Chief Executive Officer at every hospital where privileges or membership are extended to
5 Respondent, at any other facility where Respondent engages in the practice of medicine,
6 including all physician and locum tenens registries or other similar agencies, and to the Chief
7 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
8 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
9 calendar days.

10 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

11 12. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
12 prohibited from supervising physician assistants.

13 13. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
14 governing the practice of medicine in California and remain in full compliance with any court
15 ordered criminal probation, payments, and other orders.

16 14. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
17 under penalty of perjury on forms provided by the Board, stating whether there has been
18 compliance with all the conditions of probation.

19 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
20 of the preceding quarter.

21 15. GENERAL PROBATION REQUIREMENTS.

22 Compliance with Probation Unit

23 Respondent shall comply with the Board's probation unit and all terms and conditions of
24 this Decision.

25 Address Changes

26 Respondent shall, at all times, keep the Board informed of Respondent's business and
27 residence addresses, email address (if available), and telephone number. Changes of such
28 addresses shall be immediately communicated in writing to the Board or its designee. Under no

1 circumstances shall a post office box serve as an address of record, except as allowed by Business
2 and Professions Code section 2021(b).

3 Place of Practice

4 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
5 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
6 facility.

7 License Renewal

8 Respondent shall maintain a current and renewed California physician's and surgeon's
9 license.

10 Travel or Residence Outside California

11 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
12 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
13 (30) calendar days.

14 In the event Respondent should leave the State of California to reside or to practice
15 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
16 departure and return.

17 16. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
18 available in person upon request for interviews either at Respondent's place of business or at the
19 probation unit office, with or without prior notice throughout the term of probation.

20 17. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
21 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
22 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
23 defined as any period of time Respondent is not practicing medicine in California as defined in
24 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
25 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
26 time spent in an intensive training program which has been approved by the Board or its designee
27 shall not be considered non-practice. Practicing medicine in another state of the United States or
28 Federal jurisdiction while on probation with the medical licensing authority of that state or

1 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
2 not be considered as a period of non-practice.

3 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
4 months, Respondent shall successfully complete a clinical training program that meets the criteria
5 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
6 Disciplinary Guidelines" prior to resuming the practice of medicine.

7 Respondent's period of non-practice while on probation shall not exceed two (2) years.

8 Periods of non-practice will not apply to the reduction of the probationary term.

9 Periods of non-practice will relieve Respondent of the responsibility to comply with the
10 probationary terms and conditions with the exception of this condition and the following terms
11 and conditions of probation: Obey All Laws; and General Probation Requirements.

12 18. COMPLETION OF PROBATION. Respondent shall comply with all financial
13 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
14 completion of probation. Upon successful completion of probation, Respondent's certificate shall
15 be fully restored.

16 19. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
17 of probation is a violation of probation. If Respondent violates probation in any respect, the
18 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
19 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
20 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
21 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
22 the matter is final.

23 20. LICENSE SURRENDER. Following the effective date of this Decision, if
24 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
25 the terms and conditions of probation, Respondent may request to surrender his or her license.
26 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
27 determining whether or not to grant the request, or to take any other action deemed appropriate
28 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent

1 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
2 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
3 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
4 application shall be treated as a petition for reinstatement of a revoked certificate.

5 21. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
6 with probation monitoring each and every year of probation, as designated by the Board, which
7 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
8 California and delivered to the Board or its designee no later than January 31 of each calendar
9 year.

10
11 ACCEPTANCE

12 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
13 discussed it with my attorney, Joel Bruce Douglas. I understand the stipulation and the effect it
14 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
15 Disciplinary Order freely, voluntarily, knowingly, and intelligently, and agree to be bound by the
16 Decision and Order of the Medical Board of California.

17
18 DATED: 5/16/14

Ellis Michael Schwied
19 ELLIS MICHAEL SCHWIED, M.D.
20 Respondent

21 I have read and fully discussed with Respondent ELLIS MICHAEL SCHWIED, M.D. the
22 terms and conditions and other matters contained in the above Stipulated Settlement and
23 Disciplinary Order. I approve its form and content.

24
25 DATED: 5/23/14

Joel Bruce Douglas
26 Joel Bruce Douglas
27 Attorney for Respondent
28

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 3/20/2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ROBERT MCKIM BELL
Supervising Deputy Attorney General



COLLEEN M. MCGURRIN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 04-2010-209319

1 KAMALA D. HARRIS
Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 COLLEEN M. MCGURRIN
Deputy Attorney General
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6 Telephone: (213) 620-2511
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 19, 2013
BY: J. ELcIt AK ANALYST

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

11 In the Matter of the Accusation Against:
12 ELLIS MICHAEL SCHWIED
30100 Town Center Drive, Suite O
13 Laguna Niguel, California 92677
14 Physician's and Surgeon's Certificate Number
A 39245
15
16 Respondent.

Case No. 04-2010-209319

A C C U S A T I O N

17 Complainant alleges:

PARTIES

- 18
- 19 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity
 - 20 as the Executive Director of the Medical Board of California (Board).
 - 21 2. On October 26, 1982, the Board issued Physician's and Surgeon's Certificate number
 - 22 A 39245 to Ellis Michael Schwied (Respondent). That license was in full force and effect at all
 - 23 times relevant to the charges brought herein and will expire on October 31, 2014, unless renewed.

JURISDICTION

- 24
- 25 3. This Accusation is brought before the Board under the authority of the following
 - 26 laws. All section references are to the Business and Professions Code unless otherwise indicated.
 - 27 4. Section 2004 of the Code states, in pertinent part:
 - 28 "The board shall have the responsibility for the following:

1 "(a) The enforcement of the disciplinary . . . provisions of the Medical Practice Act.

2 "(b) The administration and hearing of disciplinary actions.

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

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

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

9 "(f) . . . (g).

10 "(h) Issuing licenses and certificates under the board's jurisdiction.

11 "(i)"

12 5. Section 2220 of the Code states, in pertinent part:

13 "Except as otherwise provided by law, the Division of Medical Quality¹ may take action
14 against all persons guilty of violating this chapter [Chapter 5, the Medical Practice Act]. The
15 division shall enforce and administer this article as to physician and surgeon certificate holders,
16 and the division shall have all the powers granted in this chapter for these purposes including, but
17 not limited to:

18 "(a) Investigating complaints from the public, . . . , or from a division of the board that a
19 physician and surgeon may be guilty of unprofessional conduct. . . ."

20 "(b) . . . (c)."

21 6. Section 2227 of the Code provides that a licensee who is found guilty under the
22 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
23 one year, placed on probation and required to pay the costs of probation monitoring, or such other
24 action taken in relation to discipline as the Division deems proper.

25 7. Section 2230.5, subdivision (a) of the Code states, in pertinent part:

26 ¹ California Business and Professions Code section 2002, as amended and effective January 1, 2008,
27 provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practices Act (Bus.
28 & Prof. Code § 2000, et seq.) means the "Medical Board of California," and references to the "Division of Medical
Quality" and "Division of Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

1 "(a) Except as provided in subdivisions . . . (e), any accusation filed against a licensee
2 pursuant to Section 11503 of the Government Code shall be filed within three years after the
3 board, or a division thereof, discovers the act or omission alleged as the ground for disciplinary
4 action"

5 8. Section 2234 of the Code, states, in pertinent part:

6 "The board shall take action against any licensee who is charged with unprofessional
7 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
8 limited to, the following:

9 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
10 violation of, or conspiring to violate any provision of this chapter.

11 "(b) Gross negligence.

12 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
13 omissions. An initial negligent act or omission followed by a separate and distinct departure from
14 the applicable standard of care shall constitute repeated negligent acts.

15 "(1) An initial negligent diagnosis followed by an act or omission medically appropriate
16 for that negligent diagnosis of the patient shall constitute a single negligent act.

17 "(2) When the standard of care requires a change in the diagnosis, act, or omission that
18 constitutes the negligent act described in paragraph (1), including, but not limited to, a
19 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
20 applicable standard of care, each departure constitutes a separate and distinct breach of the
21 standard of care.

22 "(d) Incompetence.

23 "(e)"

24 "(f) Any action or conduct which would have warranted the denial of a certificate.

25 "(g)"

26 9. Subdivision (a) of Section 4171 of the Code states: "(a) Section 4170 shall not
27 prohibit the furnishing of a limited quantity of samples by a prescriber, if the prescriber dispenses
28

1 the samples to the patient in the package provided by the manufacturer, no charge is made to the
2 patient therefor, and an appropriate record is entered in the patient's chart.

3 10. Section 4170 of the Code states, in pertinent part:

4 "(a) No prescriber shall dispense drugs . . . to patients in his . . . office . . . unless all of the
5 following conditions are met:

6 (1) . . . (3)

7 (4) The prescriber fulfills all of the labeling requirements imposed upon pharmacists by
8 Section 4076, all of the recordkeeping requirements of this chapter, and all of the packaging
9 requirements of good pharmaceutical practice, including the use of childproof containers.

10 (5) The prescriber . . . personally dispenses the dangerous drugs . . . to the patient
11 packages, labeled, and recorded in accordance with paragraph (4).

12 (6) The prescriber, prior to dispensing, offers to give a written prescription to the patient
13 that the patient may elect to have filled by the prescriber or by any pharmacy.

14 (7) The prescriber provides the patient with a written disclosure that the patient has a
15 choice between obtaining the prescription from the dispensing prescriber or obtaining the
16 prescription at a pharmacy of the patient's choice.

17 (8)

18 (b) The Medical Board of California, . . . shall have authority . . . to ensure compliance
19 with this section, and those boards are specifically charged with the enforcement of this chapter
20 with respect to their respective licensees.

21 (c)"

22 11. Section 4076 of the Code states, in pertinent part:

23 "(a) A pharmacist shall not dispense any prescription except in a container that meets the
24 requirements of state and federal law and is correctly labeled with all of the following:

25 (1)

26 (2) The directions for the use of the drug.

27 (3) . . . (6)

28 (7) The strength of the drug or drugs dispensed.

- 1 (8) The quantity of the drug or drugs dispensed.
- 2 (9)
- 3 (10) The condition or purpose for which the drug was prescribed if the condition or
4 purpose is indicated on the prescription.
- 5 (11)
- 6 “(b) . . . (d).”
- 7 12. Section 4022 of the Code states, in pertinent part: “Dangerous drug” . . . means any
8 drug . . . unsafe for self-use in humans . . . , and includes the following:
- 9 (a) Any drug that bears the legend: “Caution: federal law prohibits dispensing without a
10 prescription,” “Rx only,” or words of similar import.
- 11 (b) . . . (c).”
- 12 13. Section 4024 of the Code states, in pertinent part:
- 13 (a) Except as provided in subdivision (b), “dispense” means the furnishing of drugs . . .
14 upon a prescription from a physician . . . “
- 15 (b) “Dispense” also means and refers to the furnishing of drugs . . . directly to a patient
16 by a physician . . . acting within the scope of his . . . practice.
- 17 14. Section 4026 of the Code states: “Furnish” means to supply by means, by sale, or
18 otherwise.
- 19 15. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
20 adequate and accurate records relating to the provision of services to their patients constitutes
21 unprofessional conduct.

22 **FIRST CAUSE FOR DISCIPLINE**

23 (Gross Negligence - Patients R.G. and S.D.)

24 16. Respondent is subject to disciplinary action under Business and Professions Code
25 Section 2234, subdivision (b), in that he committed gross negligence in his care and treatment of
26 patients R.G. and S.D.² The circumstances are as follows:

27 ² For privacy, the patients in the Accusation will be identified by their first and last initials. The full name
28 will be disclosed to Respondent upon timely request for discovery pursuant to Government Code section 11507.6.

1 PATIENT R.G.

2 17. On or about December 18, 2008, R.G., a then 20-year old female, first presented to
3 Respondent for a psychopharmacology consultation. During the majority of the consultation, the
4 patient spoke about her early childhood and social history, her parents and their marriage of 20
5 years, and how their divorce had a severely traumatic impact on her. She also disclosed how her
6 parents were coping with their divorce; how her father had a girlfriend and never thinks about the
7 patient's feelings, and how her mother was finicky and taking it slow meeting other men. As the
8 consultation was ending, Respondent commented on the patient's last name and inquired if she
9 was related to a woman who had organized a singles event he had attended. When the patient
10 confirmed that the woman was her mother, Respondent asked the patient if she minded if he
11 asked her mother out³, or words to that effect. Respondent also commented about her mother's
12 good looks and how the patient looked just like her, or words to that effect. The patient felt
13 uncomfortable and anxious with Respondent's request, and worried how he would react if she
14 denied his request. Hesitantly, the patient agreed.

15 18. During the patient's initial consultation on December 18, 2008, Respondent
16 diagnosed her with generalized anxiety disorder and social anxiety, yet virtually none of his
17 consultation focused on utilizing standard questions devised to probe for such disorders and
18 phobias. Respondent wrote the patient a prescription for Xanax⁴, with two refills, and dispensed
19 some samples of Lexapro,⁵ yet failed to schedule a follow-up appointment to determine the
20 efficacy of the medications prescribed and dispensed, to discuss any side effects the patient may
21 be experiencing, or to re-evaluate her condition. Instead, Respondent told R.G. to call and let him

22 _____
23 ³ During an interview with the Board, Respondent said that he asked the patient "Do you mind if I email
24 your mom?" When Respondent was asked why he wanted to contact the patient's mother, Respondent told the Board
25 that he wanted "to see how she's doing, and to possibly meet her" for a date.

26 ⁴ Xanax is a trademark for the drug alprazolam, an anxiolytic (a drug that relieves anxiety), a Schedule IV
27 controlled substance, which is thought to act at the limbic, thalamic and hypothalamic levels of the central nervous
28 system to produce sedative, anxiolytic, skeletal muscle relaxant, and anticonvulsant effects.

⁵ Lexapro is a trademark for the drug escitalopram oxalate, a dangerous drug, and is an antidepressant that
prevents serotonin reuptake by the central nervous system neurons, making more serotonin available in the brain and
thereby relieving depression.

1 know how the medications worked. Respondent further failed to: document the strength of the
2 Lexapro dispensed; record the quantity of Lexapro dispensed; offer R.G. a written prescription for
3 the Lexapro to fill at a pharmacy, if she desired; prepare a written disclosure that R.G. had the
4 choice between obtaining the Lexapro from Respondent or a pharmacy; and document the
5 condition for which the Lexapro was prescribed.

6 19. During the patient's initial consultation of December 18, 2008, Respondent disclosed
7 personal information about himself and his family to R.G. During that time, Respondent spoke
8 about his wife, who had recently died from cancer,⁶ his three daughters, and the grieving groups
9 they all were attending.

10 20. Respondent contacted the patient's mother within a couple of days of the patient's
11 initial consultation of December 18, 2008. The next time the patient saw Respondent was when
12 he arrived at her home⁷ to pick her mother up for a date. Respondent never inquired or spoke
13 with the patient about how she felt or what she thought about her psychiatrist dating her mother.

14 21. On or about December 31, 2008, Respondent attended a New Year's Eve gathering at
15 the house of the patient's grandmother. That evening, the patient suffered an anxiety attack when
16 she witnessed her mother and Respondent kissing.

17 22. On or about January 1, 2009, the patient and her mother left for a trip. During the
18 trip, the patient could overhear her mother speaking with Respondent on the telephone. During
19 those occasions, the patient would become anxious as she remembered everything she had told
20 Respondent during her initial consultation. R.G. worried that Respondent had disclosed, or would
21 disclose her patient/psychiatrist confidences to her mother.

22 23. For several months after the patient's initial consultation in December 2008,
23 Respondent would arrive at the patient's house for non-therapeutic reasons to pick her mother up
24 for a date or to visit her mother. On several occasions, Respondent would bring additional
25 samples of Lexapro for R.G. and would either give the samples to the patient's mother to give to
26 the patient, or he would leave the samples in an unmarked unlabeled brown paper bag on the

27 ⁶ Respondent's wife passed away on or about June 6, 2008.

28 ⁷ At that time, R.G. was staying with her mother at her home.

1 porch of the residence. Respondent failed to document these additional Lexapro samples in the
2 patient's chart, and failed to offer the patient a written prescription for the Lexapro and to prepare
3 a written disclosure regarding the medication furnished.

4 24. On or about March 31, 2010, over one year after her initial consultation, Respondent
5 saw R.G. in a therapeutic capacity for the second and last time. At that time, the patient
6 complained that her symptoms had returned and she was depressed. Respondent recommended a
7 course of Lexapro, but did not issue a prescription. Respondent failed to schedule a follow-up
8 appointment with the patient to ensure that she had appropriate psychiatric and psycho-
9 pharmacological follow-up care after the termination of his services.

10 25. From on or about December 18, 2008, through March 31, 2010, Respondent never
11 spoke with the patient about how she felt or what she thought about her psychiatrist dating her
12 mother.

13 26. Respondent committed acts of gross negligence in his care and treatment of patient
14 R.G. when he:

15 (A) Solicited the patient's permission to ask the patient's mother out for his own personal
16 gratification, then contacted the patient's mother, and engaged in a personal relationship with the
17 patient's mother;

18 (B) Diagnosed the patient with a social phobia without an adequate basis;

19 (C) Failed to establish a treatment plan for the patient, to schedule any follow-up
20 appointments after the patient's initial consultation, and to ensure appropriate follow-up care for
21 the patient after termination of Respondent's services;

22 (D) Arrived at the patient's home on several occasions for non-therapeutic reasons to pick
23 the patient's mother up for dates or to visit the patient's mother for his own personal gratification.

24 PATIENT S.D.

25 27. On or about September 26, 2003, S.D. first presented to Respondent for psychiatric
26 and psychopharmacology consultation. Thereafter, Respondent saw the patient periodically from
27 October 10, 2003 through April 3, 2006.

28 28. On or about May 18, 2006, Respondent saw S.D. and his wife for a joint therapy

1 session. At that time, Respondent documented that the patient was currently taking Zoloft,⁸
2 Wellbutrin,⁹ and Lexapro. During the visit, Respondent documented that he gave the patient a
3 trial of Adderall,¹⁰ yet failed to diagnose him with attention deficit disorder or major depression.
4 Respondent wrote the patient a prescription for sixty 5mg tablets of Adderall, but failed document
5 the condition for which the Adderall was prescribed in the patient's chart.

6 29. On or about May 23, 2006, Respondent wrote S.D. a prescription for sixty 10mg
7 tablets of Adderall, even though Respondent had given the patient a prescription for sixty 5mg
8 tablets of Adderall five days earlier. Respondent failed to document any telephone call, a
9 conversation, or an office visit with the patient on this date.

10 30. On or about August 21, 2006, Respondent received a telephone call from the patient's
11 wife informing Respondent that S.D. had suffered an overdose when he mixed Elavil,¹¹ Restoril,¹²
12 Zoloft and alcohol.

13 31. Respondent saw S.D. again on August 22, 2006, and discontinued the patient's
14 Adderall prescription.

15 32. Respondent saw the patient again on December 1, 2006, and February 2, 2007.

16 33. On or about August 3, 2007, Respondent next saw S.D., and documented the patient's
17 medication regimen of Provigil,¹³ Restoril, Lexapro, Wellbutrin XL,¹⁴ Elavil, and trials of

18 _____
19 ⁸ Zoloft (sertraline) is an antidepressant in a group of drugs called selective serotonin reuptake inhibitors
20 (SSRIs). Zoloft affects chemicals in the brain that may become unbalanced and cause depression, panic, anxiety, or
21 obsessive-compulsive symptoms. Zoloft is used to treat depression, obsessive-compulsive disorder, panic disorder,
22 anxiety disorders, post-traumatic stress disorder (PTSD), and premenstrual dysphoric disorder (PMDD).

23 ⁹ Wellbutrin XL is Extended-length pills are tables or capsules formulated to dissolve slowly and release a
24 drug over time.

25 ¹⁰ Adderall is the brand name for a Schedule II Controlled Substance, a pharmaceutical psycho stimulant
26 comprising of mixed amphetamine salts. This drug is used primarily to treat attention-deficit/hyperactivity disorder
27 and narcolepsy, and has a high potential for abuse and addiction despite genuine medical use.

28 ¹¹ Elavil is the brand name for the generic drug, amitriptyline, a tricyclic antidepressant dangerous drug,
within the meaning of Business of Professions Code section 4022, used to treat symptoms of depression.

¹² Restoril is the brand name for the generic drug, temazepam, a Schedule IV Controlled Substance that
belongs to a group of drugs called benzodiazepines that affects chemicals in the brain that may become unbalanced
and is used to treat insomnia.

¹³ Provigil is the brand name for the generic drug, modafinil, a Schedule IV Controlled Substance that
promotes wakefulness and is thought to work by altering the natural chemicals (neurotransmitters) in the brain.

¹⁴ Wellbutrin XL is Extended-length pills are tables or capsules formulated to dissolve slowly and release a
drug over time.

1 Ambien¹⁵ and Lunesta.¹⁶ Respondent added a prescription for Adderall, a medication he
2 previously discontinued in 2006, but failed to make a diagnosis of attention-deficit disorder or
3 major depression. Respondent failed to document his rationale for continuing to prescribe
4 multiple medications and antidepressants at the same time, and failed to schedule a follow-up
5 appointment with the patient to ascertain the effectiveness of these medications, the
6 appropriateness of the dosages and any potential side effects.

7 34. Throughout 2007 and through July 2009, Respondent continued to see patient S.D.
8 periodically. During that time, Respondent disclosed details about his personal, private life to the
9 patient during several of his sessions and would talk about his wife, who was battling cancer, how
10 she was doing and how he and his daughters were coping with her illness. Towards the end of
11 her illness, Respondent told the patient how things were getting really bad. Shortly before
12 Respondent's wife lost her battle with cancer, the patient's wife, a massage therapist, was
13 scheduled to go to Respondent's home to provide massage services to Respondent's dying wife.
14 Respondent also established a personal social relationship with patient S.D. and would invite him,
15 and the patient's wife, to watch him play his fiddle at various venues. During those occasions,
16 the patient would attend the musical events to watch Respondent perform, and would often buy
17 Respondent alcoholic beverages. Their personal relationship established to where Respondent
18 was invited to and had dinner at the patient's home. During an interview with the Board,
19 Respondent recalls another occasion where he saw the patient socially outside of an office setting
20 shortly after Respondent's wife passed away.

21 35. On or about July 17, 2009, Respondent saw S.D. for the last time. Although the
22 session lasted for sixty minutes, Respondent's entries in the patient's chart are less than a-half-a
23 page. During the session, Respondent told the patient that he could no longer treat him as a

24 ¹⁵ Ambien is the brand name for the generic drug, zolpidem, a Schedule IV Controlled Substance that is a
25 sedative, also called a hypnotic, that affects the chemicals in the brain that may become unbalanced and is used to
treat insomnia.

26 ¹⁶ Lunestra is the brand name for the generic drug, eszopiclone, a Schedule IV Controlled Substance that is
27 a sedative, also called a hypnotic, that affects the chemicals in the brain that may become unbalanced and is used to
treat insomnia.

1 conflict of interest had arisen. Respondent failed to document the reason the patient-psychiatrist
2 relationship was terminated, and failed to ensure that the patient had appropriate psychiatric and
3 psycho-pharmacological follow-up care after the termination of Respondent's services.

4 36. From April 3, 2006, through on or about July 17, 2009, Respondent's documentation
5 of patient S.D.'s care and treatment fails to adequately and accurately document: why the patient
6 presented; the nature of the patient's chief complaint; what the patient's responses were to, and
7 any associated side-effects, to the prescribed medications; a description of a mental status
8 examination to reflect objective and subjective findings regarding the patient's behavior and state
9 of mind at the time; Respondent's rationale for prescribing and changing of medications; a
10 treatment plan for the patient; and the scheduling of follow-up visits.

11 37. Respondent committed acts of gross negligence in his care and treatment of patient
12 S.D. when he:

13 (A) Established a personal social relationship with the patient, invited the patient to watch
14 Respondent play his fiddle at various venues, and had dinner at the patient's home; and

15 (B) Failed to schedule follow-up appointments with the patient and to ensure the patient
16 had appropriate follow-up psychiatric and psycho-pharmacological care after termination of
17 Respondent's services.

18 SECOND CAUSE FOR DISCIPLINE

19 (Repeated Negligent Acts – Patients R.G. and S.D.)

20 38. Respondent is subject to disciplinary action under Business and Professions Code
21 Section 2234, subdivision (c), in that he committed repeated negligent acts in his care and
22 treatment of patients R.G. and S.D. The circumstances are as follows:

23 39. Paragraphs 17 through 25, and 27 through 36, above, inclusive, are incorporated
24 herein by reference as if fully set forth.

25 40. Respondent committed repeated negligent acts in the care and treatment of R.G. when
26 he:

27 (A) Solicited the patient's permission to ask the patient's mother out for his own personal
28 gratification, then contacted the patient's mother, and engaged in a personal relationship with the

1 patient's mother;

2 (B) Diagnosed the patient with a social phobia without an adequate basis;

3 (C) Arrived at the patient's home on several occasions for non-therapeutic reasons to pick
4 up the patient's mother for dates or to visit the patient's mother.

5 (D) Continued to furnish Lexapro samples to the patient's mother to give to the patient or
6 leaving the Lexapro samples in an unmarked unlabeled brown paper bag on the porch of the
7 patient's residence;

8 (E) Failed to establish a treatment plan for the patient;

9 (F) Failed to schedule any follow-up appointments after the patient's initial consultation;

10 (G) Failed to ensure the patient had appropriate psychiatric and psycho-pharmacological
11 follow-up care after termination of Respondent's services;

12 (H) Commented on the patient's physical appearance; and

13 (I) Disclosed details of his personal, private life to the patient during her initial
14 consultation.

15 PATIENT S.D.

16 41. Respondent committed repeated negligent acts in his care and treatment of patient
17 S.D. when he:

18 (A) Established a personal social relationship with the patient, invited the patient to watch
19 Respondent play his fiddle at various venues, and had dinner at the patient's home;

20 (B) Failed to schedule follow-up appointments with the patient;

21 (C) Failed to ensure the patient had appropriate follow-up psychiatric and psycho-
22 pharmacological care after termination of Respondent's services;

23 (D) Disclosed details of his personal, private life to the patient during office visits; and

24 (E) Prescribed Adderall without making a diagnosis of attention deficit disorder or major
25 depression.

26 ///

27 ///

28 ///

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Samples Violation – Patient R.G.)

3 42. Respondent is subject to disciplinary action under Business and Professions Code
4 Section 4171, subdivision (a), 4170, subdivisions (a)(4)(5)(6) and (7), and 4076, subdivision
5 (a)(2)(10), in that he furnished or dispensed samples of Lexapro in his care and treatment of
6 patient R.G. The circumstances are as follows:

7 43. Paragraphs 17 through 25, above, inclusive are incorporated herein by reference as if
8 fully set forth.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 (Failure to Maintain Adequate and Accurate Records – Patients R.G. and S.D.)

11 44. Respondent is subject to disciplinary action under section Business and Professions
12 Code Section 2266, in that he failed to maintain adequate and accurate records in his care and
13 treatment of patients R.G. and S.D. The circumstances are as follows:

14 45. Paragraphs 17 through 25, and 27 through 36, above, inclusive are incorporated
15 herein by reference as if fully set forth.

16 **DISCIPLINE CONSIDERATIONS**

17 46. To determine the degree of discipline, if any, to be imposed on Respondent,
18 Complainant alleges that on or about April 22, 2004, in a prior disciplinary action entitled *In the*
19 *Matter of the Accusation Against Ellis Michael Schwied, M.D.* before the Board in Case Number
20 04-2000-114569, Respondent's license was previously disciplined (revocation stayed) and placed
21 on probation for five years for repeated negligent acts, a violation of section 2234, subdivision
22 (c), for having prescribed drugs to a patient who was not directly under his care. That decision is
23 now final and is incorporated herein by reference as if fully set forth.

24 **PRAYER**

25 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Medical Board of California issue a decision:

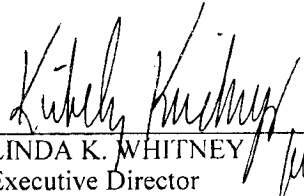
27 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 39245,
28 issued to Ellis Michael Schwied.

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2. Ordering Respondent to pay the Board, if placed on probation, the costs of probation monitoring;

3. Taking such other and further action as deemed necessary and proper.

DATED: March 19, 2013


LINDA K. WHITNEY
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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